

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1553

By: Sears

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; enacting the
8 Heavy Equipment Rental Tax Act; defining terms;
9 prescribing rate of in lieu tax; stating legislative
10 intent; prescribing procedures for collection;
11 providing for apportionment of revenues; providing
12 for codification; and providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2807.10 of Title 68, unless
16 there is created a duplication in numbering, reads as follows:

17 A. This act shall be known and may be cited as the "Heavy
18 Equipment Rental Tax Act".

19 B. As used in this section:

20 1. "Rental price" means the total amount of the charge for
21 renting the qualified heavy equipment, excluding any separately
22 stated charges that are not rental charges, including, but not
23 limited to:
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- a. separately stated charges for delivery and pickup fees,
- b. damage waivers,
- c. environmental mitigation fees,
- d. fuel charges,
- e. or sales or retail gross receipts taxes;

2. "Qualified heavy equipment" means any construction, earthmoving or industrial equipment that is mobile and rented by a qualified renter, including attachments for the equipment or other ancillary equipment, including, but not limited to, all of the following:

- a. a self-propelled vehicle that is not designed to be driven on state roads or highways,
- b. industrial electrical generation or portable HVAC equipment,
- c. industrial lift equipment,
- d. industrial material handling equipment, and
- e. equipment used in shoring, shielding, and ground1 trenching;

3. "Mobile qualified heavy equipment" means qualified heavy equipment that is:

- a. not intended to be permanently affixed to real property for the purpose of using the qualified heavy equipment for its intended use, or

1 b. intended to be moved among worksites as needed;

2 4. "Qualified renter" means a renter that satisfies all of the
3 following:

4 a. the principal business (primary business) of the
5 renter is the rental of qualified heavy equipment, and

6 b. is engaged in a line of business described in Code
7 532412 of the North American Industry Classification
8 System published by the United States Office of
9 Management and Budget, 2012 edition; and

10 5. "Renting" or "rent" means a rental for a period of less than
11 three hundred sixty-five (365) days or under a contract with no
12 defined term or an open-ended contract.

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2807.11 of Title 68, unless
15 there is created a duplication in numbering, reads as follows:

16 A. There is hereby levied a rental tax of one percent (1%) on
17 the rental price of all qualified heavy equipment rented by a
18 qualified renter, and such tax shall be in lieu of ad valorem taxes
19 upon such qualified heavy equipment.

20 B. It is hereby declared to be the intention of the Legislature
21 that the tax herein imposed be not greater than the amount of tax
22 such qualified renter would pay if their equipment or property were
23 taxed on an ad valorem basis, including any value inuring to such
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1 qualified heavy equipment by reason of being a part of a going
2 concern.

3 C. The tax hereby levied shall be collected at the time of the
4 payment of the rental invoice and shall be due and payable to the
5 Oklahoma Tax Commission by the qualified renter engaging in renting
6 qualified equipment on the twentieth day of each month in which
7 payments for rental agreements subject to the tax are made. The Tax
8 Commission shall implement such rules and regulations and devise
9 such forms as it deems necessary for the orderly collection of this
10 tax.

11 D. For fiscal years beginning July 1, 2016, and thereafter, the
12 apportionment percentage specified in subsection B of this section
13 will be adjusted by dividing the total municipal and county sales
14 tax revenue collected in the calendar year immediately preceding the
15 commencement of the fiscal year by the sum of the state sales tax
16 revenue and total municipal and county sales tax revenue collected
17 in the same year. This ratio shall be divided by the ratio of the
18 total municipal and county sales tax revenue collected in the
19 calendar year beginning January 1, 2014, and ending December 31,
20 2014, divided by the sum of the state sales tax revenue and total
21 municipal and county sales tax revenue collected in the same year.

22 E. The provisions of this section shall not apply to federal,
23 state or local government entities.

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SECTION 3. This act shall become effective November 1, 2015.

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