

SHORT TITLE: Revenue and taxation; providing for fee in lieu of ad valorem tax on inventory of heavy highway or construction equipment; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 123

By: Long (Ed) and Capps

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 2805, which relates to the Ad Valorem Tax Code; imposing tax in lieu of ad valorem tax on certain items of whole goods heavy highway or construction equipment; specifying items to be so taxed and party responsible for payment; requiring maintenance of certain records and providing for inspection thereof; providing that certain equipment be subject to ad valorem tax and providing that certain transactions not be subject to tax; defining terms; specifying amount of tax; requiring tax stamps and providing procedures related thereto; authorizing Oklahoma Tax Commission to require bonds under certain circumstances; providing for distribution, custody and sale of stamps; specifying certain duty of county treasurer; providing for apportionment of revenue; requiring that certain funds be utilized in certain manner; requiring county treasurer to furnish certain report to county assessor and stating contents thereof; specifying certain duties of county assessor; providing procedures related to adjusted assessed valuation of taxing jurisdictions; modifying list of fees or taxes

which are in lieu of ad valorem tax; providing for codification; and providing an 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 section are those items of inventory of whole goods heavy highway or construction equipment and whole goods attachments thereto received from suppliers of heavy highway or construction equipment, if said items have a retail list price of Five Hundred Dollars (\$500.00) or higher but not including repair or replacement parts nor equipment sold for which excise taxes and license plates are required. The tax shall be paid by the dealer on such items in lieu of the annual ad valorem tax assessment of 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 in such a way that county assessors and Oklahoma Tax Commission personnel may readily audit 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 present itself in the community as a retailer of heavy highway or construction equipment.

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 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 by other equipment, perform specialized heavy highway or construction operations. 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. The in-lieu tax imposed in Section 1 of this act shall apply on the date of sale or lease and shall be evidenced by a tax stamp. The tax stamp shall be based on the following actual sales prices without reduction for any trade-in:

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): \$24.00;
4. Twenty Thousand Dollars (\$20,000.00) to Twenty-nine Thousand Nine Hundred Ninety-nine Dollars (\$29,999.00): \$30.00;
5. Thirty Thousand Dollars (\$30,000.00) to Thirty-nine Thousand Nine Hundred Ninety-nine Dollars (\$39,999.00): \$42.00;
6. Forty Thousand Dollars (\$40,000.00) to Forty-nine Thousand Nine Hundred Ninety-nine Dollars (\$49,999.00): \$54.00;
7. Fifty Thousand Dollars (\$50,000.00) to Fifty-nine Thousand Nine Hundred Ninety-nine Dollars (\$59,999.00): \$66.00;
8. Sixty Thousand Dollars (\$60,000.00) to Sixty-nine Thousand Nine Hundred Ninety-nine Dollars (\$69,999.00): \$78.00;
9. Seventy Thousand Dollars (\$70,000.00) to Seventy-nine Thousand Nine Hundred Ninety-nine Dollars (\$79,999.00): \$90.00;
10. Eighty Thousand Dollars (\$80,000.00) to Eighty-nine Thousand Nine Hundred Ninety-nine Dollars (\$89,999.00): \$102.00;
11. Ninety Thousand Dollars (\$90,000.00) to Ninety-nine Thousand Nine Hundred Ninety-nine Dollars (\$99,999.00): \$114.00;
12. One Hundred Thousand Dollars (\$100,000.00) to One Hundred Nine Thousand Nine Hundred Ninety-nine Dollars (\$109,999.00): \$126.00;
13. One Hundred Ten Thousand Dollars (\$110,000.00) to One Hundred Nineteen Thousand Nine Hundred Ninety-nine Dollars (\$119,999.00): \$138.00;
14. One Hundred Twenty Thousand Dollars (\$120,000.00) to One Hundred Twenty-nine Thousand Nine Hundred Ninety-nine Dollars (\$129,999.00): \$150.00;
15. One Hundred Thirty Thousand Dollars (\$130,000.00) to One Hundred Thirty-nine Thousand Nine Hundred Ninety-nine Dollars (\$139,999.00): \$162.00;

16. One Hundred Forty Thousand Dollars (\$140,000.00) to One Hundred Forty-nine Thousand Nine Hundred Ninety-nine Dollars (\$149,999.00): \$174.00;

17. One Hundred Fifty Thousand Dollars (\$150,000.00) to One Hundred Fifty-nine Thousand Nine Hundred Ninety-nine Dollars (\$159,999.00): \$186.00;

18. One Hundred Sixty Thousand Dollars (\$160,000.00) to One Hundred Sixty-nine Thousand Nine Hundred Ninety-nine Dollars (\$169,999.00): \$198.00;

19. One Hundred Seventy Thousand Dollars (\$170,000.00) to One Hundred Seventy-nine Thousand Nine Hundred Ninety-nine Dollars (\$179,999.00): \$210.00;

20. One Hundred Eighty Thousand Dollars (\$180,000.00) to One Hundred Eighty-nine Thousand Nine Hundred Ninety-nine Dollars (\$189,999.00): \$222.00;

21. One Hundred Ninety Thousand Dollars (\$190,000.00) to One Hundred Ninety-nine Thousand Nine Hundred Ninety-nine Dollars (\$199,999.00): \$234.00;

22. Two Hundred Thousand Dollars (\$200,000.00) to Two Hundred Nine Thousand Nine Hundred Ninety-nine Dollars (\$209,999.00): \$246.00;

23. Two Hundred Ten Thousand Dollars (\$210,000.00) to Two Hundred Nineteen Thousand Nine Hundred Ninety-nine Dollars (\$219,999.00): \$258.00;

24. Two Hundred Twenty Thousand Dollars (\$220,000.00) to Two Hundred Twenty-nine Thousand Nine Hundred Ninety-nine Dollars (\$229,999.00): \$270.00;

25. Two Hundred Thirty Thousand Dollars (\$230,000.00) to Two Hundred Thirty-nine Thousand Nine Hundred Ninety-nine Dollars (\$239,999.00): \$282.00;

26. Two Hundred Forty Thousand Dollars (\$240,000.00) to Two Hundred Forty-nine Thousand Nine Hundred Ninety-nine Dollars (\$249,999.00): \$294.00;

27. Two Hundred Fifty Thousand Dollars (\$250,000.00) to Two Hundred Fifty-nine Thousand Nine Hundred Ninety-nine Dollars (\$259,999.00): \$306.00;

28. Two Hundred Sixty Thousand Dollars (\$260,000.00) to Two Hundred Sixty-nine Thousand Nine Hundred Ninety-nine Dollars (\$269,999.00): \$318.00;

29. Two Hundred Seventy Thousand Dollars (\$270,000.00) to Two Hundred Seventy-nine Thousand Nine Hundred Ninety-nine Dollars (\$279,999.00): \$330.00;

30. Two Hundred Eighty Thousand Dollars (\$280,000.00) to Two Hundred Eighty-nine Thousand Nine Hundred Ninety-nine Dollars (\$289,999.00): \$342.00;

31. Two Hundred Ninety Thousand Dollars (\$290,000.00) to Two Hundred Ninety-nine Thousand Nine Hundred Ninety-nine Dollars (\$299,999.00): \$354.00;

32. Three Hundred Thousand Dollars (\$300,000.00) to Three Hundred Nine Thousand Nine Hundred Ninety-nine Dollars (\$309,999.00): \$366.00;

33. Three Hundred Ten Thousand Dollars (\$310,000.00) to Three Hundred Nineteen Thousand Nine Hundred Ninety-nine Dollars (\$319,999.00): \$378.00;

34. Three Hundred Twenty Thousand Dollars (\$320,000.00) to Three Hundred Twenty-nine Thousand Nine Hundred Ninety-nine Dollars (\$329,999.00): \$390.00;

35. Three Hundred Thirty Thousand Dollars (\$330,000.00) to Three Hundred Thirty-nine Thousand Nine Hundred Ninety-nine Dollars (\$339,999.00): \$402.00;

36. Three Hundred Forty Thousand Dollars (\$340,000.00) to Three Hundred Forty-nine Thousand Nine Hundred Ninety-nine Dollars (\$349,999.00): \$414.00;

37. Three Hundred Fifty Thousand Dollars (\$350,000.00) to Three Hundred Fifty-nine Thousand Nine Hundred Ninety-nine Dollars (\$359,999.00): \$426.00;

38. Three Hundred Sixty Thousand Dollars (\$360,000.00) to Three Hundred Sixty-nine Thousand Nine Hundred Ninety-nine Dollars (\$369,999.00): \$438.00;

39. Three Hundred Seventy Thousand Dollars (\$370,000.00) to Three Hundred Seventy-nine Thousand Nine Hundred Ninety-nine Dollars (\$379,999.00): \$450.00;

40. Three Hundred Eighty Thousand Dollars (\$380,000.00) to Three Hundred Eighty-nine Thousand Nine Hundred Ninety-nine Dollars (\$389,999.00): \$462.00; and

41. Three Hundred Ninety Thousand Dollars (\$390,000.00) and above: \$474.00.

B. The appropriate tax stamp or stamps shall be affixed by the dealer to the dealer's copy of the sales invoice covering new or used whole goods heavy highway or construction equipment and whole goods attachments thereto sold before transferring ownership to any new or used heavy highway or construction equipment.

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 to be affixed upon the dealer's copy of the sales invoice covering each new or used whole goods heavy highway or construction equipment or whole goods attachments thereto sold shall be manufactured or purchased by the Oklahoma Tax Commission in the required amounts. Said tax stamps shall be of such design, color combination and 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.

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;

2. Forty-nine percent (49%) shall be apportioned to the school district within the county where the heavy highway or construction equipment dealer's business is located; and

3. Forty-nine percent (49%) shall be apportioned to the general fund of the county.

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, 1994, 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 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, 1994.

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