Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 685 (Senator DeGrange, *et al.*)
Budget and Taxation Ways and Means

Heavy Equipment Tax Reform Act of 2010

This bill replaces the personal property tax on heavy equipment property with a gross receipts tax on the short-term lease or rental of heavy equipment property. The tax must be remitted to the local government where the business is located on a quarterly basis. The bill also requires that the taxes be calculated under the gross receipts tax and the personal property tax method. If the amount of revenue collected under the "gross receipt tax method" is below the amount that would have been collected under the "property tax method," the business must pay the difference to the local government.

The bill takes effect December 31, 2010.

Fiscal Summary

State Effect: None.

Local Effect: Indeterminate effect on local government revenues, depending on the location of the heavy equipment, the assessed value of heavy equipment personal property, and receipts from heavy equipment rental and leasing. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Bill Summary: Specifically, the bill imposes a local 2% tax on the gross receipts from the short-term lease or rental of heavy equipment property by a person whose principle business is the short-term lease or rental of heavy equipment property at retail. The gross receipts tax does not apply to a business located in a county or municipality that does not impose a personal property tax.

A person is determined to be in the principal business of short-term lease or rental of heavy equipment property if (1) the largest segment of total rental receipts of the business is from the short-term lease or rental of heavy equipment property; and (2) the business is described under Code 532412 of the North American Industry Classification System as published by the U.S. Census Bureau.

A person who owns a business with gross receipts subject to the tax must collect the tax from rental customers and remit the tax on a quarterly basis. The bill requires a person with gross receipts subject to the tax to file a report with the State Department of Assessments and Taxation detailing all personal property held by the person. Local governments must calculate the difference between the total gross receipts tax remitted during the previous calendar year and the amount of property tax calculated that would have been due. On or before February 28 of each year, local governments must provide a statement to each person who owns a business with gross receipts subject to the tax that includes the total gross receipts tax remitted during the previous calendar year; (2) the total property tax calculated that would have been due; and (3) the gross receipts shortage or gross receipts surplus. To the extent there is a gross receipt shortage between the calculated personal property tax owed and the amount of gross receipts taxes paid, the person must pay the difference to the appropriate local government.

Heavy equipment property is defined as construction, earthmoving, or industrial equipment that is mobile including any attachment for the heavy equipment. It 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. A short-term lease or rental is defined as a period of 365 days or less.

Current Law: All assessable tangible personal property located in Maryland and owned by businesses may be subject to a local personal property tax. The State has not imposed personal property taxes since 1984. The assessment of personal property is the responsibility of the State Department of Assessments and Taxation (SDAT) while the collection of the tax is the responsibility of local governments. SDAT separately values inventory and all other tangible business personal property based on information filed annually by property owners by April 15 (the data are as of the preceding January 1). Property owners may request a filing extension of 60 days.

Local Fiscal Effect: Businesses involved in the rental of heavy equipment property will essentially pay the same amount in gross receipts taxes that they currently pay in personal property taxes. However, the jurisdiction collecting the gross receipts tax payments may not be the same jurisdiction that currently collects personal property taxes. The bill requires that gross receipts taxes be paid to the jurisdiction where the business is located. However, under current law, personal property taxes are paid to the jurisdiction where the property is located on January 1 of each year. Therefore, under current law, a jurisdiction that has heavy equipment property located within its border will collect personal property taxes even if a heavy equipment rental business is not located within the jurisdiction. A jurisdiction with no heavy equipment property collects no personal property taxes. However, under the bill, the gross receipts taxes will be paid to the jurisdiction where the rental business is located rather than where the equipment is located. As a result, some jurisdictions may lose tax revenue while others gain tax revenue, even though the total amount of taxes paid by the rental businesses is supposed to remain the same.

Exhibit 1 shows the assessed value of business personal property for fiscal 2011. Frederick, Kent, Queen Anne's, and Talbot counties do not impose the personal property tax on business personal property. As shown, business personal property has a fiscal 2011 assessment of $13.0 billion. According to the Maryland Association of Counties (MACo) 20 counties (Allegany, Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Charles, Dorchester, Frederick, Garrett, Harford, Howard, Kent, Montgomery, Prince George's, Queen Anne's, St. Mary's, Talbot, and Washington) and Baltimore City offer 100% exemptions for commercial inventory, and manufacturing and research and development inventory and machinery. Somerset, Wicomico, and Worcester counties, provide a lesser exemption for these property types. MACo also indicates that no county taxes all categories of personal property at full value.

According to the 2002 Economic Census (Maryland specific data from the 2007 Economic Census has not been published at this date), indicates that there are 69 businesses that fall under category 532412, which is defined as being primarily involved in the renting and leasing of heavy equipment without operators that may be used for construction, mining, or forestry, such as bulldozers, earthmoving equipment, well-drilling machinery and equipment, or cranes. These businesses had receipts of approximately $158.3 million and 775 employees. The American Rental Association reports 65 members in Maryland, about one-half of which are involved in the rental of construction and industrial equipment at 60 locations across the State. The association estimates that in 2009 these businesses generated $382.8 million in revenue; in addition, it is estimated that these businesses pay an effective personal property tax rate of 1.92%.

Exhibit 1
Business Personal Property – Fiscal 2011
($ in Thousands)

County	Tax Rate	Business Personal Property
Allegany	$2.46	$216,580
Anne Arundel	2.19	1,838,000
Baltimore City	5.67	1,024,100
Baltimore	2.75	1,822,800
Calvert	2.23	129,850
Caroline	2.18	50,078
Carroll	2.62	277,830
Cecil	2.35	240,500
Charles	2.57	665,100
Dorchester	2.24	43,980
Frederick	0.00	0
Garrett	2.48	1,333
Harford	2.66	441,000
Howard	2.87	939,820
Kent	0.00	0
Montgomery	2.29	2,450,000
Prince George’s	3.30	1,722,840
Queen Anne’s	0.00	0
St. Mary’s	2.14	154,840
Somerset	2.25	34,398
Talbot	0.00	0
Washington	2.37	393,960
Wicomico	1.90	372,890
Worcester	1.75	212,758
Statewide Total		**$13,032,657**

Source: State Department of Assessments and Taxation

Additional Information

Prior Introductions: None.

Cross File: HB 817 (Delegate Frick, *et al.*) - Ways and Means.

Information Source(s): Baltimore City; Caroline, Howard, Montgomery, and Prince George's counties; Maryland Association of Counties; American Rental Association; State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History:	First Reader - March 3, 2010
ms/hlb	Revised - Senate Third Reader - April 7, 2010

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