FINAL BILL REPORT
SSB 5628

C 301 L 20
Synopsis as Enacted

Brief Description: Concerning heavy equipment rental property taxation.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Cleveland, Brown, Hobbs, Walsh and Palumbo).

Senate Committee on Ways & Means
Senate Committee on Transportation

Background: Property Tax. All real and personal property in the state is subject to property tax each year based on its value, unless specific exemption is provided by law. The Washington Constitution limits regular property tax levies to a maximum of 1 percent of the property's value—$10 per $1,000 of assessed value (AV). Excess levies are not subject to this constitutional limit and require voter approval. There are statutory rate maximums for individual taxing districts and aggregate rate maximums to keep the total tax rate of regular property taxes within the constitutional limit. All regular levies, except for state levies, are subject to a statutory revenue growth limit. If the taxing authority has a population of 10,000 or more, the revenue growth limit is the lesser of inflation or 1 percent plus the valuation of new construction. If the taxing authority has a population of less than 10,000, the revenue growth limit is 1 percent plus the value of new construction.

The state collects two regular property tax levies for common schools. The original state levy was first imposed when Washington achieved statehood in 1889. Over time, the Legislature adopted limitations on the levy, including on the growth of revenue. In 1971, the Legislature adopted the first statutory revenue growth limit for regular levies. In 2007, the Legislature limited the revenue growth rate to the lesser of 1 percent or inflation, plus the value of new construction—revenue growth limit. In 2017, the Legislature adopted EHB 2242, which created the additional state levy.

For taxes levied for collection in calendar years 2020-2021, the combined rate for both state levies is $2.70 per $1,000 AV. The revenue growth limit does not apply to the state levies during this time. Beginning with taxes levied for collection in calendar year 2022 and thereafter, the revenue growth limit applies to both levies, and the combined rate will be budget-based.

Personal Property. Most personal property owned by individuals, such as household goods, is exempt from taxation. However, if these items are used in a business, property tax applies.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Other personal property used in business subject to property tax includes machinery, equipment, and furniture. Business property held to be leased or rented is subject to property tax.

Tax Preferences. State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including some property tax exemptions. Legislation that establishes or expands a tax preference must include a tax preference performance statement (TPPS) identifying the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided.

Sales and Use Taxes. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then a use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent. State sales and use tax revenues are deposited into the state general fund.

Summary: Property Tax Exemption. Heavy equipment rental property owned by a heavy equipment rental property dealer is exempt from property tax. Heavy equipment rental property means any equipment that is rented, mobile, used for construction or industrial applications, and is rented without an operator. Heavy equipment rental property dealer means a person principally engaged in the business of renting heavy equipment.

The bill exemption applies to taxes levied for collection in 2022 and thereafter. The exemption does not apply in a given year to heavy equipment rental property that the dealer rented or leased during the prior tax year to a person with whom the dealer is affiliated. The exemption is applied for via the county assessor, using any forms prescribed and approved by the Department of Revenue (DOR). If a dealer received an exemption based on erroneous information, taxes must be collected for a period up to five years with penalties of:

- 25 percent of total tax due;
- 50 percent of total tax due if the dealer has previously been assessed a penalty; or
- 100 percent of total tax due if the dealer, with intent to defraud, submitted a false or materially misleading claim for the exemption.

The bill is exempt from the TPPS requirements, the 10-year expiration of tax preferences, and the JLARC review.

Heavy Equipment Rental Tax. Beginning January 1, 2022, a 1.25 percent heavy equipment rental tax is imposed on each rental in this state of heavy equipment rental property to a consumer by a heavy equipment rental property dealer. The heavy equipment rental tax applies to all rentals of heavy equipment from a rental location in this state where the customer picks up the heavy equipment or where the heavy equipment is delivered to the customer.

The heavy equipment rental tax does not apply to:
- any transaction that the state is prohibited from taxing under the State Constitution, Federal Constitution, or other laws of the United States;
- the rental of heavy equipment rental property to the state, any of its political subdivisions, or to any municipal corporation; or
- rentals of heavy equipment rental property made from a rental location in this state and delivered to the consumer outside this state or made from a rental location outside of this state and delivered to the consumer in this state.

The revenue from the heavy equipment rental tax is distributed as follows:
- 50 percent to the Motor Vehicle Fund; and
- 50 percent to the Multimodal Transportation Account.

Each heavy equipment rental property dealer must add the heavy equipment rental tax to the rental invoice. All heavy equipment rental taxes shall be reported and remitted to DOR in a manner and frequency consistent with the reporting and remittance of state sales taxes, and on such forms as specified by DOR.

The heavy equipment rental tax is added to those held in trust, like the state sales tax. This allows DOR to pursue payment of heavy equipment rental tax collected by a business, but not paid if the business is insolvent or goes out of business.

Votes on Final Passage:

Senate	48	0
House	53	44

Effective: June 11, 2020