



**House
Legislative
Analysis
Section**

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EXEMPT COMPUTER SOFTWARE

**House Bill 6207 as enrolled
First Analysis (1-11-91)**

**Sponsor: Rep. Walter J. DeLange
House Committee: Taxation
Senate Committee: Finance**

THE APPARENT PROBLEM:

According to tax specialists, the state tax commission approved in 1989 a new personal property tax form that included a separate line for computer software. Also, a proposed revision of the assessor's manual by STC staff said that software was subject to the property tax. The business community objected to what it termed "a major change in tax policy" with "the potential of substantially increasing taxes for Michigan job providers as well as discouraging the development and use of new technology," and moved on several fronts to prevent its implementation. The view of business, reportedly, was that software is intangible personal property and thus exempt from the property tax. (The state treasurer is said to have written to the tax commission to inform them that he agreed that software was intangible.) An attorney general's opinion was sought, a court case was initiated, and legislation proposed. A legislative solution to the controversy emerged from discussions involving representatives of business, the legislature, the tax commission, local assessors, and the governor's office, that would, with a few special exceptions, keep computer software from being subject to the property tax.

THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act to exempt computer software. Software would be exempt unless: (1) the software was incorporated as a permanent component of a computer, machine, piece of equipment, or device, or of real property, and the software was not commonly available separately; or (2) the cost of the software was included as part of the cost of a computer, machine, piece of equipment, or device, or of real property, and the software was not commonly available separately. Computer software is defined as "a set of statements or instructions that when incorporated in a machine-usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result."

The bill states that its provisions are not to be construed to affect the value of a machine, device, piece of equipment, or computer,

or the value of real property, or to affect the taxable status of any other property subject to the property tax.

MCL 211.9d

FISCAL IMPLICATIONS:

Staff to the House Taxation Committee has estimated that the bill would result in a reduction in local property tax revenues of less than \$4 million annually. (Staff memorandum dated 11-14-91). Committee staff says that currently canned software "may or may not be taxed depending on the taxpayer and the jurisdiction." Some taxpayers report the software and some do not. Some jurisdictions make efforts to tax software and some do not.

ARGUMENTS:

For:

Taxing computer software as personal property, say business representatives, would place Michigan companies at a competitive disadvantage (since other states do not impose this tax) and hinder job creation. The bill would make it clear that software is not subject to the property tax except in certain special cases.