TO: County Auditors and Assessing Officials
FROM: Wesley R. Bennett, Commissioner
RE: Legislation Affecting Heavy Rental Equipment Taxation, HEA 1323-2018
DATE: May 17, 2018

This memorandum discusses the revisions made to the law regarding the taxation of heavy rental equipment. Please note that this memorandum is for informational purposes only and is not a substitute for reading the law.

On March 21, 2018, Governor Eric Holcomb signed into law House Enrolled Act 1323-2018 ("HEA 1323"). This Act provides that heavy rental equipment are subject to a new excise tax, rather than business personal property tax, starting in 2019. The changes described in this memorandum are effective January 1, 2019.

NOTE: The purpose of this memorandum is strictly to inform local officials that certain business personal property will no longer be subject to personal property tax, but rather a new excise tax. Another purpose of this memorandum is to summarize how distributions of the new excise tax revenue are distributed to local units. The Department of Local Government Finance has not been given authority by the General Assembly to oversee or administer the heavy rental equipment excise tax, therefore this memorandum is limited only to those matters in HEA 1323 affecting personal property taxation and local government budgeting.

I. Heavy Equipment Rental Excise Tax, IC 6-6-15

Section 3 of HEA 1323 adds new chapter IC 6-6-15, which imposes an excise tax on heavy rental equipment from a retail merchant and from a location in Indiana.

“Heavy rental equipment” means personal property (including attachments used in conjunction with the personal property)
- that is owned by a person or business that
  o is classified under 532412 of the North American Industry Classification System Manual in effect on January 1, 2018; and
  o is a retail merchant in the business of renting heavy equipment, including any attachments;
- is not intended to be permanently affixed to any real property; and
- is not subject to registration under IC 9-18.1 for use on a public highway (as defined in IC 9-25-2-4).
However, 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.

Likewise, per Section 1 of HEA 1323, heavy rental equipment subject to the excise tax imposed under IC 6-6-15 is not subject to assessment and taxation under IC 6-1.1. However, as stated above, heavy rental equipment rented for mining purposes (which has not been defined in HEA 1323) or heavy rental equipment eligible for a property tax abatement will still be subject to personal property tax.

II. Distribution of Excise Tax to the County, IC 6-6-15-7

All revenues from this excise tax must be deposited in a special account in the state general fund, called the heavy equipment rental excise tax account. Funds from this account are to be distributed to the county treasurer on or before April 30 and October 30 each year. The Department of Revenue shall notify the county auditor of the amount of taxes to be distributed and certify (1) the taxing districts within the county where the excise tax was collected and (2) the amount of the distribution that was collected with respect to each district. The treasurer shall deposit the distributions in a separate account for settlement at the same time property taxes are accounted for and settled in June and December each year.

The county auditor shall apportion, and the county treasurer shall distribute, the excise tax among the taxing units in the county in the same manner that property taxes are apportioned and distributed with respect to property located in the taxing district where the excise tax is sourced (i.e., the business location of the retail merchant from which the heavy equipment motor vehicle is rented).

For distributions made in 2019, the taxing unit must deposit the excise taxes in the levy excess fund of the taxing unit. For distributions made after 2019, the taxing unit must allocate the taxes in the same proportion that the taxing unit’s property tax collections are allocated among those funds.

Contact Information

Questions concerning Section I of this memorandum may be directed to your assessment division field representatives. Contact information may be found at https://www.in.gov/dlgf/files/Field%20Rep%20Map%20-%20Assessment.pdf.

Questions concerning Section II of this memorandum may be directed to your budget division field representatives. Contact information may be found at https://www.in.gov/dlgf/files/Field_Rep_Map_-_Budget.pdf.