

**SECTION 56-31-60.** Heavy equipment rental fees; definitions; applicability and exemptions; tax exemption.

(A) As used in this section:

(1) "Qualified heavy equipment property" means any construction, earthmoving, or industrial equipment that is mobile and rented by a qualified renter, including attachments for the equipment or other ancillary equipment or tools. Qualified heavy equipment property is mobile if it is not permanently affixed to real property and is moved amongst worksites.

(2) "Qualified renter" means a renter:

(i) whose primary business is renting out qualified heavy equipment property. Primary business means over fifty-one percent of the annual revenue of the business in any given year; and

(ii) that is engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System published by the U.S. Census Bureau, 2012 edition.

(3) "Qualified rental" means qualified heavy equipment property rented for three hundred sixty-five days or less, qualified heavy equipment property rented pursuant to an open-ended contract, or qualified heavy equipment property rented via a contract without a specified time period.

(4) "Rental price" means the amount of the charge for renting the qualified heavy equipment, excluding any separately stated charges that are not rental charges, including, but not limited to, separately stated charges for delivery and pickup fees, damage waivers, environmental fees, sales tax, or any other ancillary charge.

(B)(1) Except as provided in subsection (2), a person or company in the business of renting qualified heavy equipment property located in this State shall include on the rental invoice a two and one-half percent heavy equipment rental fee on the rental price for any item of qualified heavy equipment property rented to a customer by a qualified renter. The total amount of the heavy equipment rental fee collected shall be remitted to the state Department of Revenue on a quarterly basis. The Department of Revenue shall distribute the remitted fee to the local jurisdiction where the qualified heavy equipment was rented. The local jurisdiction shall distribute the received funds in the same manner as the personal property tax is distributed.

(2) Notwithstanding subsection (1), the heavy equipment rental fee shall not apply to the rental of heavy equipment property directly rented to the federal government, the State, or any political subdivision of the State. There are no other exemptions from this fee.

(3) The heavy equipment rental fee shall be levied on all qualified rentals.

(4) Qualified heavy equipment property subject to the heavy equipment rental fee is exempt from personal property tax.

(5) The Department of Revenue may promulgate regulations relating to the administration and enforcement of this section.

(C) The heavy equipment rental fee applies to all qualified rentals made from a rental location in South Carolina where the customer picks up the equipment, or all qualified rentals from a rental location in the State where the qualified heavy equipment property is delivered in the State. The heavy equipment rental fee does not apply to rentals made from a rental location in the State and delivered outside the State.

(D) The heavy equipment rental fee is not subject to state or local sales tax.

HISTORY: 2016 Act No. 224 (H.3891), Section 2, eff January 1, 2017.