

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1203

Bill Subtitle: TO PROVIDE FOR A RECOVERY FEE ON THE RENTAL OF HEAVY EQUIPMENT PROPERTY; AND TO REQUIRE THAT MONEYS COLLECTED AS A RECOVERY FEE BE USED TO PAY AD VALOREM TAXES ON TANGIBLE PERSONAL PROPERTY.

Basic Change :

Sponsor: Representative Holcomb

The bill adds a recovery fee of one and twenty-five hundredths percent (1.25%) to the rental charge of an item of "heavy equipment" to a customer in the State of Arkansas. "Heavy Equipment" property is defined to mean personal property owned by a business classified within the North American Industry Classification System (NAICS) code sectors 532310 or 532412. Code Sector 532310 refers to businesses classified as "General Rental Centers" and Code Sector 532412 refers to businesses classified as "Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing". The bill provides that a business classified within the referenced NAICS code sectors could add the recovery fee to its rental agreements or rental invoices.

The fee would be collected by the business renting the property and held by the business to be used solely to pay ad valorem taxes levied on the business' tangible personal property. The fees would not be collected on rentals to governmental agencies. Amounts collected as recovery fees that exceed the amount of ad valorem taxes due from the business in the current assessment year may be used to pay the ad valorem taxes due for up to two (2) years following the assessment year in which the recovery fee was collected. Monies collected as recovery fees that remain with the business after the deadline to pay property taxes for the second assessment year following the assessment year in which the recovery fees were collected is presumed abandoned and shall be paid to the Auditor of State and treated as unclaimed property. Monies paid to the Auditor of State as unclaimed property could not be claimed by an "apparent owner" or "owner".

The proposal would be effective for assessment years beginning on or after January 1, 2017. The collection of the recovery fee by rental businesses would begin upon the effective date of the Act.

Revenue Impact :

No impact on State General Revenues

Taxpayer Impact :

Taxpayers collecting the recovery fee will be responsible to keeping the fee collections separate and apart from all other business receipts and use these monies to pay for the annual ad valorem assessments of the business. Any fees collected that remain in the business' account after the deadline to pay the property taxes for the second assessment year following the assessment year in which the recovery fees were collected will be presumed abandoned and paid to the Auditor of State.

Resources Required :

None.

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1203

Bill Subtitle: TO PROVIDE FOR A RECOVERY FEE ON THE RENTAL OF HEAVY EQUIPMENT PROPERTY; AND TO REQUIRE THAT MONEYS COLLECTED AS A RECOVERY FEE BE USED TO PAY AD VALOREM TAXES ON TANGIBLE PERSONAL PROPERTY.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Rule preparation may be required by the Auditor of State.

Other Comments :

The bill does not include specific language to provide guidance as the disposition of the recovery fees collected if a rental business ceased operations, is sold to another business owner, merged into another business with a different NAICS code sector designation, or files bankruptcy.

Legal Analysis :

This bill authorizes a new fee to be charged on the rental of heavy equipment. The fee will be used to pay the county personal property tax assessed on the heavy equipment. The bill exempts the fee from state and local sales and use tax. Businesses that rent out heavy equipment should be advised to separately state this new fee on the rental invoices that they issue so that the fee will not be included or commingled with the other taxable gross receipts.