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**SUBSTITUTE HOUSE BILL 1502**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Finance (originally sponsored by Representatives Tarleton, Stokesbary, Sullivan, and Vick)

READ FIRST TIME 02/28/19.

1 AN ACT Relating to the classification of heavy equipment rental  
2 property as inventory; adding a new section to chapter 84.36 RCW; and  
3 creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 84.36  
6 RCW to read as follows:

7 (1) All heavy equipment rental property owned by a heavy  
8 equipment rental property dealer is exempt from taxation.

9 (2) The definitions in this subsection apply throughout this  
10 section unless the context clearly requires otherwise.

11 (a)(i) "Heavy equipment rental property" means any equipment that  
12 is rented by a heavy equipment rental property dealer that:

13 (A) Is mobile. For purposes of this subsection, "mobile" means  
14 that the heavy equipment property is not permanently affixed to real  
15 property and may be moved among worksites as needed;

16 (B) Is customarily used for construction, earthmoving, or  
17 industrial applications. For the purposes of this subsection,  
18 "construction, earthmoving, or industrial applications" means the  
19 constructing of new buildings or other structures, or the repairing,  
20 remodeling, or expansion of existing buildings or other structures,  
21 under, upon, or above real property; the repositioning of terrain

1 using vehicles or self-propelled equipment; and manufacturing or  
2 processing raw materials or other ingredients or components into new  
3 articles of tangible personal property for sale; and

4 (C) Is rented without an operator.

5 (ii) Subject to the provisions of (a)(i) of this subsection,  
6 "heavy equipment rental property" includes, but is not limited to the  
7 following:

8 (A) Earthmoving equipment, including but not limited to backhoes,  
9 loaders, rollers, excavators, bulldozers, and dump trucks;

10 (B) Self-propelled vehicles that are not designed to be driven on  
11 the highway;

12 (C) Industrial electrical generation equipment;

13 (D) Industrial lift equipment;

14 (E) Industrial material handling equipment;

15 (F) Equipment used in shoring, shielding, and ground trenching;

16 (G) Portable power and HVAC generation equipment;

17 (H) Attachments to heavy equipment rental property, including but  
18 not limited to buckets, augers, hammers for backhoes, hoses,  
19 fittings, piping, chains, tools (such as jack hammers and cement  
20 chippers), and portable power connections;

21 (I) Ancillary equipment, including but not limited to generators,  
22 ground thawing equipment, fluid transfer equipment, pumping  
23 equipment, portable storage, portable fuel and water tanks, and light  
24 towers; and

25 (J) Equipment or vehicles not subject to vehicle license fees and  
26 not required to be registered with the department of licensing.

27 (iii) "Heavy equipment rental property" does not include small  
28 hand tools, chainsaws, or lawnmowers.

29 (b) "Heavy equipment rental property dealer" means a person  
30 principally engaged in the business of renting heavy equipment rental  
31 property. For purposes of this subsection, "principally" means that  
32 the heavy equipment rental property dealer receives more than fifty  
33 percent of the dealer's annual total revenue from the rental of heavy  
34 equipment rental property.

35 (3)(a) The exemption in subsection (1) of this section does not  
36 apply in any tax year to heavy equipment rental property that the  
37 heavy equipment rental property dealer rented or leased at any time  
38 during the immediately preceding tax year to a person with whom the  
39 heavy equipment rental property dealer is affiliated.

40 (b) For purposes of this subsection, "affiliated" means:

1 (i) One person has an ownership interest of more than five  
2 percent, whether direct or indirect, in the other person; or

3 (ii) Persons who are related to each other because a third  
4 person, or group of third persons who are affiliated with respect to  
5 each other, holds an ownership interest of more than five percent,  
6 whether direct or indirect, in the related persons.

7 (4)(a) A claim for exemption under this section must be filed  
8 with the county assessor together with the statement required under  
9 RCW 84.40.190, for exemption from taxes payable the following year.

10 (b) The claim must be made solely upon forms as prescribed and  
11 approved by the department.

12 (c) If the assessor finds that the applicant does not meet the  
13 requirements for exemption under this section, the exemption must be  
14 denied but such denial is subject to appeal under the provisions of  
15 RCW 84.48.010 and 84.40.038.

16 (5) If a heavy equipment rental property dealer received an  
17 exemption under this section based on erroneous information provided  
18 by the heavy equipment rental property dealer to the county assessor,  
19 the taxes must be collected for a period not to exceed five years,  
20 subject to penalties as follows:

21 (a) Twenty-five percent of the total tax due;

22 (b) Fifty percent of the total tax due if the heavy equipment  
23 rental property dealer was previously assessed a penalty under this  
24 subsection, unless the penalty was overturned by a court or  
25 administrative tribunal in a final decision that is no longer subject  
26 to appeal; or

27 (c) A penalty as provided in RCW 84.40.130(2), if the heavy  
28 equipment rental property dealer, with intent to defraud, submitted a  
29 false or materially misleading claim for exemption.

30 (6) The department may adopt rules as it deems necessary to  
31 administer this section.

32 NEW SECTION. **Sec. 2.** This act applies to taxes levied for  
33 collection in 2022 and thereafter.

34 NEW SECTION. **Sec. 3.** The provisions of RCW 82.32.805 and  
35 82.32.808 do not apply to this act.

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