

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 HOUSE BILL 1553

 By: Sears of the House

5 and

6 Mazzei of the Senate

7
8
9 AS INTRODUCED

10 **[revenue and taxation - Heavy Equipment Rental Tax**

11 **Act - prescribing rate of in lieu tax - procedures**

12 **for collection - effective date]**

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

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

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

22 B. As used in this section:

23 1. "Rental price" means the total amount of the charge for
24 renting the qualified heavy equipment, excluding any separately

1 stated charges that are not rental charges, including, but not
2 limited to:

- 3 a. separately stated charges for delivery and pickup
- 4 fees,
- 5 b. damage waivers,
- 6 c. environmental mitigation fees,
- 7 d. fuel charges,
- 8 e. or sales or retail gross receipts taxes;

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

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

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

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

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

5 4. "Qualified renter" means a renter that satisfies all of the
6 following:

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

9 b. is engaged in a line of business described in Code
10 532412 of the North American Industry Classification
11 System published by the United States Office of
12 Management and Budget, 2012 edition; and

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

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

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

23 B. It is hereby declared to be the intention of the Legislature
24 that the tax herein imposed be not greater than the amount of tax

1 such qualified renter would pay if their equipment or property were
2 taxed on an ad valorem basis, including any value inuring to such
3 qualified heavy equipment by reason of being a part of a going
4 concern.

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

13 D. For fiscal years beginning July 1, 2016, and thereafter, the
14 apportionment percentage specified in subsection B of this section
15 will be adjusted by dividing the total municipal and county sales
16 tax revenue collected in the calendar year immediately preceding the
17 commencement of the fiscal year by the sum of the state sales tax
18 revenue and total municipal and county sales tax revenue collected
19 in the same year. This ratio shall be divided by the ratio of the
20 total municipal and county sales tax revenue collected in the
21 calendar year beginning January 1, 2014, and ending December 31,
22 2014, divided by the sum of the state sales tax revenue and total
23 municipal and county sales tax revenue collected in the same year.

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

3 SECTION 3. This act shall become effective November 1, 2015.
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5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
6 02/19/2015 - DO PASS, As Amended and Coauthored.
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