

ENGROSSED SENATE
BILL NO. 123

By: Long (Ed), Capps,
Gustafson, Herbert,
Douglass and Hendrick of
the Senate

and

Rice of the House

[revenue and taxation - tax in lieu of ad valorem -
heavy highway or construction equipment -
codification -
effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 5501 of Title 68, unless there
is created a duplication in numbering, reads as follows:

A. A tax is hereby imposed, in lieu of the ad valorem tax on
certain items of the whole goods inventories, both new and used
items, owned and/or possessed for sale or lease by retailers of
heavy highway or construction equipment as defined by subsection C
of this section.

B. Items to be taxed in lieu of ad valorem pursuant to the
provisions of this act are those items of inventory of whole goods
heavy highway or construction equipment and whole goods attachments
thereto, as defined in paragraphs 1 and 2 of subsection D of this
section, if said items have a retail list price of Five Hundred
Dollars (\$500.00) or higher. Such items to be taxed in lieu of ad
valorem pursuant to the provisions of this act shall not include:

1. Repair or replacement parts;
2. Equipment sold for which excise taxes and license plates are required; or
3. Any other items of inventory which are not used in heavy highway construction.

All items of inventory shall be subject to taxation either pursuant to the provisions of this act, the Ad Valorem Tax Code, Section 2801 et seq. of Title 68 of the Oklahoma Statutes or the Oklahoma Vehicle License and Registration Act, Section 1101 et seq. of Title 47 of the Oklahoma Statutes.

The tax levied pursuant to this act shall be paid by the dealer on such items in lieu of the annual ad valorem tax assessment of the dealer's average inventory but shall not relieve any other property of the dealer from ad valorem taxation. Each dealer shall maintain records of sales, leases and rentals subject to the tax levied pursuant to this act in such a way that county assessors and Oklahoma Tax Commission personnel may readily conduct such audits as may be necessary to ensure compliance with this act. Such equipment sold by auctions where the selling agent does not take title to the equipment shall continue to be subject to ad valorem taxation. Sales of covered whole goods items between dealers shall be considered wholesale transactions and shall not be subject to the tax imposed by this section until sold at retail.

C. For purposes of this act, a retailer of heavy highway or construction equipment is any person having a franchise or dealer agreement for selling and retailing heavy highway or construction equipment, and any business entity which does not have a franchise or dealer agreement for retailing heavy highway or construction equipment, but which from time to time publicly buys and sells such heavy highway or construction equipment and presents itself in the community as a retailer of heavy highway or construction equipment.

Nothing in this act shall be construed to change the ad valorem taxation of business entities with inventories of heavy and highway construction equipment offered primarily for rent rather than for sale. For purposes of this act, such a business is defined as one with income from rentals of heavy and highway construction equipment and said rentals generate more than fifty percent (50%) of the total gross income from rentals and sales of the said heavy and highway construction equipment. When such a business entity eventually sells or otherwise ceases to own or possess a piece of heavy or highway construction equipment, tax stamps shall not be used in lieu of ad valorem taxation.

D. As used in this section:

1. "Whole goods heavy highway or construction equipment" means any machine capable of performing heavy highway or construction operations, including operations of maintenance, repair or reconstruction, either with power from its own engine, or when drawn or otherwise moved or powered by other engine power; and

2. "Whole goods attachments" means those complete attachments which, when fitted to, drawn or otherwise moved or manipulated by other equipment, perform specialized heavy highway or construction operations, including operations of maintenance, repair or reconstruction. Such attachments include but are not limited to buckets, rippers, shears and hydro-bores.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5502 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. On and after January 1, 1995, the in-lieu tax imposed in Section 1 of this act shall be based on the rates specified in subsection B of this section, using one of the following procedures:

1. New and used whole goods equipment or whole goods attachments which have not been used for rental purposes shall be subject to the stamp tax, based on actual sales prices, not

including interest costs or other sales expenses, or, in the event of a lease transaction, the lease price of each individual item of equipment, not including the cost of interest or other leasing expenses, without any reduction for trade-in. The tax stamps shall be affixed by the dealer to the dealer's copy of the sales invoice or lease agreement before transferring ownership or custody to the new owner or lessee;

2. New and used whole goods equipment and whole goods attachments which are placed into a rental fleet or otherwise made available for rental use shall be subject to the stamp tax at the time of the first rental transaction, based on the dealer's book value or actual cost, whichever is higher. When such rental equipment is taxed on the occasion of its first rental transaction, tax stamps shall be affixed to the dealer's file copy of the contract or agreement, and the dealer shall record that it is, in fact, the first rental of said equipment. Rental equipment taxed in this manner will not be subject to a second tax stamp when later sold or leased and taken out of inventory; or

3. To provide for an orderly transition to the tax stamp system, whole goods equipment and whole goods attachments which, prior to the effective date of this act, have been a part of a rental fleet or otherwise have been available for rental, shall be subject to the stamp tax at the time the units are taken out of rental service and sold. The amount of stamp tax shall be determined by the actual sales price, not including interest costs or other sales expenses, without reduction for any trade-in.

B. The following schedule shall be used to determine the amount of stamps to be affixed:

1. Beginning with sales of Five Hundred Dollars (\$500.00) to One Thousand Nine Hundred Ninety-nine Dollars (\$1,999.00): \$6.00;

2. Two Thousand Dollars (\$2,000.00) to Nine Thousand Nine Hundred Ninety-nine Dollars (\$9,999.00): \$18.00;

3. Ten Thousand Dollars (\$10,000.00) to Nineteen Thousand Nine Hundred Ninety-nine Dollars (\$19,999.00): \$30.00;
4. Twenty Thousand Dollars (\$20,000.00) to Twenty-nine Thousand Nine Hundred Ninety-nine Dollars (\$29,999.00): \$42.00;
5. Thirty Thousand Dollars (\$30,000.00) to Thirty-nine Thousand Nine Hundred Ninety-nine Dollars (\$39,999.00): \$54.00;
6. Forty Thousand Dollars (\$40,000.00) to Forty-nine Thousand Nine Hundred Ninety-nine Dollars (\$49,999.00): \$66.00;
7. Fifty Thousand Dollars (\$50,000.00) to Fifty-nine Thousand Nine Hundred Ninety-nine Dollars (\$59,999.00): \$78.00;
8. Sixty Thousand Dollars (\$60,000.00) to Sixty-nine Thousand Nine Hundred Ninety-nine Dollars (\$69,999.00): \$90.00;
9. Seventy Thousand Dollars (\$70,000.00) to Seventy-nine Thousand Nine Hundred Ninety-nine Dollars (\$79,999.00): \$102.00;
10. Eighty Thousand Dollars (\$80,000.00) to Eighty-nine Thousand Nine Hundred Ninety-nine Dollars (\$89,999.00): \$114.00;
11. Ninety Thousand Dollars (\$90,000.00) to Ninety-nine Thousand Nine Hundred Ninety-nine Dollars (\$99,999.00): \$126.00;
12. One Hundred Thousand Dollars (\$100,000.00) to One Hundred Nine Thousand Nine Hundred Ninety-nine Dollars (\$109,999.00): \$138.00;
13. One Hundred Ten Thousand Dollars (\$110,000.00) to One Hundred Nineteen Thousand Nine Hundred Ninety-nine Dollars (\$119,999.00): \$150.00;
14. One Hundred Twenty Thousand Dollars (\$120,000.00) to One Hundred Twenty-nine Thousand Nine Hundred Ninety-nine Dollars (\$129,999.00): \$162.00;
15. One Hundred Thirty Thousand Dollars (\$130,000.00) to One Hundred Thirty-nine Thousand Nine Hundred Ninety-nine Dollars (\$139,999.00): \$174.00;

16. One Hundred Forty Thousand Dollars (\$140,000.00) to One Hundred Forty-nine Thousand Nine Hundred Ninety-nine Dollars (\$149,999.00): \$186.00;

17. One Hundred Fifty Thousand Dollars (\$150,000.00) to One Hundred Fifty-nine Thousand Nine Hundred Ninety-nine Dollars (\$159,999.00): \$198.00;

18. One Hundred Sixty Thousand Dollars (\$160,000.00) to One Hundred Sixty-nine Thousand Nine Hundred Ninety-nine Dollars (\$169,999.00): \$210.00;

19. One Hundred Seventy Thousand Dollars (\$170,000.00) to One Hundred Seventy-nine Thousand Nine Hundred Ninety-nine Dollars (\$179,999.00): \$222.00;

20. One Hundred Eighty Thousand Dollars (\$180,000.00) to One Hundred Eighty-nine Thousand Nine Hundred Ninety-nine Dollars (\$189,999.00): \$234.00;

21. One Hundred Ninety Thousand Dollars (\$190,000.00) to One Hundred Ninety-nine Thousand Nine Hundred Ninety-nine Dollars (\$199,999.00): \$246.00;

22. Two Hundred Thousand Dollars (\$200,000.00) to Two Hundred Nine Thousand Nine Hundred Ninety-nine Dollars (\$209,999.00): \$258.00;

23. Two Hundred Ten Thousand Dollars (\$210,000.00) to Two Hundred Nineteen Thousand Nine Hundred Ninety-nine Dollars (\$219,999.00): \$270.00;

24. Two Hundred Twenty Thousand Dollars (\$220,000.00) to Two Hundred Twenty-nine Thousand Nine Hundred Ninety-nine Dollars (\$229,999.00): \$282.00;

25. Two Hundred Thirty Thousand Dollars (\$230,000.00) to Two Hundred Thirty-nine Thousand Nine Hundred Ninety-nine Dollars (\$239,999.00): \$294.00;

26. Two Hundred Forty Thousand Dollars (\$240,000.00) to Two Hundred Forty-nine Thousand Nine Hundred Ninety-nine Dollars (\$249,999.00): \$306.00;

27. Two Hundred Fifty Thousand Dollars (\$250,000.00) to Two Hundred Fifty-nine Thousand Nine Hundred Ninety-nine Dollars (\$259,999.00): \$318.00;

28. Two Hundred Sixty Thousand Dollars (\$260,000.00) to Two Hundred Sixty-nine Thousand Nine Hundred Ninety-nine Dollars (\$269,999.00): \$330.00;

29. Two Hundred Seventy Thousand Dollars (\$270,000.00) to Two Hundred Seventy-nine Thousand Nine Hundred Ninety-nine Dollars (\$279,999.00): \$342.00;

30. Two Hundred Eighty Thousand Dollars (\$280,000.00) to Two Hundred Eighty-nine Thousand Nine Hundred Ninety-nine Dollars (\$289,999.00): \$354.00;

31. Two Hundred Ninety Thousand Dollars (\$290,000.00) to Two Hundred Ninety-nine Thousand Nine Hundred Ninety-nine Dollars (\$299,999.00): \$366.00;

32. Three Hundred Thousand Dollars (\$300,000.00) to Three Hundred Nine Thousand Nine Hundred Ninety-nine Dollars (\$309,999.00): \$378.00;

33. Three Hundred Ten Thousand Dollars (\$310,000.00) to Three Hundred Nineteen Thousand Nine Hundred Ninety-nine Dollars (\$319,999.00): \$390.00;

34. Three Hundred Twenty Thousand Dollars (\$320,000.00) to Three Hundred Twenty-nine Thousand Nine Hundred Ninety-nine Dollars (\$329,999.00): \$402.00;

35. Three Hundred Thirty Thousand Dollars (\$330,000.00) to Three Hundred Thirty-nine Thousand Nine Hundred Ninety-nine Dollars (\$339,999.00): \$414.00;

36. Three Hundred Forty Thousand Dollars (\$340,000.00) to Three Hundred Forty-nine Thousand Nine Hundred Ninety-nine Dollars (\$349,999.00): \$426.00;

37. Three Hundred Fifty Thousand Dollars (\$350,000.00) to Three Hundred Fifty-nine Thousand Nine Hundred Ninety-nine Dollars (\$359,999.00): \$438.00;

38. Three Hundred Sixty Thousand Dollars (\$360,000.00) to Three Hundred Sixty-nine Thousand Nine Hundred Ninety-nine Dollars (\$369,999.00): \$450.00;

39. Three Hundred Seventy Thousand Dollars (\$370,000.00) to Three Hundred Seventy-nine Thousand Nine Hundred Ninety-nine Dollars (\$379,999.00): \$462.00;

40. Three Hundred Eighty Thousand Dollars (\$380,000.00) to Three Hundred Eighty-nine Thousand Nine Hundred Ninety-nine Dollars (\$389,999.00): \$474.00; and

41. Three Hundred Ninety Thousand Dollars (\$390,000.00) and above: \$486.00.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5503 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The tax stamp or stamps required by Section 2 of this act shall be manufactured or purchased by the Oklahoma Tax Commission in the required amounts. Said tax stamps shall be of such design, color combination, material and value, in multiples of Six Dollars (\$6.00), as the Tax Commission shall deem necessary for the administration of this tax and to afford the best security to the tax revenue involved. Said stamps shall be purchased by dealers in the county where the business is located. In the event a company operates more than one outlet, stamps shall be purchased for each outlet from the county treasurer of the county in which each outlet is located.

B. The Commission may require any manufacturer of such tax stamps to furnish a bond in such amount as it deems necessary to protect the state and local taxing entities against loss.

C. The Tax Commission shall distribute such tax stamps to the county treasurer of each county, taking such receipt therefor as may be necessary. The county treasurer shall have the responsibility of the custody and the sale of the stamps to the person required by Section 2 of this act to obtain such stamps. In addition, the county treasurers shall have the duty of accounting for said stamps to their respective counties, and to the Oklahoma Tax Commission as it may require.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5504 of Title 68, unless there is created a duplication in numbering, reads as follows:

The county treasurer shall apportion each month all collections from the sale of tax stamps pursuant to Section 2 of this act as follows:

1. Two percent (2%) shall be deposited to the credit of the General Revenue Fund of the State Treasury; and

2. Ninety-eight percent (98%) shall be distributed as if said funds had been collected as ad valorem tax where the heavy highway or construction equipment dealer's business is located.

Funds received by taxing jurisdictions from this source shall be utilized as if the said funds had in fact been generated by ad valorem taxes, including servicing of debt by sinking funds. On and after January 1, 1996, and at the end of each calendar year thereafter, the treasurer shall furnish a report to the county assessor which shall show the total amount of in-lieu taxes authorized by this act and apportioned during the fiscal year to those taxing jurisdictions authorized to receive revenue from such in-lieu taxes. The assessor shall calculate annually the amount of assessed valuation that otherwise would be displaced by such in-lieu

tax by dividing the total amount of revenue derived from such tax apportioned to each taxing jurisdiction by the actual millage rate levied by each taxing jurisdiction during the fiscal year. The assessor shall add the result of that calculation to the actual assessed valuation of each taxing jurisdiction to determine the new adjusted assessed valuation of each taxing jurisdiction, and said adjusted assessed valuation shall be used for all purposes, including the determination of debt limits, in the following fiscal year whenever the term "assessed valuation" is required to be used.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 2805, is amended to read as follows:

Section 2805. The following fees or taxes levied by the provisions of the Oklahoma Statutes shall be in lieu of ad valorem tax, whether in lieu of real property tax, personal property tax, or both as provided by law:

1. The registration fees and taxes imposed upon aircraft by Section 251 et seq. of Title 3 of the Oklahoma Statutes;

2. Registration fees for motor vehicles as provided in Section 1103 of Title 47 of the Oklahoma Statutes, except as otherwise specifically provided;

3. The fee imposed upon transfers of used vehicles in lieu of the ad valorem tax upon inventories of used motor vehicles by Section 1137.1 of Title 47 of the Oklahoma Statutes;

4. The registration and license fees imposed upon vessels and motors pursuant to the Oklahoma Vessel and Motor Registration Act, Section 4001 et seq. of Title 63 of the Oklahoma Statutes;

5. The taxes levied upon the gross production of substances pursuant to Section 1001 of this title;

6. The taxes levied upon the gross production of substances pursuant to Section 1020 of this title;

7. The tax imposed upon gross receipts pursuant to Section 1803 of this title;

8. The tax imposed upon certain textile products pursuant to Section 2001 of this title;

9. The tax imposed upon certain freight cars pursuant to Section 2202 of this title;

10. The tax imposed on certain parts of the inventories, both new and used items, owned and/or possessed for sale by retailers of farm tractors and other equipment pursuant to Sections ~~4~~ 5401 through ~~4~~ 5404 of this ~~act~~ title;

11. The tax imposed upon inventories of new vehicles and certain vessels pursuant to Section 5301 of this title; ~~and~~

12. Such other fees or taxes as may be expressly provided by law to be in lieu of ad valorem taxation; and

13. The tax imposed on certain parts of the inventories, both new and used items, owned and/or possessed for sale, lease or rental by retailers of heavy highway or construction equipment pursuant to Sections 1 through 4 of this act.

SECTION 6. This act shall become effective January 1, 1995.

Passed the Senate the 2nd day of March, 1994.

President of the Senate

Passed the House of Representatives the ____ day of

_____, 1994.

Speaker of the House of Representatives