

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1852

Short Title: Tax on Short-Term Heavy Equipment Rentals. (Public)

Sponsors: Senators Brunstetter, Kerr, Clodfelter, Dalton, Hartsell, and Hoyle.

Referred to: Finance.

May 22, 2008

A BILL TO BE ENTITLED

AN ACT TO RESOLVE PROBLEMS WITH APPLYING PROPERTY TAX TO
HEAVY EQUIPMENT RENTED ON A SHORT-TERM BASIS BY REPLACING
THE PROPERTY TAX ON THIS EQUIPMENT WITH A TAX ON THE GROSS
RECEIPTS FROM RENTING THE EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275 is amended by adding a new subdivision to read:
"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are hereby designated special classes under
authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be
listed, appraised, assessed, or taxed:

...

(42a) Heavy equipment subject to a gross receipts tax under
G.S. 153A-156.1 and G.S. 160A-215.2."

SECTION 2. Article 7 of Chapter 153A of the General Statutes is amended
by adding a new section to read:

"§ 153A-156.1. Heavy equipment gross receipts tax in lieu of property tax.

(a) Definitions. – The following definitions apply in this section:

(1) Heavy equipment. – Earthmoving or construction equipment that
meets any of the following requirements:

a. It is a self-propelled vehicle that is not designed to be driven on
a highway.

b. It is industrial lift equipment, industrial material handling
equipment, industrial electrical generation equipment, or a
similar piece of industrial equipment.

c. It is an attachment or an accessory for a vehicle or a piece of
equipment described in this subdivision.

(2) Short-term lease or rental. – Defined in G.S. 105-187.1.

1 (b) A county may, by resolution, impose a tax at the rate of one and one-tenth
2 percent (1.1%) on the gross receipts from the short-term lease or rental of heavy
3 equipment by a person whose principal business is the short-term lease or rental of
4 heavy equipment at retail. The heavy equipment subject to this tax is exempt from
5 property tax under G.S. 105-275, and this tax provides an alternative to the property tax
6 on equipment.

7 (c) Administration. – Except as provided in this section, a county that imposes a
8 tax under this section must administer the tax in the same manner as a tax imposed
9 under G.S. 105-164.4(a)(2). The gross receipts from the short-term lease or rental of
10 heavy equipment are subject to a tax under this section if the place of business from
11 which the heavy equipment is leased or rented is located in the county. The penalties
12 and collection remedies that apply to the payment of sales and use taxes under Article 5
13 of Chapter 105 of the General Statutes apply to this tax. The county finance officer has
14 the same authority as the Secretary of Revenue in imposing these penalties and
15 remedies.

16 (d) Payment. – A person whose principal business is the short-term lease or
17 rental of heavy equipment is required to remit a tax imposed by this section to the
18 county finance officer. The tax is payable quarterly and is due by the last day of the
19 month following the end of the quarter. The tax is intended to be added to the amount
20 charged for the short-term lease or rental of heavy equipment and paid to the heavy
21 equipment business by the person to whom the heavy equipment is leased or rented.

22 (e) Effective Date. – A tax imposed under this section becomes effective on the
23 date set in the resolution imposing the tax. The date must be the first day of a calendar
24 quarter and may not be sooner than the first day of the calendar quarter that begins at
25 least two months after the date the resolution is adopted.

26 (f) Repeal. – A county may, by resolution, repeal a tax imposed under this
27 section. The repeal is effective on the date set in the resolution. The date must be the
28 first day of a calendar quarter and may not be sooner than the first day of the calendar
29 quarter that begins at least two months after the date the resolution is adopted."

30 **SECTION 3.** Article 9 of Chapter 160A of the General Statutes is amended
31 by adding a new section to read:

32 **"§ 160A-215.2. Heavy equipment gross receipts tax in lieu of property tax.**

33 (a) Definitions. – The following definitions apply in this section:

34 (1) Heavy equipment. – Earthmoving or construction equipment that
35 meets any of the following requirements:

36 a. It is a self-propelled vehicle that is not designed to be driven on
37 a highway.

38 b. It is industrial lift equipment, industrial material handling
39 equipment, industrial electrical generation equipment, or a
40 similar piece of industrial equipment.

41 c. It is an attachment or an accessory for a vehicle or a piece of
42 equipment described in this subdivision.

43 (2) Short-term lease or rental. – Defined in G.S. 105-187.1.

1 (b) A city may, by resolution impose a tax at the rate of sixty-five hundredths
2 percent (0.65%) on the gross receipts from the short-term lease or rental of heavy
3 equipment by a person whose principal business is the short-term lease or rental of
4 heavy equipment at retail. The heavy equipment subject to this tax is exempt from
5 property tax under G.S. 105-275, and this tax provides an alternative to a property tax
6 on the equipment.

7 (c) Administration. – Except as provided in this section, a city that imposes a tax
8 under this section must administer the tax in the same manner as a tax imposed under
9 G.S. 105-164.4(a)(2). The gross receipts from the short-term lease or rental of heavy
10 equipment are subject to a tax under this section if the place of business from which the
11 heavy equipment is leased or rented is located in the city. The penalties and collection
12 remedies that apply to the payment of sales and use taxes under Article 5 of Chapter 105
13 of the General Statutes apply to this tax. The city finance officer has the same authority
14 as the Secretary of Revenue in imposing these penalties and remedies.

15 (d) Payment. – A person whose principal business is the short-term lease or
16 rental of heavy equipment is required to remit a tax imposed by this section to the city
17 finance officer. The tax is payable quarterly and is due by the last day of the month
18 following the end of the quarter. The tax is intended to be added to the amount charged
19 for the short-term lease or rental of heavy equipment and paid to the heavy equipment
20 business by the person to whom the heavy equipment is leased or rented.

21 (e) Effective Date. – A tax imposed under this section becomes effective on the
22 date set in the resolution imposing the tax. The date must be the first day of a calendar
23 quarter and may not be sooner than the first day of the calendar quarter that begins at
24 least two months after the date the resolution is adopted.

25 (f) Repeal. – A city may, by resolution, repeal a tax imposed under this section.
26 The repeal is effective on the date set in the resolution. The date must be the first day of
27 a calendar quarter and may not be sooner than the first day of the calendar quarter that
28 begins at least two months after the date the resolution is adopted."

29 **SECTION 4.** G.S. 105-259(b)(5) reads as rewritten:

30 **"§ 105-259. Secrecy required of officials; penalty for violation.**

31 (b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
32 who has access to tax information in the course of service to or employment by the State
33 may not disclose the information to any other person unless the disclosure is made for
34 one of the following purposes:

35 ...

36 (5) To furnish to the chair of a board of county commissioners or the tax
37 collector of a county information on the county sales and use tax."

38 **SECTION 5.** Section 1 of this act is effective for taxes imposed for taxable
39 years beginning on or after July 1, 2009. The remainder of this act is effective when it
40 becomes law. A tax imposed under G.S. 153A-156.1 or G.S. 160A-215.2, as enacted by
41 this act, may not become effective before January 1, 2009.