

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2734

BY DELEGATES BOGGS, WESTFALL, NELSON AND FRICH

[Introduced February 28, 2017; Referred
to the Committee on Finance.]

1 A BILL to amend and reenact §11-6C-1, §11-6C-2, §11-6C-3, §11-6C-4 and §11-6C-5 of the Code
 2 of West Virginia, 1931, as amended; and to amend said code, by adding thereto a new
 3 section, designated §11-6C-6, all relating to authorizing a method for the collection and
 4 remittance of property taxes related to dealers' heavy equipment inventory.

Be it enacted by the Legislature of West Virginia:

1 That §11-6C-1, §11-6C-2, §11-6C-3, §11-6C-4 and §11-6C-5 of the Code of west Virginia,
 2 1931, as amended, be amended and reenacted; and that said code be amended by adding
 3 thereto a new section, designated §11-6C-6, all to read as follows:

**ARTICLE 6C. SPECIAL METHOD FOR APPRAISING DEALER VEHICLE
 INVENTORY.**

§11-6C-1. Inventory included within scope of article.

1 Notwithstanding any other provisions of law, inventory of vehicles, as that term is defined
 2 in section one, article one, chapter seventeen-b of this code that is held for sale or lease by new
 3 or used vehicle dealers licensed under the provisions of article six, chapter seventeen-a of this
 4 code, or held for sale or lease by daily passenger car rental businesses licensed under the
 5 provisions of article six-d of said chapter, inventory of motorboats, as that term is defined in
 6 section one, article six of said chapter, that is held for sale or lease by a recreational vehicle
 7 dealer, as that term is defined in said section, that is licensed under the authority of section three,
 8 article six of said chapter, and farm equipment dealers' inventory, consisting of individual units of
 9 personal new or used property, each unit of which, upon its sale to a retail purchaser, must, as a
 10 matter of law, be titled in the name of the retail purchaser and registered with the Division of Motor
 11 Vehicles, shall be appraised for assessment purposes, as set forth in this article: *Provided*, That
 12 house trailers and factory-built homes shall be included within the scope of this article.

13 For the purposes of this article, "farm equipment" means equipment exclusively used in
 14 planting, cultivating, irrigation, and harvesting of agricultural products, but not marketing of such

15 products. The term "farm equipment" includes, but is not limited to, the following equipment, and
16 also includes attachments and repair parts for the following equipment: tractors; crawler tractors
17 (other than bulldozers); walking tractors; cultivators; plows; harrows; power tillers; rotary tillers;
18 spading machines; subsoilers; plastic mulch layers; planters and planting machines; seeders;
19 mechanical transplanters; manure spreaders; fertilizer spreaders; insecticide and fertilizer
20 sprayers; irrigation equipment; harvesters; fixed and portable belt and screw type conveyors
21 exclusively used in agriculture; cotton pickers; hullers; swathers; windrowers; balers; bale movers
22 exclusively used in agriculture; hay conditioners; hay mowers; mowing machines;
23 mower/conditioners; hay rakes; hay tedders; feed grinders; grain carts; rock pickers; milking
24 machines and milking machine components, animal trailers, to the extent that they constitute
25 tangible personal property, apiary equipment: *Provided*, That the term "farm equipment" does not
26 include: (1) Property that is not tangible personal property, (2) building materials and equipment
27 that is installed into a building or structure so as to be converted upon installation into a fixture or
28 into real property, (3) cars, trucks, motorcycles and any other self-propelled machines designed
29 primarily for the transportation of persons or property on a street or highway, (4) trailers, or towed
30 machines or apparatus designed primarily for the transportation of persons or property on a street
31 or highway, (5) fork lifts, backhoes, earth movers, bulldozers, end loaders, power shovels,
32 excavators or other equipment primarily designed to be used in earth moving, excavation or
33 construction activity, or in the activity of warehouse materials handling and (6) airplanes, and
34 other aircraft, and (7) all terrain vehicles, motorcycles and other off road vehicles primarily
35 designed for recreational use; and >farm equipment dealers' means a person, partnership,
36 corporation, association or other form of business enterprise which primarily sells farm equipment
37 as defined above.

38 For the purposes of this article, "dealer of heavy equipment rental property" means the
39 inventory of any construction, earthmoving or industrial equipment that is mobile and rented by a
40 dealer of heavy equipment rental property including attachments for the equipment or other

41 ancillary equipment or tools. Qualified heavy equipment property is mobile if it is not permanently
42 affixed to real property and is capable of being moved to work sites.

43 For the purposes of this article, a “dealer of heavy equipment rental property” means a
44 person or entity principally engaged in the business of short-term rental of property as described
45 under North American Industrial Classification System code 532412, as published by the Bureau
46 of Census.

47 This article does not apply to units of inventory which are included in fleet sales,
48 transactions between dealers or classified as heavy duty trucks of sixteen thousand pounds or
49 more gross vehicular weight. For purposes of this article, inventory subject to the provisions of
50 this article shall be denoted "dealer vehicle inventory", "dealer motorboat inventory", "daily
51 passenger rental car inventory", "farm equipment dealers inventory", ~~and~~ "house trailer and
52 factory-built homes inventory" and “heavy equipment rental inventory”.

**§11-6C-2. Method for determining market value of dealer vehicle inventory, dealer
motorboat inventory, farm equipment dealers inventory, daily passenger rental car
inventory and house trailer and factory-built homes inventory.**

1 (a) For purposes of appraisal, the market value of dealer vehicle inventory, dealer
2 motorboat inventory and farm equipment dealers inventory, as of July 1, of each year, shall be
3 the gross sales or total annual sales of such inventory made by such dealer during the preceding
4 calendar year, divided by twelve, for a dealer with respect to which or whom sales were made
5 during the entire preceding year. For the purposes of this article, "gross sales" or "total annual
6 sales" means the amount received in money, credits, property, services or other consideration
7 from sales within this state without deduction on account of the cost of the property sold, amounts
8 paid for interest or any other expenses whatsoever. Gross sales or total annual sales shall not be
9 reduced by the value of an item of tangible personal property which is traded in for the purpose
10 of reducing the purchase price of the item purchased. In the case of dealers who were not in
11 business during the entire calendar year immediately preceding July 1, of that calendar year, the

12 assessor shall estimate the market value of such inventory based on such data as may be
13 available to him or her: *Provided*, That the assessor may extrapolate estimates using such sales
14 data as may be available and reliable when sales are made for a period of three months or more
15 during the prior year: *Provided, however*, That there shall be excluded from the appraisal
16 calculations the value of those units which were not physically held as inventory by the owner of
17 the inventory at any time during the preceding year. In all cases, the market value, so derived,
18 shall serve as the basis for calculating the appraised value.

19 (b) For purposes of appraisal, the market value of daily passenger rental car inventory, as
20 of July 1, of each year, shall be the gross value of all daily passenger rental cars made available
21 by a daily passenger rental car business on the first day of each month of the immediately
22 preceding calendar year: *Provided*, That the daily passenger rental car business shall add
23 together the gross values and divide that sum by twelve. For purposes of this article, "gross value"
24 means the lowest value for each vehicle as shown in a nationally accepted used car guide
25 determined by the Tax Commissioner. To calculate the "gross value" of any vehicle that does not
26 appear in a nationally accepted used car guide, the Tax Commissioner shall determine the
27 percent of the manufacturer's suggested retail price for each such vehicle held as a daily
28 passenger rental car without deduction on account of the cost of any inventory, amounts paid for
29 interest or any other expenses whatsoever. In the case of daily passenger rental car businesses
30 that were not in business during the entire calendar year immediately preceding July 1, of that
31 calendar year, the assessor shall estimate the market value of such daily passenger rental car
32 inventory based on such data as may be available to him or her: *Provided, however*, That the
33 assessor may extrapolate estimates using the daily passenger rental car data that is made
34 available and reliable when rentals were made for a period of three months or more during the
35 prior year: *Provided further*, That there shall be excluded from the appraisal calculations the value
36 of those units which were not physically held as daily passenger rental car inventory by the owner
37 of the daily passenger rental car inventory at any time during the preceding year. In all cases, the

38 gross value of daily passenger rental car inventory, so derived, shall serve as the basis for
39 calculating the appraised value of the inventory. For purposes of this article, "daily passenger
40 rental car inventory" includes all motor vehicles licensed as a Class A motor vehicle as defined in
41 section one, article ten, chapter seventeen-a of this code.

42 (c) For purposes of appraisal, the market value of house trailer and factory-built homes
43 inventory, as of July 1, of each year, shall be the gross sales or total annual sales of such inventory
44 made by such dealer during the preceding calendar year, divided by twelve, for a dealer with
45 respect to which or whom sales were made during the entire preceding year. For the purposes of
46 this article, "gross sales" or "total annual sales" means the amount received in money, credits,
47 property, services or other consideration from sales within this state without deduction on account
48 of the cost of the property sold, amounts paid for interest or any other expenses whatsoever.
49 Gross sales or total annual sales shall not be reduced by the value of an item of tangible personal
50 property which is traded in for the purpose of reducing the purchase price of the item purchased.
51 In the case of dealers who were not in business during the entire calendar year immediately
52 preceding July 1, of that calendar year, the assessor shall estimate the market value of such
53 inventory based on such data as may be available to him or her: *Provided*, That the assessor may
54 extrapolate estimates using such sales data as may be available and reliable when sales are
55 made for a period of three months or more during the prior year: *Provided, however*, That there
56 shall be excluded from the appraisal calculations the value of those units which were not
57 physically held as inventory by the owner of the inventory at any time during the preceding year.
58 In all cases, the market value, so derived, shall serve as the basis for calculating the appraised
59 value.

60 (d) For the purposes of appraisal, the market value of dealer heavy equipment rental
61 inventory, as of the first day of July of each year, is the gross sales of such inventory made by the
62 dealer of such equipment during the preceding calendar year for a dealer with respect to which
63 or whom sales were made during the entire preceding year. For the purposes of this article,

64 “gross sales” means the amount received in money, credits, property, services or other
 65 consideration from short-term rentals of heavy equipment rental property within a particular
 66 county, excluding any separately itemized costs representing charges related for related
 67 nonrental items, including without limitation, pickup and delivery, fuel or damage waiver charges.
 68 In the case of dealers who were not in business during the entire calendar year immediately
 69 preceding the first day of July of that calendar year, the county assessor shall estimate the market
 70 value of such inventory based on available rental data for a portion of the year: *Provided, That*
 71 the assessor may extrapolate estimates using such rental data as may be available and reliable
 72 for rentals made for a period of three months or more during the preceding year. Nevertheless,
 73 the market value of any item of heavy equipment rental inventory may not exceed the lowest value
 74 for such property as reported in current appraisal guides published by a recognized authority, as
 75 directed by the Tax Commissioner for any assessment year: *Provided, however,* That there shall
 76 be excluded from the appraisal calculations the value of those units which were not physically
 77 held as dealer heavy equipment rental inventory by the owner of the inventory at any time during
 78 the preceding year. In all cases, the market value derived shall serve as the basis for calculating
 79 the appraised value.

§11-6C-3. Owner to file return estimating market value.

1 The owner of dealer vehicle inventory, daily passenger rental car inventory, dealer
 2 motorboat inventory, farm equipment dealers inventory, ~~or~~ house trailer and factory-built homes
 3 inventory, or dealer heavy equipment rental property shall report the market value of such
 4 inventory, derived as set forth in section two of this article, to the assessor, as a part of the return
 5 required by law to be filed annually pursuant to the provisions of this chapter.

**§11-6C-4. Determination of tax on dealer vehicle inventory, daily passenger rental car
 inventory, dealer motorboat inventory, farm equipment dealers inventory or house
 trailer and factory-built homes inventory or heavy equipment rental property
 inventory.**

1 The annual amount of tax levied upon the dealer vehicle inventory, daily passenger rental
2 car inventory, dealer motorboat inventory, farm equipment dealers inventory ~~or~~ house trailer and
3 factory-built homes inventory, or heavy equipment rental property inventory pursuant to article
4 eight of this chapter shall be based upon the market value as determined pursuant to this article,
5 times the assessment percentage then provided by law.

§11-6C-5. Intent of this article; Tax Commissioner to promulgate rules.

1 (a) This article is adopted to address the lack of uniformity, audit difficulties and business
2 management issues arising in this state with respect to the assessment of the personal property
3 held as new and used dealer vehicle inventory, daily passenger rental car inventory, dealer
4 motorboat inventory, farm equipment dealers inventory ~~or~~ house trailer and factory-built homes
5 inventory or heavy equipment rental property. Accordingly, the Legislature finds and declares
6 that the adoption of this article will provide a more reliable and uniform method of determining
7 market value of dealer vehicle inventory, daily passenger rental car inventory, dealer motorboat
8 inventory, farm equipment dealers inventory ~~or~~ house trailer and factory-built homes inventory,
9 and heavy equipment rental property; minimize audit problems associated with such property;
10 provide a predictable revenue stream for levying bodies; maximize the owner's ability to manage
11 inventory; and provide clear guidance to local authorities by superseding the wide variety of
12 otherwise lawful appraisal methods now in use in this state.

13 (b) The Tax Commissioner shall have the power to promulgate such rules as may be
14 necessary to implement the provisions of this article.

§ 11-6C-6. Dealer collection of unit property tax on heavy equipment rental property.

1 (a) For the purpose of the collection and remittance of property taxes on heavy equipment
2 rental inventory, each dealer shall, with respect to each short-term rental, assign a unit property
3 tax to each item of heavy equipment rental property, state the amount of the unit property tax
4 assigned to the item of heavy equipment rental property as a separate line item on the invoice or
5 other billing statement issued by the dealer to the renter, and collect the unit property tax from the

6 renter at the time the renter makes a short-term rental payment to the dealer. The unit property
7 tax shall be in any amount not greater than two and one-half percent of the rental charge.

8 (b) Any business collecting the unit property tax authorized by this section shall account
9 for and hold those amounts separately from all other business receipts and shall use such
10 amounts solely and exclusively for purposes of paying the property taxes levied upon its heavy
11 equipment rental property inventory.

12 (c) Any dealer collecting unit property taxes shall remit such amounts annually to the
13 appropriate county sheriff on or before September 30, following receipt of annual tax statements.
14 Any such remittances shall be credited against the dealer's property taxes attributable to dealer
15 heavy equipment rental property for that year. Any unit property taxes remitted to any county in
16 excess of the dealer's actual property tax liability attributable to its dealer heavy equipment rental
17 property in that county shall be retained by the county having received the payments and no such
18 excess shall be refunded to the dealer.

19 (d) Nothing in this section may be construed to exempt such heavy equipment rental
20 property from property taxes.

21 (e) All unit property taxes collected from renters shall be excluded from any amounts
22 subject to state or municipal sales or use taxes.

NOTE: The purpose of this bill is to authorize a method for the collection and remittance of property taxes related to dealer's heavy equipment inventory. Current law does not provide any special guidance in this regard.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.