

Hertzbach Tax Advisor

A reprint of breaking news tax updates sent to Hertzbach's email list

New Maryland Gross Receipts Tax Replaces Personal Property Tax on Heavy Equipment Rental Property

Effective December 31, 2010, heavy equipment property is no longer subject to personal property tax if the property is subject to the gross receipts tax.

Gross Receipts Tax: Effective July 1, 2011, a gross receipts tax is imposed at a rate of 2% on the gross receipts from the short-term (365 days or less) rental of heavy equipment. The tax is imposed only if the largest segment of the total rental receipts of the taxpayer is from the short-term rental of heavy equipment. The gross receipts tax does not apply to a business located in a county or municipal corporation that does not impose a personal property tax.

"Heavy equipment" means construction, earth-moving, or industrial equipment that is mobile, as well as any attachment for the heavy equipment, including a self-propelled vehicle that is not designed to be driven on a highway or industrial electrical generation equipment, industrial

lift equipment, industrial material handling equipment, or other similar industrial equipment.

Collection and Payment. A taxpayer subject to the gross receipts tax collects the tax from the rental customer and remits the tax to the county or municipal corporation where the business is located. The tax is payable quarterly and due by the last day of the month after the end of the quarter.

The taxpayer is also required to file a Report on Personal Property with the State Department of Assessments and Taxation with the second quarterly payment. The report lists all of the personal property subject to the gross receipts tax. From this listing the county will calculate the difference between the gross receipts tax remitted and the amount of personal property tax that otherwise would have been due. If the property tax exceeds the gross receipts tax the shortage must be paid on or before March 31st of each year.

Federal Withholding on Government Contracts Postponed For Another Year

The IRS has issued final regulations postponing the implementation of a mandatory 3% income tax withholding on payments from government entities until January 1, 2013.

Under The Tax Increase Prevention and Reconciliation Act of 2005 any governmental entity, including federal, state, municipal, and multi-state agencies, that makes a payment of \$10,000 or more for property or services to a single entity must withhold 3% of that payment for federal income tax.

The \$10,000 threshold is determined on a payment by payment basis. For example, if a governmental entity made payments of \$12,000, \$8,000, and \$2,000 to an entity, only the \$12,000 payment would be subject to the withholding.

The IRS included an anti-abuse rule to prevent governments from splitting up payments to evade the withholding requirements. The rule will treat multiple payments as a single payment if the payments are divided for the sole purpose of avoiding the withholding.

For example, if a governmental entity was billed \$12,000 for services and payment was due on August 1, but the governmental entity made payments of \$6,000 on August 1 and August 2 instead of a single payment of \$12,000.

In this case the payments will be treated as though a single payment was made on August 1 and 3% of the full \$12,000 must be withheld from the first payment.

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Federal Withholding on Government Contracts Postponed For Another Year *(continued from front)*

Payments to government entities, foreign governments, and tax-exempt organizations including pass-through entities owned 80% or more by these types of entities are exempt. The IRS is expected to issue guidance on how these payees can claim the exemption.

Additional exemptions to the mandatory withholding include:

- Payments made by municipalities making total payments less than \$100 million per year
- Payments for interest

- Payments for real property (the purchase or lease of real property is exempt, however the construction of real property such as building or roads is subject to withholding)
- Payments made pursuant to a classified or confidential contract
- Payments in connection with a public assistance or welfare program which eligibility is determined by a needs or income test
- Payments made to governmental employees with respect to their services as employees

Small Employer Health Insurance Credit

Starting in 2010 Qualified Small Employers can claim a nonrefundable credit for health insurance premiums they pay for their employees. For years 2010 - 2013 the credit is up to 35% of the health insurance premiums paid. In 2014 the maximum credit increases to 50%.

Qualified Small Employers are those who:

- Employ fewer than 25 Full Time Equivalent (FTE) employees
- Pay average annual wages less than \$50,000 per FTE employee, and
- Pay at least 50% of premiums for its employees under a qualified insurance arrangement

The number of FTE employees is calculated by dividing the total hours worked by all employees

(excluding owners and employees related to owners) by 2,080. Average annual wages are calculated by dividing the total wages paid to all employees (excluding owners and employees related to owners) by the number of FTE employees.

The criteria may appear straight-forward but it is important to review each situation carefully. It is possible that a company that has more than 25 employees will still qualify for the credit. For example, a company that has 5 full-time employees and 30 employees working part-time for 24 hrs a week is considered to have only 23 FTE employees.

Due to phase-outs incorporated into the law those who may appear to meet the criteria may not actually benefit from the credit at all. Below is a chart showing the effective credit percentage

you can expect with various FTE employees and average annual wages. As you can see a company with just 19 FTE employees paying average wages of \$35,000 is completely phased out of the credit.

In addition to the phase-outs, another consideration is that wage expense must be reduced for the amount of the credit on the Federal tax return. Maryland does not allow a subtraction modification to adjust for this which results in a lost deduction at the state level.

Number of FTE Employees	Average Wages					
	Up to \$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000
Up to 10	35%	28%	21%	14%	7%	0%
11	33%	26%	19%	12%	5%	
12	30%	23%	16%	9%	2%	
13	28%	21%	14%	7%		
14	26%	19%	12%	5%		
15	23%	16%	9%	2%		
16	21%	14%	7%			
17	18%	12%	5%			
18	16%	9%	2%			
19	14%	7%				
20	12%	5%				
21	9%	2%				
22	7%					
23	5%					
24	2%					
25	0%					

We hope you find this information useful. If you have any questions regarding the above tax changes, please do not hesitate to call us at (410) 363-3200.