

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE BILL 1852  
Finance Committee Substitute Adopted 6/10/08

Short Title: Tax on Short-Term Heavy Equipment Rentals.

(Public)

Sponsors:

Referred to:

May 22, 2008

A BILL TO BE ENTITLED

1 AN ACT TO RESOLVE PROBLEMS WITH APPLYING PROPERTY TAX TO  
2 HEAVY EQUIPMENT RENTED ON A SHORT-TERM BASIS BY REPLACING  
3 THE PROPERTY TAX ON THIS EQUIPMENT WITH A TAX ON THE GROSS  
4 RECEIPTS FROM RENTING THE EQUIPMENT.  
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 105-275 is amended by adding a new subdivision to read:

8 "**§ 105-275. Property classified and excluded from the tax base.**

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

12 ...

13 (42a) Heavy equipment on which a gross receipts tax may be imposed under  
14 G.S. 153A-156.1 and G.S. 160A-215.2."

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

17 "**§ 153A-156.1. Heavy equipment gross receipts tax in lieu of property tax.**

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

19 (1) Heavy equipment. – Earthmoving, construction, or industrial  
20 equipment that is mobile, weighs at least 1,500 pounds, and meets any  
21 of the descriptions listed in this subdivision. The term includes an  
22 attachment for heavy equipment, regardless of the weight of the  
23 attachment.

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

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

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

1       (b) Tax Authorized. – A county may, by resolution, impose a tax at the rate of  
2 one and two-tenths percent (1.2%) on the gross receipts from the short-term lease or  
3 rental of heavy equipment by a person whose principal business is the short-term lease  
4 or rental of heavy equipment at retail. The heavy equipment subject to this tax is exempt  
5 from property tax under G.S. 105-275, and this tax provides an alternative to a property  
6 tax on the equipment. A person is not considered to be in the short-term lease or rental  
7 business if the majority of the person's lease and rental gross receipts are derived from  
8 leases and rentals to a person who is a related person under G.S. 105-163.010.

9       The tax authorized by this section applies to gross receipts that are subject to tax  
10 under G.S. 105-164.4(a)(2). Gross receipts from the short-term lease or rental of heavy  
11 equipment are subject to a tax imposed by a county under this section if the place of  
12 business from which the heavy equipment is delivered is located in the county.

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

19       (d) Enforcement. – The penalties and collection remedies that apply to the  
20 payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes  
21 apply to a tax imposed under this section. The county finance officer has the same  
22 authority as the Secretary of Revenue in imposing these penalties and remedies.

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

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

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

33 **"§ 160A-215.2. Heavy equipment gross receipts tax in lieu of property tax.**

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

35           (1) Heavy equipment. – Defined in G.S. 153A-156.1.

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

37       (b) Tax Authorized. – A city may, by resolution, impose a tax at the rate of eight  
38 tenths percent (0.8%) on the gross receipts from the short-term lease or rental of heavy  
39 equipment by a person whose principal business is the short-term lease or rental of  
40 heavy equipment at retail. The heavy equipment subject to this tax is exempt from  
41 property tax under G.S. 105-275, and this tax provides an alternative to a property tax  
42 on the equipment. A person is not considered to be in the short-term lease or rental  
43 business if the majority of the person's lease and rental gross receipts are derived from  
44 leases and rentals to a person who is a related person under G.S. 105-163.010.

1       The tax authorized by this section applies to gross receipts that are subject to tax  
2 under G.S. 105-164.4(a)(2). Gross receipts from the short-term lease or rental of heavy  
3 equipment are subject to a tax imposed by a city under this section if the place of  
4 business from which the heavy equipment is delivered is located in the city.

5       (c) Payment. – A person whose principal business is the short-term lease or  
6 rental of heavy equipment is required to remit a tax imposed by this section to the city  
7 finance officer. The tax is payable quarterly and is due by the last day of the month  
8 following the end of the quarter. The tax is intended to be added to the amount charged  
9 for the short-term lease or rental of heavy equipment and paid to the heavy equipment  
10 business by the person to whom the heavy equipment is leased or rented.

11       (d) Enforcement. – The penalties and collection remedies that apply to the  
12 payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes  
13 apply to a tax imposed under this section. The city finance officer has the same  
14 authority as the Secretary of Revenue in imposing these penalties and remedies.

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

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

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

24       "**§ 105-259. Secrecy required of officials; penalty for violation.**

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

29       ...

30       (5d) To provide the following information to a county or city on an annual  
31 basis, when the county or city needs the information for the  
32 administration of its local prepared food and beverages ~~tax or room~~  
33 ~~occupancy~~ tax, room occupancy tax, vehicle rental tax, or heavy  
34 equipment rental tax:

35       a. The name, address, and identification number of retailers who  
36 collect the sales and use taxes imposed under Article 5 of this  
37 Chapter and may be engaged in a business subject to a ~~local~~  
38 ~~prepared food and beverages tax or room occupancy tax.~~ one or  
39 more of these local taxes.

40       b. The name, address, and identification number of a retailer  
41 audited by the Department of Revenue regarding the sales and  
42 use taxes imposed under Article 5 of this Chapter, when the  
43 Department determines that the audit results may be of interest  
44 to the county or city in the administration of its ~~local prepared~~

1                               ~~food and beverages tax or room occupancy tax~~ one or more of  
2                               these local taxes.

3                               ...."

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