

# Heavy Equipment Rental Tax

---

## Introduction

In 2018, [House Bill 4139](#) established the Heavy Equipment Rental Tax (HERT). The two percent tax applies to the rental price of heavy equipment and tools when rented from a qualified heavy equipment (QHE) rental provider. QHE rental providers must register with Department of Revenue (DOR) annually. Qualified heavy equipment subject to the HERT is exempt from ad valorem property taxes.

The HERT is a “payment in-lieu tax” (PiLT) and is intended to be revenue neutral when compared to the foregone property tax collections. The concept was proposed by stakeholders who argued that the administrative burden of locating and documenting mobile equipment for assessment purposes could be lessened by a rental tax. The Department of Revenue is authorized to use up to five percent of collected revenues for administration.

For the first two years (2019-2020) of the HERT, rental providers submitted a personal property report listing the equipment and tools assigned to each rental location that are subject to the HERT. These reports were due to DOR by April 1, 2019 and April 1, 2020. DOR’s Property Tax Division used the reports to calculate what the revenue from property tax would have been on the listed equipment.<sup>1</sup> In spring 2020 and 2021, DOR’s Special Programs Administration unit then compared the estimated property tax amount to the amount of revenue received from the HERT for each location. This process is known as the true-up. The difference was refunded or billed to the rental provider.

House Bill 4139 requires DOR to provide a report to the interim committees of the Legislature with the results of the true-up, no later than July 1, 2022. The bill also requires the Legislative Revenue Officer to propose a HERT rate based on the findings of the true-up calculations.

This report includes:

- The revenue collected, after payment of refunds, for all taxpayers registered as QHE providers; and
- The amount of property taxes that would have been due for the property tax years beginning July 1, 2019 and July 1, 2020 respectively, if the QHE had been subject to property taxation.
- A discussion of potential changes to the HERT rate.

In 2019 and 2020, less HERT was collected than would have been collected in property tax. This report shows that difference. In both true-up years, billings and refunds were issued to balance those amounts.

---

<sup>1</sup> For purposes of this exercise, the rental equipment is assumed to be taxed at the location of the business associated with the HERT tax return.

## 2019 True-up

The 2019 true-up was a learning process for DOR and HERT taxpayers. Rental providers were asked to submit their taxable equipment lists by April 1, 2019; however, many did not supply this information to DOR. Staff from the Property Tax Division and the Special Programs Administration contacted rental providers several times requesting the missing information. These efforts were largely successful, and DOR received equipment lists from 54 of 59 accounts.

Five rental providers, however, did not submit their equipment list to confirm the reported HERT. Since DOR was unable to find consistent information to create a property tax calculation, and because there was no statutory remedy, a policy decision was made to accept the reported HERT as the amount of property tax for these five accounts.

For the remaining 54 rental providers, DOR compared the amount of HERT reported against what the rental providers would have paid in property tax, based on the equipment list filed with the department. The comparisons revealed that \$5,231,860.95 was reported in HERT and property tax based on the equipment lists amounted to \$5,836,641.22; a difference of \$604,780.27.

For all 59 accounts:

- Thirty-eight resulted in a refund to the rental provider because they paid more HERT than they would have paid in property tax. The total refunded amount was \$610,117.61.
- Fifteen accounts resulted in a bill to the rental provider because their property tax would have been more than what they paid in HERT. The total billed was \$1,214,897.88.
- The remaining six accounts included the five rental providers who did not submit an equipment list and one provider whose HERT happened to equal the property tax.

Although there were more refunds, the net true-up resulted in a billed amount. This was due primarily to one account responsible for more than 50 percent of the total billed amount.

Rental providers received refunds or paid assessments for the difference between HERT and property tax.

## 2020 True-up

For the 2020 true-up, rental providers were again required to submit their taxable equipment lists by April 1, 2020. While most companies submitted the required list, several did not, and DOR staff contacted these rental providers multiple times for compliance. Eventually, DOR received equipment lists from 53 out of 66 accounts.

Thirteen rental providers did not submit an equipment list to confirm the reported HERT, and following the decision process in 2019, the reported HERT was accepted as the property tax amount in these true-up calculations.

For the remaining 53 rental providers, DOR compared the amount of HERT reported against what the provider would have paid in property tax, based on the equipment list given to DOR. The comparisons revealed that \$5,298,708.34 was reported in HERT and property tax based on the equipment lists amounted to \$6,420,916.97; a difference of \$1,122,208.63.

For all 66 accounts:

- Twenty-nine resulted in a refund to the rental provider because they paid more HERT than they would have paid in property tax. The total refunded amount was \$446,551.94.
- Twenty-four resulted in a bill to the rental provider because their property tax would have been more than what they paid in HERT. The total billed was \$1,568,760.57.
- The remaining 13 comprised the providers who did not submit an equipment list.

Like the 2019 true-up, there were more refunds, but the net true-up resulted in a billed amount. This was primarily due to several accounts with large bill amounts.

Rental providers received refunds or paid assessments for the difference between HERT and property tax.

## True-up Comparison: 2019 vs. 2020

In both true-up years there were more refunds than assessments, however, the total HERT was less than what would have been paid in property tax. This difference is accounted for in both years by several rental providers who had large assessments each year. All true-up assessments issued for both years were paid by the rental providers.

Year	HERT Reported	Hypothetical Property Tax	Difference
2019	\$5,231,860.95	\$5,836,641.22	\$604,780.27
2020	\$5,298,708.34	\$6,420,916.97	\$1,122,208.63

Category	2019	2020
Total Accounts	59	66
<b>Accounts with refund</b>	38	29
Refund total	\$610,117.61	\$446,551.94
Average refund	\$16,055.73	\$15,398.34
Median refund	\$5,854.60	\$5,811.91
<b>Accounts with assessment</b>	15	24
Assessment total	\$1,214,897.88	\$1,568,760.57
Average assessment	\$80,993.19	\$65,365.02
Median assessment	\$22,307.50	\$20,077.64
Accounts with no true-up (equipment list not filed)	5*	13

\*One taxpayer had no Heavy Equipment Rental property during the 2019 tax year and filed a return showing no HERT collected.

## Proposed Tax Rate

The law specifies that the Legislative Revenue Officer shall propose a HERT rate based on program experience in 2019 and 2020 that will ensure, to the extent possible, the revenue neutrality of replacing heavy equipment property taxes with the rental tax. The data for 2019 and 2020 provide valuable information that was not available during the policy consideration in 2018. However, several questions remain that may affect future legislative discussions. First is the impact of missing data. There was no penalty for not providing equipment lists and five companies failed to do so for 2019 and that number increased to 13 in 2020. DOR has no information on why the data were not provided and there were no penalties for failure to file the equipment lists. There will also not be any more true-up periods without a law change, meaning no more data to compare for future tax years.

Focusing the analysis on accounts with complete information—54 (of 59) in 2019 and 53 (of 66) in 2020—HERT payments underperformed each year. The collections shortfall was roughly 11 percent in 2019 and 25 percent in 2020. Two years of data are not sufficient for a reliable trend to emerge and the increase in and magnitude of missing data is a concern. Still, one option for the Legislature is to increase the HERT rate to reduce these differences. However, as the data reported in the previous section show, 70 percent of 2019 taxpayers and 55 percent of 2020 filers paid more in rental taxes than they would have paid under the property tax. This raises questions about the distributional impacts. There may be no single tax rate that provides parity for all taxpayers while providing revenue neutrality for the program at the same time.

More broadly, the law does not specifically define “revenue neutrality.” Given the expected performance differences between consumption taxes and property taxes, it may be better to consider the changes in HERT revenue in light of other economic conditions over the next several years. As an example, 2020 was a year with significant economic challenges and, possibly, a reduced demand for rental equipment. Such variations are expected when comparing a relatively stable property tax to one with more immediate connections to economic activity. In fact, total HERT collections grew from \$5.3 million in 2020 to \$6.5 million in 2021—a growth rate of just over 22 percent. While DOR does not have a corresponding property tax figure, (under current law, DOR’s authority to require this data ended in 2020) it seems unlikely that property taxes in 2021 grew at a similar rate.

The drivers of annual changes in the property tax include purchase schedules for new equipment, depreciation, and new/expiring taxes. The main driver of HERT collections is likely the rental market for heavy equipment, which should reflect ongoing economic activity. Differences between the growth rates of the two taxes are part of the program trade-offs inherent to the PiLT approach.

Finally, while revenue neutrality is a key consideration specified in law, an understanding of the distributional impacts of the tax may be warranted. Unfortunately, given the relatively small number and specificity of taxpayers involved, disclosure concerns may limit public discussion. Given the data collection constraints currently placed on DOR a more policy focused analysis by

LRO may prove valuable for any changes that may be considered during the 2023 legislative session.

## Contact

John Galvin, Manager

Withholding, Payroll and Special Programs Section  
Oregon Department of Revenue

[John.M.GALVIN@dor.oregon.gov](mailto:John.M.GALVIN@dor.oregon.gov)