

AMENDED IN ASSEMBLY MAY 3, 2016
AMENDED IN ASSEMBLY MARCH 28, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2749

Introduced by Assembly Member Brough
(Coauthor: Senator Pan)

February 19, 2016

An act to add Section 1656.5 to the Civil Code, *and to add Part 13.7 (commencing with Section 31201) to Division 2 of the Revenue and Taxation Code*, relating to heavy equipment rentals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2749, as amended, Brough. Heavy equipment rentals: rental ~~agreements~~: *agreements: property tax reimbursement*.

Existing law prescribes the manner in which contracts or agreements may be created. *The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.*

This bill would establish, in a rental agreement of heavy equipment property by a qualified heavy equipment renter, a rebuttable presumption that the parties agreed to the addition of estimated personal property tax reimbursement to the rental price of heavy equipment property to a lessee if specified conditions occur, including that the rental agreement states that the estimated personal property tax reimbursement amount charged is the amount estimated by the qualified heavy equipment renter owed for personal property tax on that heavy equipment property for a specified lien date and that any amounts in excess of the actual amount of personal property taxes owed on the heavy equipment property will

be remitted to the State Board of Equalization for deposit into the state General Fund.

This bill would require every qualified heavy equipment renter to register with the State Board of Equalization, as provided, and would require a qualified heavy equipment renter to file an annual return with the board, in a form prescribed by the board, that shows the ad valorem property tax levied on qualified heavy equipment property for the previous fiscal year lien date and the property tax reimbursement collected in the aggregate on any heavy equipment property for the 12-month period ending August 31. This bill would require any property tax reimbursement that is collected in excess of the ad valorem property tax levied to be paid to the board and would require the board to collect those excess reimbursement amounts pursuant to the procedures set forth in the Fee Collection Procedures Law. This bill would require all amounts, less refunds, to be deposited into the General Fund.

By expanding the application of the Fee Collection Procedures Law, which imposes criminal penalties for various acts, this bill would impose a state-mandated 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.

~~This bill would require, on or before October 1, 2017, and on or before every October 1 each year thereafter, a qualified heavy equipment renter to file a return with the State Board of Equalization, in the form and manner as prescribed by the board, if the qualified heavy equipment renter has collected estimated personal property tax reimbursement amounts in excess of the actual amount of personal property tax owed on the heavy equipment property for the previous fiscal year lien date. The bill would require the qualified heavy equipment renter to remit that excess estimated personal property tax reimbursement amount with the return and would require the board to deposit those amounts into the General Fund.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

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

SECTION 1. Section 1656.5 is added to the Civil Code, to read:

1656.5. (a) Whether a qualified heavy equipment renter may add estimated personal property tax reimbursement to the rental price of heavy equipment property to a lessee depends solely upon the terms of the rental agreement. It shall be presumed that the parties agreed to the addition of estimated personal property tax reimbursement to the rental price of heavy equipment property to a lessee if all of the following conditions occur:

(1) The rental agreement expressly provides for the addition of estimated personal property tax reimbursement.

(2) Estimated personal property tax reimbursement is separately stated and charged on the rental agreement.

(3) The rental agreement states that the estimated personal property tax reimbursement amount charged is the amount estimated by the qualified heavy equipment renter owed for personal property tax on that heavy equipment property for a specified lien date, and that any amounts in excess of the actual amount of personal property taxes owed on the heavy equipment property will be remitted to the State Board of Equalization for deposit into the state General Fund.

(4) The estimated personal property tax reimbursement amount shall not exceed 0.75 percent of the rental price of the heavy equipment property.

(b) The presumptions created by this section are rebuttable presumptions.

~~(c) On or before October 1, 2017, and on or before every October 1 each year thereafter, a qualified heavy equipment renter shall file a return with the State Board of Equalization, in the form and manner as prescribed by the board, if the qualified heavy equipment renter has collected estimated personal property tax reimbursement amounts in excess of the actual amount of personal property tax owed on the heavy equipment property for the previous fiscal year lien date. The qualified heavy equipment renter shall remit that excess estimated personal property tax reimbursement amount with the return and the board shall deposit those amounts into the General Fund.~~

~~(d) For purposes of this section, all of the following definitions shall apply:~~

~~(1) “Heavy equipment property” means rental property of a qualified heavy equipment renter.~~

~~(2) “Qualified heavy equipment renter” means a renter that satisfies both of the following:~~

~~(A) The principal business of the renter is the rental of qualified heavy equipment.~~

~~(B) The renter is engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System published by the United States Office of Management and Budget, 2012 edition.~~

~~(3) “Rental price”~~

(c) For purposes of this section, “rental price” means the total amount of the charge for renting the heavy equipment property, excluding any separately stated charges that are not rental charges, including, but not limited to, separately stated charges for delivery and pickup fees, damage waivers, environmental mitigation fees, sales tax reimbursement, or use taxes.

SEC. 2. Part 13.7 (commencing with Section 31201) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 13.7. PROPERTY TAX REIMBURSEMENT LAW

31201. This part shall be known and may be cited as the Property Tax Reimbursement Law.

31202. For purposes of this part, all of the following definitions shall apply:

(a) “Heavy equipment property” means rental property of a qualified heavy equipment renter.

(b) “Qualified heavy equipment renter” means a renter that satisfies both of the following:

(1) The principal business of the renter is the rental of qualified heavy equipment.

(2) The renter is engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System published by the United States Office of Management and Budget, 2012 edition.

31203. Every qualified heavy equipment renter shall register with the board. Every application for registration shall be made

1 upon a form prescribed by the board and shall set forth the name
2 under which the applicant transacts or intends to transact business,
3 the location of its place or places of business, and other
4 information as the board may require. An application for
5 registration shall be authenticated in a form or pursuant to methods
6 as may be prescribed by the board.

7 31204. On or before September 30 of each year, a qualified
8 heavy equipment renter shall file a return with the board for the
9 preceding 12-month period ending August 31, in a form prescribed
10 by the board. Returns shall be authenticated in a form or pursuant
11 to methods as may be prescribed by the board.

12 31205. The return shall show the ad valorem property tax
13 levied on qualified heavy equipment property for the previous
14 fiscal year lien date and the property tax reimbursement collected
15 in the aggregate on any heavy equipment property for the 12-month
16 period ending August 31. If a qualified heavy equipment renter
17 collected property tax reimbursement in excess of the ad valorem
18 property tax levied, the excess property tax reimbursement
19 constitutes a debt owed by the qualified heavy equipment renter
20 to the state. The excess property tax reimbursement collected is
21 due and payable to the state annually on or before September 30
22 and shall be paid in the form of remittances payable to the board.

23 31206. The board shall collect any property tax reimbursement
24 pursuant to the Fee Collection Procedures Law (Part 30
25 (commencing with Section 55001)) to the extent these provisions
26 are not inconsistent with this part. For purposes of administration
27 of this part, references in the Fee Collection Procedures Law to
28 "feepayer" and "fee" shall include "qualified heavy equipment
29 renter" and "property tax reimbursement."

30 31207. Any property tax reimbursement collected by a qualified
31 heavy equipment renter shall conform to Section 1656.5 of the
32 Civil Code.

33 31208. All revenues derived under this part, less refunds, shall
34 be deposited in the General Fund.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 *the Government Code, or changes the definition of a crime within*
- 2 *the meaning of Section 6 of Article XIII B of the California*
- 3 *Constitution.*

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