

SENATE BILL 685

Q8, Q2

0lr2255
CF HB 817

By: **Senators DeGrange, Brinkley, Currie, Edwards, Kasemeyer, King, Kramer, McFadden, Miller, Munson, Peters, and Stoltzfus**

Introduced and read first time: February 10, 2010

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 30, 2010

CHAPTER _____

1 AN ACT concerning

2 ~~**Personal Property Tax – Heavy Equipment**~~
3 **Heavy Equipment Tax Reform Act of 2010**

4 FOR the purpose of ~~authorizing a county or municipal corporation to impose a tax, not~~
5 ~~exceeding a certain amount,~~ imposing a tax at a certain rate on the gross
6 receipts from the short-term lease or rental of certain heavy equipment
7 property under certain circumstances; requiring a person who owns a business
8 with gross receipts subject to the tax to collect and remit the tax in a certain
9 manner by a certain day each quarter; requiring a person who owns a business
10 with gross receipts subject to a certain tax to submit a certain report to the
11 Department of Assessments and Taxation and a certain list to the county or
12 municipal corporation where the business is located; requiring a county or
13 municipal corporation to calculate the difference between certain amounts and
14 to submit a certain statement and bill to a business with certain gross receipts;
15 providing that certain heavy equipment property is not subject to property tax;
16 providing for a delayed effective date; providing for the application of this Act;
17 and generally relating to the taxation of certain heavy equipment property.

18 BY adding to

19 Article 24 – Political Subdivisions – Miscellaneous Provisions

20 Section 9–609

21 Annotated Code of Maryland

22 (2005 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
 2 Article – Tax – Property
 3 Section 7–243
 4 Annotated Code of Maryland
 5 (2007 Replacement Volume and 2009 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

9 **9–609.**

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 11 MEANINGS INDICATED.

12 (2) “GROSS RECEIPTS SHORTAGE” MEANS THE AMOUNT BY
 13 WHICH THE PROPERTY TAX CALCULATED UNDER SUBSECTION (D)(2) OF THIS
 14 SECTION THAT WOULD HAVE BEEN DUE EXCEEDS THE TOTAL GROSS RECEIPTS
 15 TAX REMITTED UNDER SUBSECTION (C) OF THIS SECTION.

16 (3) “GROSS RECEIPTS SURPLUS” MEANS THE AMOUNT BY WHICH
 17 THE TOTAL GROSS RECEIPTS TAX REMITTED UNDER SUBSECTION (C) OF THIS
 18 SECTION EXCEEDS THE AMOUNT OF PROPERTY TAX CALCULATED UNDER
 19 SUBSECTION (D)(2) OF THIS SECTION THAT WOULD HAVE BEEN DUE.

20 (4) (I) “HEAVY EQUIPMENT PROPERTY” MEANS
 21 CONSTRUCTION, EARTHMOVING, OR INDUSTRIAL EQUIPMENT THAT IS MOBILE
 22 INCLUDING ANY ATTACHMENT FOR THE HEAVY EQUIPMENT.

23 (II) “HEAVY EQUIPMENT PROPERTY” INCLUDES:

24 1. A SELF-PROPELLED VEHICLE THAT IS NOT
 25 DESIGNED TO BE DRIVEN ON A HIGHWAY; OR

26 2. INDUSTRIAL ELECTRICAL GENERATION
 27 EQUIPMENT, INDUSTRIAL LIFT EQUIPMENT, INDUSTRIAL MATERIAL HANDLING
 28 EQUIPMENT, OR OTHER SIMILAR INDUSTRIAL EQUIPMENT.

29 ~~(3)~~ (5) “SHORT-TERM LEASE OR RENTAL” MEANS THE LEASE
 30 OR RENTAL OF HEAVY EQUIPMENT PROPERTY FOR A PERIOD OF 365 DAYS OR
 31 LESS.

32 (B) (1) ~~THE GOVERNING BODY OF A COUNTY OR MUNICIPAL~~
 33 ~~CORPORATION MAY IMPOSE, BY ORDINANCE OR RESOLUTION, A TAX AT A RATE~~

1 ~~NOT TO EXCEED 2% ON THE GROSS RECEIPTS FROM THE SHORT TERM LEASE~~
2 ~~OR RENTAL OF HEAVY EQUIPMENT PROPERTY BY A PERSON WHOSE PRINCIPAL~~
3 ~~BUSINESS IS THE SHORT TERM LEASE OR RENTAL OF HEAVY EQUIPMENT~~
4 ~~PROPERTY AT RETAIL. THERE IS A TAX AT A RATE OF 2% ON THE GROSS~~
5 ~~RECEIPTS FROM THE SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT~~
6 ~~PROPERTY BY A PERSON WHOSE PRINCIPAL BUSINESS IS THE SHORT-TERM~~
7 ~~LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY AT RETAIL.~~

8 (2) ~~THE GROSS RECEIPTS ARE SUBJECT TO THE TAX UNDER~~
9 ~~PARAGRAPH (1) OF THIS SUBSECTION IF THE PLACE OF BUSINESS FROM WHICH~~
10 ~~THE HEAVY EQUIPMENT PROPERTY IS DELIVERED IS LOCATED IN THE COUNTY~~
11 ~~OR MUNICIPAL CORPORATION. THE TAX IMPOSED UNDER PARAGRAPH (1) OF~~
12 ~~THIS SUBSECTION DOES NOT APPLY TO A BUSINESS LOCATED IN A COUNTY OR~~
13 ~~MUNICIPAL CORPORATION THAT DOES NOT IMPOSE A PERSONAL PROPERTY~~
14 ~~TAX.~~

15 (3) A PERSON IS IN THE PRINCIPAL BUSINESS OF SHORT-TERM
16 LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY IF:

17 (I) THE LARGEST SEGMENT OF TOTAL RENTAL RECEIPTS
18 OF THE BUSINESS IS FROM THE SHORT-TERM LEASE OR RENTAL OF HEAVY
19 EQUIPMENT PROPERTY; AND

20 (II) THE BUSINESS IS DESCRIBED UNDER CODE 532412 OF
21 THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM AS PUBLISHED BY
22 THE UNITED STATES CENSUS BUREAU.

23 (4) ~~IF A COUNTY IMPOSES THE TAX AUTHORIZED UNDER THIS~~
24 ~~SECTION, THE RATE IMPOSED BY A MUNICIPALITY IN THE COUNTY MAY NOT~~
25 ~~EXCEED THE RATE SO THAT, WHEN COMBINED WITH THE COUNTY TAX, THE~~
26 ~~TOTAL TAX RATE WILL EXCEED 2%.~~

27 (C) (1) A PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS
28 SUBJECT TO THE TAX UNDER SUBSECTION (B) OF THIS SECTION SHALL COLLECT
29 THE TAX FROM THE RENTAL CUSTOMER AND REMIT THE TAX TO THE COUNTY
30 OR MUNICIPAL CORPORATION AS PROVIDED IN THIS SUBSECTION.

31 (2) THE TAX IS PAYABLE QUARTERLY AND DUE BY THE LAST DAY
32 OF THE MONTH AFTER THE END OF THE QUARTER.

33 (3) A PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS
34 SUBJECT TO THE TAX UNDER SUBSECTION (B) OF THIS SECTION SHALL REMIT
35 THE TAX COLLECTED TO:

1 (I) THE COUNTY IN WHICH THE BUSINESS IS LOCATED, IF
2 THAT LOCATION IS NOT WITHIN A MUNICIPAL CORPORATION; OR

3 (II) THE COUNTY AND MUNICIPAL CORPORATION IN WHICH
4 THE BUSINESS IS LOCATED IN PROPORTION TO THE PERSONAL PROPERTY TAX
5 RATE OF THE COUNTY AND MUNICIPAL CORPORATION, IF THAT LOCATION IS
6 WITHIN A MUNICIPAL CORPORATION.

7 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND
8 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE GROSS RECEIPTS TAX
9 IMPOSED UNDER THIS SECTION SHALL BE ADMINISTERED AND COLLECTIBLE
10 ACCORDING TO THE LAWS OTHERWISE APPLICABLE TO THE PERSONAL
11 PROPERTY TAX UNDER THE TAX – PROPERTY ARTICLE.

12 (D) (1) A PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS
13 SUBJECT TO THE TAX UNDER SUBSECTION (B) OF THIS SECTION SHALL SUBMIT:

14 (I) TO THE DEPARTMENT OF ASSESSMENTS AND TAXATION
15 A REPORT ON PERSONAL PROPERTY AS REQUIRED UNDER § 11-101 OF THE TAX
16 – PROPERTY ARTICLE; AND

17 (II) TO THE COUNTY OR MUNICIPAL CORPORATION WHERE
18 THE HEAVY EQUIPMENT RENTAL BUSINESS IS LOCATED A LIST OF ALL
19 PERSONAL PROPERTY, INCLUDING THE ORIGINAL COST AND DATE OF
20 ACQUISITION OF THE PROPERTY, THAT:

21 1. IS SUBJECT TO THE GROSS RECEIPTS TAX UNDER
22 THIS SECTION; AND

23 2. IS EXEMPT FROM THE PROPERTY TAX UNDER §
24 7-243 OF THE TAX – PROPERTY ARTICLE.

25 (2) FOR EACH PERSON THAT SUBMITS A LIST UNDER PARAGRAPH
26 (1)(II) OF THIS SUBSECTION, A COUNTY OR MUNICIPAL CORPORATION SHALL
27 CALCULATE THE AMOUNT OF PROPERTY TAX THAT WOULD HAVE BEEN DUE FOR
28 ALL PROPERTY THAT IS EXEMPT UNDER § 7-243(B) OF THE TAX – PROPERTY
29 ARTICLE.

30 (3) A COUNTY OR MUNICIPAL CORPORATION SHALL CALCULATE
31 THE DIFFERENCE BETWEEN:

32 (I) THE TOTAL GROSS RECEIPTS TAX REMITTED UNDER
33 SUBSECTION (C) OF THIS SECTION BY THE PERSON DURING THE PREVIOUS
34 CALENDAR YEAR; AND

1 (II) THE AMOUNT OF PROPERTY TAX CALCULATED UNDER
 2 PARAGRAPH (2) OF THIS SUBSECTION THAT WOULD HAVE BEEN DUE.

3 (4) (I) ON OR BEFORE FEBRUARY 28TH OF EACH YEAR, A
 4 COUNTY OR MUNICIPAL CORPORATION SHALL PROVIDE A STATEMENT TO EACH
 5 PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS SUBJECT TO THE TAX
 6 UNDER SUBSECTION (B) OF THIS SECTION, THAT INCLUDES:

7 1. THE TOTAL GROSS RECEIPTS TAX REMITTED
 8 UNDER SUBSECTION (C) OF THIS SECTION DURING THE PREVIOUS CALENDAR
 9 YEAR;

10 2. THE TOTAL PROPERTY TAX CALCULATED UNDER
 11 PARAGRAPH (2) OF THIS SUBSECTION THAT WOULD HAVE BEEN DUE; AND

12 3. THE GROSS RECEIPTS SHORTAGE OR GROSS
 13 RECEIPTS SURPLUS.

14 (II) IF THE STATEMENT INCLUDES A GROSS RECEIPTS
 15 SHORTAGE, THE COUNTY OR MUNICIPAL CORPORATION SHALL INCLUDE WITH
 16 THE STATEMENT A BILL FOR THE AMOUNT OF THE GROSS RECEIPTS SHORTAGE
 17 PAYABLE ON OR BEFORE MARCH 31 OF EACH YEAR.

18 (5) THE LIST REQUIRED UNDER PARAGRAPH (1)(II) OF THIS
 19 SUBSECTION SHALL BE SUBMITTED WITH THE SECOND QUARTERLY PAYMENT
 20 REQUIRED UNDER SUBSECTION (C)(2) OF THIS SECTION.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 22 read as follows:

23 **Article – Tax – Property**

24 **7-243.**

25 (A) IN THIS SECTION, “HEAVY EQUIPMENT PROPERTY” HAS THE
 26 MEANING STATED IN ARTICLE 24, § 9-609 OF THE CODE.

27 (B) HEAVY EQUIPMENT PROPERTY IS NOT SUBJECT TO THE PROPERTY
 28 TAX IF ~~THE OWNER HAS GROSS RECEIPTS FROM THE SHORT TERM LEASE OR~~
 29 ~~RENTAL OF THE HEAVY EQUIPMENT PROPERTY THAT WOULD BE SUBJECT TO~~
 30 ~~THE GROSS RECEIPTS TAX AUTHORIZED UNDER ARTICLE 24, § 9-609 OF THE~~
 31 ~~CODE, WHETHER OR NOT THE PLACE OF BUSINESS FROM WHICH THE HEAVY~~
 32 ~~EQUIPMENT PROPERTY IS DELIVERED IS LOCATED IN A COUNTY OR MUNICIPAL~~
 33 ~~CORPORATION THAT IMPOSES THE GROSS RECEIPTS TAX.~~

1 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
 2 ~~July 1, 2011. THE PROPERTY IS SUBJECT TO THE GROSS RECEIPTS TAX IMPOSED~~
 3 ~~UNDER ARTICLE 24, § 9-609 OF THE CODE.~~

4 SECTION 3. AND BE IT FURTHER ENACTED, That to create a transition
 5 period that precludes both a duplication and an avoidance of tax:

6 (a) The initial period of application of Section 1 of this Act shall be the
 7 6-month period from July 1, 2011, through December 31, 2011; and

8 (b) During the initial period of application, the following words have the
 9 meanings indicated:

10 (1) “Gross receipts shortage” means the amount by which one-half of
 11 the property tax, calculated under Article 24, § 9-609(d)(2) of the Code as enacted by
 12 Section 1 of this Act, that would be due exceeds the total gross receipts tax remitted
 13 under Article 24, § 9-609(c) of the Code as enacted by Section 1 of this Act.

14 (2) “Gross receipts surplus” means the amount by which the total
 15 gross receipts tax remitted under Article 24, § 9-609(c) of the Code as enacted by
 16 Section 1 of this Act exceeds one-half of the amount of property tax, calculated under
 17 Article 24, § 9-609(d)(2) of Section 1 of the Code as enacted by this Act, that would be
 18 due.

19 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
 20 December 31, 2010. Sections 1 and 3 shall be applicable to the initial period of
 21 application beginning on July 1, 2011, and to all calendar years beginning after
 22 December 31, 2011. Section 2 of this Act shall be applicable to all taxable years
 23 beginning after June 30, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.