

Chapter 337

(Senate Bill 685)

AN ACT concerning

~~Personal Property Tax – Heavy Equipment~~
Heavy Equipment Tax Reform Act of 2010

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

BY adding to

Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–609
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article – Tax – Property
Section 7–243
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

9–609.

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

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

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

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

(II) “HEAVY EQUIPMENT PROPERTY” INCLUDES:

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

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

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

~~(B) (1) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY IMPOSE, BY ORDINANCE OR RESOLUTION, A TAX AT A RATE NOT TO EXCEED 2% ON THE GROSS RECEIPTS FROM THE SHORT TERM LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY BY A PERSON WHOSE PRINCIPAL BUSINESS IS THE SHORT TERM LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY AT RETAIL. THERE IS A TAX AT A RATE OF 2% ON THE GROSS RECEIPTS FROM THE SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY BY A PERSON WHOSE PRINCIPAL BUSINESS IS THE SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY AT RETAIL.~~

~~(2) THE GROSS RECEIPTS ARE SUBJECT TO THE TAX UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE PLACE OF BUSINESS FROM WHICH THE HEAVY EQUIPMENT PROPERTY IS DELIVERED IS LOCATED IN THE COUNTY~~

~~OR MUNICIPAL CORPORATION~~ THE TAX IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A BUSINESS LOCATED IN A COUNTY OR MUNICIPAL CORPORATION THAT DOES NOT IMPOSE A PERSONAL PROPERTY TAX.

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

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

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

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

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

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

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

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

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

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE GROSS RECEIPTS TAX IMPOSED UNDER THIS SECTION SHALL BE ADMINISTERED AND COLLECTIBLE

ACCORDING TO THE LAWS OTHERWISE APPLICABLE TO THE PERSONAL PROPERTY TAX UNDER THE TAX – PROPERTY ARTICLE.

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

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

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

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

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

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

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

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

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

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

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

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

3. THE GROSS RECEIPTS SHORTAGE OR GROSS RECEIPTS SURPLUS.

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

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

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

Article – Tax – Property

7-243.

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 4, 2010.