

## DEPARTMENT OF STATE REVENUE

## Commissioner's Directive #60

January 2019

Effective Date: January 1, 2019

**SUBJECT:** Heavy Equipment Rental Excise Tax**REFERENCES:** [IC 6-6-15](#)

**DISCLAIMER:** Commissioner's directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**I. INTRODUCTION**

HEA 1323 (2018) creates a new tax system for heavy rental equipment. This type of equipment had previously been subject to assessment of the personal property tax. However, HEA 1323 excludes heavy rental equipment from the personal property tax and imposes a new excise tax on the rental of heavy equipment.

**II. IMPOSITION AND RATE**

The heavy equipment rental excise tax is imposed upon the rental of heavy rental equipment from a retail merchant and from a location in Indiana for a period of 365 or fewer days or for a rental contract with no specified end date. The heavy equipment rental excise tax is imposed on the rental of subject equipment. The tax imposed is two and twenty-five hundredths percent (2.25%) of the gross retail income received by the retail merchant for the rental.

The "gross retail income" of a transaction subject to the heavy equipment rental excise tax is defined in [IC 6-6-15\(2\)\(2\)](#) [[IC 6-6-15-2\(2\)](#)] as having the same meaning set forth in [IC 6-2.5-1-5](#), and thus is calculated in the same manner as it is under the sales tax. For the sales tax, "gross retail income" means the total amount of consideration received. Therefore, the gross retail income subject to the 2.25% heavy equipment rental excise tax would include delivery charges as well as any miscellaneous charges that the merchant applies to the rental bill.

The person renting the heavy rental equipment is liable for the heavy equipment rental excise tax on the transaction, and shall pay the tax to the retail merchant as a separate amount added to the consideration for the transaction. The retail merchant is responsible for collecting and remitting the tax as an agent for the state.

**III. EQUIPMENT RENTALS SUBJECT TO THE TAX**

"Heavy rental equipment" means personal property (including attachments used in conjunction with the personal property) that is owned by a person or business that is classified under 532412 of the North American Industry Classification System Manual in effect on January 1, 2018, and is a retail merchant in the business of renting heavy equipment, including any attachments. The term does not include equipment that is intended to be permanently affixed to real property or is subject to vehicle registration under [IC 9-18.1](#) for use on a public highway.

The term does not include heavy rental equipment that is rented for mining purposes or heavy rental equipment that is eligible for a property tax abatement deduction under [IC 6-1.1-12.1](#) during the calendar year.

"Rental" means any transfer of possession or control of heavy rental equipment for consideration for a period not to exceed three hundred 365 days or for a period that is open ended under the terms of the rental contract with no specified end date.

**IV. TYPES OF EQUIPMENT SUBJECT TO THE TAX**

The heavy equipment rental excise tax applies to the rental of equipment (without an operator) associated with NAICS Code 532412. Heavy equipment includes, but is not limited to, the following:

- Bulldozers
- Construction machinery and equipment
- Cranes
- Earth moving equipment
- Forestry machinery and equipment
- Heavy construction equipment
- Logging equipment
- Oil field machinery and equipment
- Oil well drilling machinery and equipment
- Welding equipment
- Well drilling machinery and equipment

## V. RENTALS OF HEAVY EQUIPMENT NOT SUBJECT TO THE TAX

Transactions in which the heavy rental equipment is rented by the United States government, the State of Indiana, a political subdivision (meaning a municipal corporation or special taxing district), or an agency or instrumentality of any of these entities, are exempt from the heavy equipment excise tax.

Transactions that are a subrent of the heavy rental equipment from a rentee to another person where the rentee was liable for and paid the tax are exempt from the tax i.e. there is no sale for resale or renting for re-rent exemption.

The definition of "heavy rental equipment" excludes heavy rental equipment that is rented for mining purpose, thus rentals of mining equipment are not subject to the tax.

Heavy rental equipment that is eligible for a property tax abatement deduction under [IC 6-1.1-12.1](#) during the calendar year is exempt from the tax.

Rentals for a specified period of more than 365 days are not subject to the new tax.

## VI. EXEMPTION FROM PROPERTY TAX

For an assessment date after December 31, 2018, heavy rental equipment that is rented or held in inventory for rental or sale, the rental of which is or would be subject to the heavy equipment rental excise tax, is exempt from the personal property tax.

## VII. ADDITIONAL INFORMATION

If a taxpayer rents subject equipment for a period longer than 365 days and exchanges it for another piece of equipment during the rental period, the tax treatment of the second piece of equipment depends on the nature of that equipment. The second piece of equipment would only be considered to be covered by the original rental, and thus exempt from the imposition of the heavy equipment rental excise tax because the rental was for more than 365 days, if the second piece of equipment was essentially a "replacement" for the original equipment rather than a piece of equipment of a different type or with a different use than the original one.

[IC 6-6-15\(3\)\(a\)](#) [[IC 6-6-15-3\(a\)](#)] provides that the heavy equipment rental excise tax is imposed on the *rental of heavy equipment from a location in Indiana*. The personal property tax on equipment was based on the *use of equipment in Indiana*. Subject heavy equipment rented from a location in Indiana, but used outside Indiana, is subject to the heavy equipment rental excise tax. Subject heavy equipment rented from a location outside Indiana, but used in Indiana, is not subject to the heavy equipment rental excise tax.

## VIII. REGISTRATION

Merchants should register to collect the heavy equipment rental excise tax by visiting the INBiz website at <https://inbiz.in.gov/BOS/Home/Index>. Existing businesses with a sales tax account already open, should add this new tax type to the existing sales tax location through INBiz.

## IX. FILING

The heavy equipment rental excise tax adopts the statutory filing requirements of the sales tax, e.g. filing frequency and reporting methods, but the taxes must be filed separately. The heavy equipment rental excise tax

is sourced to the heavy equipment rental business location, i.e. origin sourcing, and the sales tax is sourced based location of the rental property, i.e. destination sourcing, thus requiring that the heavy equipment rental excise tax be reported separately from the sales tax. The origin sourcing of the heavy equipment rental excise tax also precludes the filing of a consolidated heavy equipment rental excise return because the heavy equipment rental excise tax must be distributed to the specific county where the heavy equipment rental business is located.

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