

Regular Session, 2013

HOUSE BILL NO. 517

BY REPRESENTATIVE BROADWATER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/AD VALOREM TAX: Provides with respect to ad valorem taxes for heavy equipment rental property

1 AN ACT

2 To enact Chapter 7 of Subtitle III of Title 47 of the Louisiana Revised Statues of 1950, to
3 be comprised of R.S. 47:2341 though 2349, relative to ad valorem taxes on certain
4 property, to provide with respect to the assessment, valuation, and collection of ad
5 valorem tax on heavy equipment rental property; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Chapter 7 of Subtitle III of Title 47 of the Louisiana Revised Statues of
8 1950, comprised of R.S. 47:2341 though 2349, is hereby enacted to read as follows:

9 CHAPTER 7. HEAVY EQUIPMENT RENTAL PROPERTY

10 §2341. Heavy equipment rental property; ad valorem taxes; legislative intent;
11 conflicts; definitions

12 A. The legislature hereby finds and declares that because of the specialized
13 nature of short-term heavy equipment rental property, the adoption of certain
14 provisions relative to the determination and collection of ad valorem taxes is
15 appropriate in regards to heavy equipment rental property.

16 B. In the event of a conflict between a definition, rate, assessment,
17 procedure, calculation, remittance, or reporting requirement ascribed in this Chapter
18 and any other provision of law, specifically but not limited to R.S. 47:1956(A)(2),
19 1957(C), 1961, 2127(A) and (C), 2223, 2321, 2323(C), and 2324 or any other
20 provision of this Subtitle III, the provisions of this Chapter shall prevail.

1 C. As used in this Chapter, the following terms have the meaning ascribed
2 to them in this Subsection, unless the context clearly indicates otherwise:

3 (1) "Aggregate millage rate" means the aggregate mills of ad valorem tax
4 levied annually by all political subdivisions in a parish.

5 (2) "Business of short-term rental of heavy equipment rental property"
6 means those activities as described under North American Industrial Classification
7 System code 532412, construction, mining, and forestry machinery and equipment
8 rental and leasing, as published by the United States Census Bureau in the 2012
9 United States NAICS Manual.

10 (3) "Dealer" means a company that is principally engaged in the business of
11 short-term rental of heavy equipment rental property.

12 (4) "Dealer's collection millage rate" means fifteen percent of the aggregate
13 millage rate.

14 (5) "Dealer's annual report" means the annual report filed by a dealer on a
15 form adopted by the Louisiana Tax Commission, which form may include
16 information the Louisiana Tax Commission considers appropriate.

17 (6) "Dealer's place of business" means each establishment within this state,
18 as identified on the dealer's supplemental ad valorem tax bill, where a dealer holds
19 heavy equipment rental property inventory for purposes of short-term rental.

20 (7) "Heavy equipment property" means construction, earthmoving, or
21 industrial equipment, including any attachment thereto, that is mobile and that is not
22 intended to be permanently affixed to any real property for the purpose of using the
23 equipment for its intended use.

24 (a) The term "heavy equipment property" shall include but is not limited to
25 the following:

26 (i) A self-propelled vehicle that is not designed to be driven on a highway.

27 (ii) Industrial lift equipment, industrial material handling equipment,
28 industrial electrical generation equipment, or a similar piece of industrial equipment
29 that is capable of being moved from one location to another.

1 **(b) The term "heavy equipment property" shall not include any vessel, boat,**
2 **barge, floating equipment, or other watercraft.**

3 **(8) "Heavy equipment rental property" means an item of heavy equipment**
4 **property held by a dealer for short-term rental.**

5 **(9) "Heavy equipment rental property inventory" means all items of heavy**
6 **equipment rental property held by a dealer during a twelve-month period.**

7 **(10) "Prepaid ad valorem tax amount" means the total amount of ad valorem**
8 **property tax collected by a dealer and remitted to a collector for a tax year.**

9 **(11) "Quarterly dealer statement" means a quarterly report to be filed by a**
10 **dealer on a form adopted by the Louisiana Tax Commission, which form may**
11 **include information the Louisiana Tax Commission considers appropriate.**

12 **(12) "Renter" means any company that rents from a dealer an item of heavy**
13 **equipment rental property pursuant to a short-term rental.**

14 **(13) "Short-term rental" means the rental by a dealer of an item of heavy**
15 **equipment property for a period of less than one year or for an undefined period.**

16 **(14) "Short-term rental payment" means the payment or each periodic**
17 **payment received by a dealer for a short-term rental and does not include any other**
18 **separately stated charge, fee, or tax.**

19 **(15) "Supplemental dealer ad valorem tax bill" means the written notification**
20 **required to be issued by the collector to the dealer which form may include**
21 **information the Louisiana Tax Commission considers appropriate.**

22 **(16) "Tax year" means the annual period for which ad valorem tax is due.**

23 **(17) "Total annual rental revenue" means the aggregate amount of short-term**
24 **rental payments received by a dealer during a tax year.**

25 **(18) "Unit property tax" means the amount determined by multiplying the**
26 **short-term rental payment received by the dealer from a renter by the dealer's**
27 **collection millage rate for the preceding tax year for the parish in which is located**
28 **the dealer's place of business from which the heavy equipment rental property was**
29 **rented.**

1 §2342. Heavy equipment rental property; fair market value

2 A. Notwithstanding any other law to the contrary, the fair market value of
3 a dealer's heavy equipment rental property inventory on each assessment date shall
4 be determined as follows:

5 (1) For a company that was a dealer on the assessment date of the preceding
6 tax year, an amount equal to the total annual rental revenue of the dealer for the
7 preceding tax year.

8 (2) For a company that was not a dealer on the assessment date of the
9 preceding tax year, an amount equal to the annualized total annual rental revenue of
10 the dealer for the portion of the preceding tax year during which the dealer had short
11 term rentals.

12 B. Except for a dealer's heavy equipment rental property inventory, movable
13 property held by the dealer shall be valued separately and as otherwise provided by
14 this Title.

15 C. A dealer is presumed to be an owner of its heavy equipment rental
16 property inventory on an assessment date if, during any portion of the preceding tax
17 year the dealer entered into any short-term rental. The presumption is not rebutted
18 by the fact that a dealer has no item of heavy equipment rental property physically
19 on hand at the dealer's place of business on the assessment date.

20 §2343. Heavy equipment rental property; annual reporting

21 A. Each assessor shall gather the data necessary to properly determine the
22 fair market value of a dealer's heavy equipment rental property inventory within the
23 parish on an assessment date.

24 B. On or before the 20th day of January following the applicable tax year,
25 the dealer shall file with the assessor the dealer's annual report for the applicable tax
26 year. The dealer's annual report shall be deemed to be a part of the report required
27 to be filed annually pursuant to R.S. 47:2324, and no other report shall be required
28 with respect to a dealer's heavy equipment rental property inventory.

29 C. The dealer's annual report shall include the following:

1 (1) A description of each item or category of items of heavy equipment
2 rental property rented pursuant to a short-term rental during the tax year for which
3 the report is filed.

4 (2) The total annual rental revenue of the dealer for the tax year for which the
5 report is filed.

6 (3) The total amount of prepaid ad valorem tax collected from renters during
7 the tax year for which the report is filed.

8 (4) If applicable, the annualized total annual rental revenue of the dealer as
9 determined pursuant to R.S. 47:2342(A)(2).

10 §2344. Heavy equipment rental property; collection of pre-paid ad valorem taxes

11 A. Notwithstanding any other law to the contrary and for the purpose of the
12 collection and remittance of ad valorem tax on a dealer's heavy equipment rental
13 property inventory, each dealer shall, with respect to each short-term rental:

14 (1) Assign a unit property tax to each item of heavy equipment rental
15 property.

16 (2) State the amount of the unit property tax assigned to the item of heavy
17 equipment rental property as a separate line item on the invoice or other billing
18 statement issued by the dealer to the renter.

19 (3) Collect the unit property tax from the renter at the time the renter makes
20 a short-term rental payment to the dealer.

21 B. Any ad valorem tax collected by dealer shall be treated as follows:

22 (1) For a company that was a dealer on the assessment date for the tax year,
23 the amount of unit property tax collected by a dealer from a renter shall be treated
24 by the dealer as a prepayment of ad valorem property tax due by the dealer on the
25 dealer's heavy equipment rental property inventory for the tax year and shall be
26 included in the prepaid ad valorem tax amount for the dealer for the tax year.

27 (2) Except as provided in R.S. 47:2347, for a company that was not a dealer
28 on the assessment date for the tax year, the amount of unit property tax collected
29 from a renter shall be treated by the dealer as a prepayment of ad valorem property

1 tax due by the dealer on the dealer's heavy equipment rental property inventory for
2 the succeeding tax year and shall be included in the prepaid ad valorem tax amount
3 for the dealer for the succeeding tax year.

4 §2345. Heavy equipment rental property; remittance of prepaid ad valorem taxes;
5 quarterly dealer statements

6 A. On or before the twentieth day of the month following the end of each
7 quarter during a tax year and regardless of whether a dealer collected any prepaid ad
8 valorem tax amount during the applicable quarter or otherwise is required to remit
9 prepaid ad valorem tax to the collector, the dealer shall file with the collector a
10 quarterly dealer statement for the applicable quarter. The dealer shall also file a copy
11 of each quarterly dealer statement with the assessor for the parish in which is located
12 the dealer's place of business from which the heavy equipment rental property was
13 rented and retain documentation relating to each short-term rental for the applicable
14 quarter and applicable tax year.

15 B. The quarterly dealer statement shall include the following:

16 (1) The total amount of short-term rental payments received by the dealer
17 from renters during the applicable quarter.

18 (2) The total amount of prepaid ad valorem tax collected from renters during
19 the applicable quarter.

20 C. On or before the 20th day of the month following the end of each quarter
21 during the tax year, the dealer shall, together with the quarterly dealer statement
22 required to be filed pursuant to Subsection A of this Section remit to the collector an
23 amount equal to the aggregate of all unit property taxes collected by the dealer from
24 renters during the applicable quarter. The collector shall apply the total amount of
25 ad valorem tax remitted by the dealer as provided in R.S. 47:2344(B) and shall
26 deposit all funds received from the dealer as provided in R.S. 47:2059.

27 §2346. Heavy equipment rental property; supplemental dealer's ad valorem tax bill

28 A. For each tax year, the collector shall compute any underpayment or
29 overpayment of ad valorem tax by the dealer for the tax year. The amount of any

1 underpayment or overpayment of ad valorem tax by a dealer for the tax year shall be
2 computed by the collector as follows:

3 (1) The amount of any underpayment of ad valorem tax for the tax year shall
4 be the excess, if any, of the amount of ad valorem tax due for the tax year over the
5 prepaid ad valorem tax amount for the same tax year.

6 (2) The amount of any overpayment of ad valorem for the tax year shall be
7 the excess, if any, of the prepaid ad valorem tax amount for the tax year over the
8 amount of ad valorem tax due for the same tax year.

9 B.(1) Any such underpayment or overpayment of ad valorem tax by the
10 dealer for the tax year shall be reported by the collector to the dealer on the
11 supplemental dealer's ad valorem tax bill for the tax year, which shall be sent to the
12 dealer by certified United States mail on or before the fifteenth day of February
13 following the tax year to which the supplemental dealer's ad valorem tax bill applies.
14 The supplemental dealer's ad valorem tax bill shall be sent to the address listed for
15 the dealer on the parish tax roll for the applicable tax year.

16 (2) Such supplemental dealer's ad valorem tax bill shall include the
17 following information:

18 (a) The assessed value of the dealer's heavy equipment rental property
19 inventory on the assessment date for the tax year.

20 (b) The aggregate millage rate for the tax year.

21 (c) The total amount of ad valorem tax due by the dealer for the tax year.

22 (d) The prepaid ad valorem tax amount remitted by the dealer to the collector
23 for the tax year.

24 (e) The amount of any underpayment of ad valorem tax for the tax year as
25 determined pursuant to Subsection A of this Section and the due date for the payment
26 by the dealer of any such underpayment as provided in Subsection C of this Section.

27 (f) The amount of any overpayment of ad valorem tax for the tax year as
28 determined pursuant to Subsection A of this Section and the application of any such
29 overpayment as provided in Subsection C of this Section.

1 C. Any underpayment of ad valorem tax for the tax year, as determined in
2 Subsection (A)(1) of this Section, shall be paid by the dealer on or before the
3 fifteenth day after the date the dealer receives the supplemental ad valorem tax bill,
4 which shall be referred to in this Section as the supplemental due date. Upon receipt,
5 the collector shall apply any underpayment of ad valorem tax by the dealer to the
6 dealer's liability for ad valorem tax for the tax year and shall deposit the amount of
7 any such underpayment received from the dealer as provided in R.S. 47:2059.
8 Notwithstanding the provisions of R.S. 47:2127 and 1997, the payment of any
9 underpayment of ad valorem tax by the dealer as provided in this subsection shall not
10 be delinquent unless it is made after the supplemental due date.

11 D. Any overpayment of ad valorem tax for the tax year, as determined in
12 Subsection (A)(2) of this Section, shall be treated as prepaid ad valorem tax amount
13 for the succeeding tax year.

14 §2347. Heavy equipment rental property; cessation of business or acquisition of
15 inventory

16 A. In the event a company ceases to be a dealer during the tax year, the
17 dealer shall file the quarterly dealer statement and dealer's annual report for any
18 period in which the dealer makes any short-term rental. In such event, the collector
19 shall compute the dealer's ad valorem tax as provided in R.S. 47:2346.

20 B. A company, referred to in this Section as the acquiring dealer, who or
21 which acquires heavy equipment rental property inventory of a selling dealer may,
22 by contract with the selling dealer, agree to pay the ad valorem tax for the current tax
23 year on the heavy equipment rental property inventory owed by the selling dealer.
24 The selling dealer who or which owes ad valorem tax for the current year and the
25 acquiring dealer shall jointly notify the assessor and the collector for each parish in
26 which heavy equipment rental property inventory was located on the assessment date
27 of the terms of the agreement and of the fact that the acquiring dealer has agreed to
28 pay the ad valorem tax for the current year on the heavy equipment rental property
29 inventory owed by the selling dealer. The assessor and the collector shall adjust their

1 records accordingly. This Subsection does not relieve the selling dealer of the
2 liability for ad valorem tax on the heavy equipment rental property inventory for the
3 current year.

4 §2348. Heavy equipment rental property; penalties

5 For failure to remit ad valorem tax due the penalty is 5% of the tax that
6 remains unpaid for each thirty-day period or fraction, up to a maximum penalty of
7 25% of the tax.

8 §2349. Heavy equipment rental property; other provisions in Subtitle

9 A. The provisions of this Subtitle that are not otherwise in conflict with this
10 Chapter shall apply in regards to ad valorem tax of heavy equipment rental property,
11 including laws governing failure to report and penalties therefor.

12 B. R.S. 47:2329 shall apply to each quarterly dealer statement and each
13 dealer's annual report filed or required to be filed by a dealer pursuant to this Section.
14 In addition, any dealer who or which fails to file or fails to timely file a quarterly
15 dealer statement or a dealer's annual report as required by this Section shall be
16 subject to penalties as otherwise provided by law.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Broadwater

HB No. 517

Abstract: Provides for a change in the assessment, valuation, and collections of ad valorem taxes on heavy equipment rental property.

Present law, provides an entire scheme of law relating to ad valorem taxation, including levying and assessment, valuation, and payment and collection, R.S. 47:1701 et seq. Proposed law retains present law but provides an exception to parts of this scheme with respect to the assessment, valuation, and collections of ad valorem tax on heavy equipment rental property.

More specifically, proposed law calculates for purposes of ad valorem taxation, the fair market value of a dealer's heavy equipment rental property inventory as an amount equal to the dealer's total annual rental revenue for the preceding tax year, except for movable property other than rental inventory which is valued as otherwise provided in present law.

Proposed law provides several definitions, including:

- (1) "Dealer" as a company that is principally engaged in the business of short-term rental

of heavy equipment rental property and defines "business of short-term rental of heavy equipment rental property" as that described under the North American Industrial Classification System.

- (2) "Heavy equipment property" as meaning construction, earthmoving, or industrial equipment that is mobile and that is not intended to be permanently affixed to any real property for the purpose of using the equipment for its intended use and specifically including a self-propelled vehicle that is not designed to be driven on a highway and industrial lift equipment, material handling equipment, electrical generation equipment, or a similar piece of industrial equipment that is capable of being moved from one location to another. However, this definition specifically excludes any vessel, boat, barge, floating equipment, or other watercraft.

Proposed law requires, on or before January 20th, that the dealer of heavy equipment rental property file with the assessor the dealer's annual report for the applicable tax year. This report must include a description of each item or category of items of heavy equipment rental property rented pursuant to a short-term rental, the total annual rental revenue of the dealer, the total amount of prepaid ad valorem tax collected from renters.

Proposed law requires the prepayment of ad valorem taxes by the dealer and for purposes of collection and remittance of such taxes on a dealer's heavy equipment rental property inventory, each dealer must, with respect to each short-term rental, assign a unit property tax to each item of heavy equipment rental property, state the amount of the unit property tax as a separate line item on the invoice issued by the dealer to the renter, and collect the unit property tax from the renter at the time the renter makes payment. Under proposed law "unit property tax" is determined by multiplying the short-term rental payment received by fifteen percent of the aggregate millage rate.

Under proposed law, the amount of unit property tax collected by a dealer from a renter is treated by the dealer as a prepayment of ad valorem property tax on the dealer's heavy equipment rental property inventory for the tax year and must be included in the prepaid ad valorem tax amount for that year.

Proposed law requires quarterly remittance of all prepaid ad valorem tax to the collector and therewith, the dealer must file a quarterly dealer statement which has to include the total amount of short-term rental payments received by the dealer and the total amount of prepaid ad valorem tax collected from renters during the applicable quarter.

Proposed law requires the collector to annually compute any underpayment or overpayment of ad valorem tax by the dealer for the tax year and report that amount to the dealer on the supplemental dealer's ad valorem tax bill which has to be sent to the dealer by the 15th day of February following the tax year to which the supplemental dealer's ad valorem tax bill applies. Such bill must include the assessed value of the dealer's heavy equipment rental property inventory on the assessment date for the tax year, the aggregate millage rate for the tax year, the total amount of ad valorem tax due by the dealer for the tax year, the prepaid ad valorem tax amount remitted by the dealer to the collector for the tax year, and the amount of any underpayment and the due date for the payment thereof or the amount of any overpayment. Proposed law requires any underpayment of ad valorem tax to be paid by the dealer on or before the 15th day after the dealer receives the supplemental ad valorem tax bill. Any overpayment of ad valorem tax will be treated as prepaid ad valorem tax amount for the succeeding tax year.

Proposed law provides a penalty for the failure to remit ad valorem taxes at 5% of the tax that remains unpaid for each 30-day period or fraction, up to a maximum penalty of 25% of the tax. Other penalties are as provided in present law.

(Adds R.S. 47:2341-2349)