

WEST VIRGINIA CODE: §11-5-15

§11-5-15. Dealer collection of fees on heavy equipment rental inventory.

1. Definitions - When used in this section, or in the administration of this section, the terms defined in this subsection shall have the meanings ascribed to them by this subsection, unless a different meaning is clearly required by the context in which the term is used or by specific definition.

(1) "Dealer of heavy equipment rental inventory" means a person or entity principally engaged in the business of short-term rental of property as described under North American Industrial Classification System code 532412, as published by the Bureau of Census.

(2) "Heavy equipment rental inventory" means the inventory of any construction, earthmoving or industrial equipment that is mobile and rented by a dealer of heavy equipment rental inventory 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 capable of being moved to work sites.

(3) "Rental" or "renting" means the rental by a dealer of heavy equipment rental inventory:

- (A) For period of less than one (1) year or for an undefined period; or
- (B) Under a contract with unlimited terms.

(4) "Rental charge" means the total charge for the rental of heavy equipment rental inventory.

(b) For the purpose of the collection and remittance of property taxes on heavy equipment rental inventory, each dealer of heavy equipment rental inventory may, with respect to each rental of heavy equipment rental inventory, assign a fee to each item of heavy equipment rental inventory, state the amount of the fee assigned to the item of heavy equipment rental inventory as a separate line item on the invoice or other billing statement issued by the dealer to the renter, and collect the fee from the renter at the time the renter makes a rental payment to the dealer. The fee shall be in any amount not greater than two and one-half percent of the rental charge of each item of heavy equipment rental inventory.

(c) Any dealer of equipment rental inventory collecting the fee pursuant to subsection b of this section shall account for and hold those amounts separately from all other business receipts and shall use such amounts solely and exclusively for purposes of paying the property taxes levied upon its heavy equipment rental inventory.

(d) Any dealer collecting fees pursuant to subsection a of this section shall remit such amounts annually to the appropriate county sheriff on or before the thirtieth of September immediately following receipt of annual tax statements for the year in which the taxes

collected pursuant to subsection a of this section took place. Any such remittances shall be credited against the dealer's property taxes attributable to the heavy equipment rental inventory for that year. Any fees remitted to any county in excess of the dealer's actual property tax liability in the applicable tax year attributable to the heavy equipment rental inventory in that county shall be retained by the county having received the payments and no such excess shall be refunded to the dealer.

(e) Nothing in this section may be construed to exempt such heavy equipment rental inventory from property taxes.

(f) All fees collected from renters shall be excluded from any amounts subject to state or municipal sales or use taxes.