

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 751 Ad Valorem Taxation of Construction Equipment

SPONSOR(S): Clemons

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	14 Y, 3 N	Davis	Aldridge
2) Appropriations Committee			

SUMMARY ANALYSIS

All tangible personal property is assessed as of January 1 of each year for purposes of ad valorem taxation unless it is expressly exempted. Items of tangible personal property exempt from ad valorem taxation include household goods and personal effects, items of inventory, and up to \$25,000 of assessed value for each tangible personal property tax return. "Inventory" is defined as only those chattels consisting of items commonly referred to as goods, wares, and merchandise which are held for sale or lease to customers in the ordinary course of business. Items of inventory held for sale or lease to customers in the ordinary course of business, rather than for sale, shall be deemed inventory only prior to the initial lease of such items.

This bill amends s. 192.001(11)(c), F.S. to provide that the term "inventory," for all levies other than school district levies, also means construction equipment owned by a heavy equipment rental dealer that is for sale or short-term rental in the normal course of business on the annual assessment date. Furthermore, the prior short-term rental of any construction equipment does not disqualify such property from qualifying as inventory, and the term inventory does not include heavy equipment rented with an operator.

The Revenue Estimating Conference has not estimated the potential revenue impacts of the bill. However, staff estimates that the bill will have a recurring impact on local government non-school taxes of -20.8 million in FY 2022-23 growing to -23.4 million in FY 2026-27.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

This bill would take effect on July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

All tangible personal property is subject to ad valorem taxation unless expressly exempted.¹ Items exempt from ad valorem taxation include household goods and personal effects,² items of inventory,³ and up to \$25,000 of assessed value for each tangible personal property tax return.⁴ Anyone who owns tangible personal property on January 1 of each year and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 of each year.⁵ Tangible personal property is defined as all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.⁶

“Inventory” is defined as only those chattels consisting of items commonly referred to as goods, wares, and merchandise (as well as inventory) which are held for sale or lease to customers in the ordinary course of business.⁷ Items of inventory held for lease to customers in the ordinary course of business, rather than for sale, shall be deemed inventory only prior to the initial lease of such items.⁸ The term also includes certain construction and agricultural equipment weighing 1,000 pounds or more that is returned to a dealership under a rent-to-purchase option and held for sale to customers in the ordinary course of business.⁹

Proposed Change

The bill amends s. 192.001(11)(c), F.S. to provide that the term “inventory,” for all levies other than school district levies, also means construction equipment owned by a heavy equipment rental dealer that is for sale or short-term rental in the normal course of business on the annual assessment date. “Heavy equipment dealer” is defined as a person or entity principally engaged in the business of short-term rentals and sales of equipment described under 532412 of the North American Industry Classification System including attachments for the equipment or other ancillary equipment. “Short term rental” is defined as the rental of a heavy equipment dealer’s rental property for fewer than 365 days under an open-ended contract or under a contract with unlimited terms. The bill provides that the prior short-term rental of any construction equipment does not disqualify such property from qualifying as inventory, and the term inventory does not include heavy equipment rented with an operator.

The bill would take effect July 1, 2022.

B. SECTION DIRECTORY:

Section 1: Adds subsection 3. to s. 192.011(11)(c), expanding the definition of “inventory” to also include construction equipment owned by a heavy equipment dealer that is for sale or short-term lease.

Section 2: Provides an effective date.

¹ S. 196.001(1), F.S.

² S. 196.181, F.S.

³ S. 196.185, F.S.

⁴ S. 196.183, F.S.

⁵ S. 193.062, F.S.; *See also* DOR, Tangible Personal Property, *available at*

https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx (last visited Jan. 14, 2022).

⁶ S. 192.001(11)(d), F.S.

⁷ S. 192.001(11)(c)1., F.S.

⁸ *Id.*

⁹ S. 192.001(11)(c)2., F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the potential revenue impacts of the bill. However, staff estimates that the bill will have an impact on local government non-school taxes in FY 2022-23 of zero cash and recurring -20.8 million, growing to -23.4 million cash and recurring in FY 2026-27.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Heavy equipment rental dealers will realize lower tangible personal property taxes on construction equipment which is for sale or short-term rental in the normal course of business starting with tax bills issued in 2023.

FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Subsection 18(b), art. VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenues in the aggregate.

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may also apply because this bill expands the definition of the term "inventory" to include certain construction equipment owned for sale or short-term rental in the normal course of business. These provisions do not appear to qualify under any exemption or exception with respect to these provisions. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES