

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1941

Introduced by Assembly Member Ma

February 22, 2012

An act to ~~amend Section 6093 of~~ *add Part 11 (commencing with Section 5500) to Division 1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1941, as amended, Ma. ~~Sales and use tax.~~ *Taxation: qualified heavy equipment.*

The California Constitution authorizes the Legislature to classify personal property for differential taxation or for exemption by means of a statute approved by a $\frac{2}{3}$ vote of the membership of each house.

This bill would, pursuant to this constitutional authorization, on and after January 1, 2013, impose a tax on every qualified lessee, as defined, of qualified heavy equipment, as defined, for the privilege of leasing or renting qualified heavy equipment in this state at the rate of 1.25% of the gross receipts of the qualified lessee. This bill would provide that this tax shall be in lieu of any personal property tax on qualified heavy equipment. This bill would require the tax to be administered by the State Board of Equalization and to be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. This bill would require all revenues, interest, penalties, and other amounts derived from the imposition of the tax to be deposited in the Heavy Equipment Revenue Fund in the State Treasury, established by this bill. This bill would require all revenues in the fund, upon appropriation by

the Legislature, to be used to reimburse local entities for their loss of property tax revenues resulting from this bill.

By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandate local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

~~The Sales and Use Tax Law presumes that all gross receipts are subject to tax until the contrary is established. This law relieves a seller from liability for sales tax if the seller in good faith takes a resale certificate from a purchaser holding a seller's permit, and the resale certificate is signed and completed as specified.~~

~~This bill would make nonsubstantive, technical changes to this provision.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Part 11 (commencing with Section 5500) is added*
2 *to Division 1 of the Revenue and Taxation Code, to read:*

3
4 *PART 11. TAXATION OF QUALIFIED HEAVY EQUIPMENT*

5
6 *5500. For purposes of this part, all of the following definitions*
7 *shall apply:*

8 *(a) "Local entity" means a city, county, and special district.*

1 (b) “Qualified heavy equipment” means construction,
2 earthmoving, or industrial equipment that is mobile, including
3 attachments for the equipment, including, but not limited to, all of
4 the following:

5 (1) A self-propelled vehicle that is not designed to be driven on
6 the highway.

7 (2) Industrial electrical generation equipment.

8 (3) Industrial lift equipment.

9 (4) Industrial material equipment.

10 (c) “Leasing or renting” means a short-term lease or rental for
11 a period of 365 days or less.

12 (d) “Qualified lessee” means a lessee that leases or rents
13 qualified heavy equipment from a qualified lessor.

14 (e) “Qualified lessor” means a lessor that satisfies all of the
15 following:

16 (1) The principal business of the lessor is the short-term lease
17 or rental of qualified heavy equipment.

18 (2) ___ percent of the total gross receipts of the qualified
19 lessor’s business is derived from the lease or rental of qualified
20 heavy equipment.

21 (3) Is engaged in a line of business described in NAICS Industry
22 532412 of the North American Industry Classification System
23 published by the United States Office of Management and Budget,
24 2012 edition.

25 5501. On or after January 1, 2013, there is hereby imposed a
26 tax on every qualified lessee of qualified heavy equipment for the
27 privilege of leasing or renting qualified heavy equipment in this
28 state at the rate of 1.25 percent of the gross receipts of the qualified
29 lessee from the lease or rental of qualified heavy equipment.

30 5502. The State Board of Equalization shall administer and
31 collect the tax imposed by this part pursuant to the Fee Collection
32 Procedures Law (Part 30 (commencing with Section 55001) of
33 Division 2). For purposes of this part, the references in the Fee
34 Collection Procedures Law to “fee” shall include the tax imposed
35 by this part and references to “feepayer” shall include a person
36 required to pay the tax imposed by this part.

37 5503. The State Board of Equalization may prescribe, adopt,
38 and enforce regulations relating to the administration and
39 enforcement of this part, including, but not limited to, collections,
40 reporting, refunds, and appeals.

1 5504. *The taxes imposed by this part are due and payable to*
2 *the State Board of Equalization quarterly on or before the last day*
3 *of the month next succeeding each quarterly period.*

4 5506. (a) *On or before the last day of the month following*
5 *each quarterly period of three months, a return for the preceding*
6 *quarterly period shall be filed using electronic media with the*
7 *State Board of Equalization.*

8 (b) *The State Board of Equalization may prescribe those forms*
9 *and reporting requirements as are necessary to implement the tax.*

10 (c) *Returns shall be authenticated in a form or pursuant to*
11 *methods as may be prescribed by the board.*

12 5507. *The qualified lessor shall collect the tax imposed*
13 *pursuant to this part on each lease or rental of qualified heavy*
14 *equipment and remit the tax to State Board of Equalization as*
15 *required by this part.*

16 5508. (a) *All revenues, interest, penalties, and other amounts*
17 *collected pursuant to this part, less refunds, shall be deposited in*
18 *the Heavy Equipment Revenue Fund, which is hereby established*
19 *in the State Treasury.*

20 (b) *Upon appropriation by the Legislature, revenues in the fund*
21 *shall be used to reimburse local entities for their loss of property*
22 *tax revenues resulting from the of the act that added this*
23 *subdivision.*

24 5509. *For the 2013–14 fiscal year and for each fiscal year*
25 *thereafter, the tax imposed pursuant to this part shall be in lieu of*
26 *any property tax on qualified heavy equipment subject to taxation*
27 *pursuant to this part.*

28 SEC. 2. *No reimbursement is required by this act pursuant to*
29 *Section 6 of Article XIII B of the California Constitution because*
30 *the only costs that may be incurred by a local agency or school*
31 *district will be incurred because this act creates a new crime or*
32 *infraction, eliminates a crime or infraction, or changes the penalty*
33 *for a crime or infraction, within the meaning of Section 17556 of*
34 *the Government Code, or changes the definition of a crime within*
35 *the meaning of Section 6 of Article XIII B of the California*
36 *Constitution.*

37 SEC. 3. *Notwithstanding Section 2229 of the Revenue and*
38 *Taxation Code, no appropriation is made by this act and the state*
39 *shall not reimburse any local agency for any property tax revenues*
40 *lost by it pursuant to this act.*

1 *SEC. 4. This act provides for a tax levy within the meaning of*
2 *Article IV of the Constitution and shall go into immediate effect.*

3 ~~SECTION 1. Section 6093 of the Revenue and Taxation Code~~
4 ~~is amended to read:~~

5 ~~6093. The certificate shall be signed by and bear the name and~~
6 ~~address of the purchaser, indicate the number of the permit issued~~
7 ~~to the purchaser, and indicate the general character of the tangible~~
8 ~~personal property sold by the purchaser in the regular course of~~
9 ~~business. The certificate shall be substantially in such form as the~~
10 ~~board may prescribe.~~