

HOUSE BILL No. 5607

February 7, 2002, Introduced by Reps. Newell, Cassis and Vear and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 8a, 8c, and 19 (MCL 211.8a, 211.8c, and 211.19), section 8a as amended and section 8c as added by 1998 PA 537 and section 19 as amended by 1996 PA 126.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8a. (1) Qualified personal property made available by
2 a person that is a qualified business for use by another person
3 shall not be assessed to the qualified business and instead is
4 assessable and taxable to the user who acquires or possesses the
5 qualified personal property to the extent provided for in this
6 section. Property assessed under this section shall not be
7 required to be assessed separately from other personal property
8 assessed to the user.

1 (2) A person who is a qualified business that makes
2 available qualified personal property shall file the statement
3 required by section 18 not later than February 1. A person to
4 whom qualified personal property is taxable as provided in this
5 section shall file the statement required by section 18 by
6 ~~February 20~~ THE DATE PRESCRIBED IN SECTION 19 and shall include
7 the qualified personal property on that statement. The statement
8 filed by the qualified business shall include, itemized for each
9 user, all of the following for all qualified personal property:

10 (a) The name of the qualified business.

11 (b) The user responsible for payment of the tax.

12 (c) The type of property.

13 (d) The location of the property, as indicated in the
14 records of the qualified business.

15 (e) The purchase price including sales tax, freight, and
16 installation.

17 (f) The year the property was purchased.

18 (g) If the qualified business is the manufacturer of the
19 property, the original selling price, and if there is no original
20 selling price, then the original cost.

21 (h) The amount and frequency of periodic payments required
22 of the user.

23 (i) An affirmation that the person making the statement is a
24 qualified business and that property included in the statement is
25 qualified personal property. ~~as defined in this section.~~

26 (3) A user of qualified personal property may request from
27 the assessor, and the assessor shall provide, a copy of that

1 portion of the statement filed by the qualified business by
2 February 1 that includes qualified personal property for that
3 user. If a good faith statement is not filed by February 1, or
4 if property is not included in the statement required to be filed
5 by February 1, then that property omitted or not reported is
6 assessable and taxable to the person who makes the property
7 available regardless of whether the person is a qualified busi-
8 ness or the property is qualified personal property.

9 (4) A designee of the local tax collecting unit who is a
10 certified assessor may examine the books and records of a person
11 who files the statement required by section 18 that are necessary
12 to determine if property included in the statement required by
13 section 18 is qualified personal property. A person is not
14 required to be a certified personal property examiner to examine
15 books and records pursuant to this subsection.

16 (5) The state tax commission shall develop additions to the
17 statement required by section 18 necessary to assure that prop-
18 erty reported pursuant to subsection (2) is certified under oath
19 to be qualified personal property reported by a person to whom
20 qualified personal property is taxable.

21 (6) As used in this section:

22 (a) "Employee" means a person who performs a service for
23 wages or other remuneration under a contract of hire, written or
24 oral, express or implied.

25 (b) "Qualified business" means a for-profit business that
26 obtains services relating to that business from 30 or fewer
27 employees or employees of independent contractors performing

1 services substantially similar to employees during a random week
2 in the year ending on the tax day. If a person is an entity
3 under common control or is a member of an affiliated group as
4 those terms are used in section 36(7) of the single business tax
5 act, 1975 PA 228, MCL 208.36, the number of employees from whom
6 services are obtained includes all employees of the group and
7 employees of independent contractors of the group rendering serv-
8 ices to the qualified business.

9 (c) "Qualified personal property" means property on which a
10 retail sales tax has been paid or liability accrued contemporane-
11 ous with the user acquiring possession of the property, or on
12 which sales tax would be payable if the property was not exempt,
13 and that is subject to an agreement entered into after December
14 31, 1993 to which all of the following apply:

15 (i) A party engaged in a for-profit business obtains the
16 right to use or possess personal property in exchange for making
17 periodic payments for a noncancelable term of 12 months or more.

18 (ii) The party making periodic payments can obtain legal
19 title to the property by making all the periodic payments or all
20 of the periodic payments and a final payment that is less than
21 the true cash value of the property determined using state tax
22 commission cost multipliers for personal property.

23 (iii) The written agreement between the qualified business
24 and the party making periodic payments requires that party to
25 report the property as qualified personal property pursuant to
26 section 18 and to pay taxes assessed against the property.

1 (d) "Random week" means a 7-day period during a calendar
2 year beginning on a Monday and ending on a Sunday that is
3 selected at random. Not later than January 15 each year, the
4 state tax commission shall establish the random week for the
5 immediately preceding year.

6 (7) This section does not affect the requirements for
7 reporting or assessing personal property acquired or possessed by
8 a nonprofit organization.

9 Sec. 8c. (1) Daily rental property shall be assessed to the
10 owner at the location of the rental business and is not asses-
11 sable at its location on tax day as provided in section 2 if all
12 of the following conditions are satisfied:

13 (a) The location of the rental business is in this state and
14 the daily rental property is located in this state on tax day as
15 provided in section 2.

16 (b) The daily rental property is permanently labeled with
17 the name of the owner and either the business address or current
18 telephone number of the owner with an indication that the prop-
19 erty is daily rental property. The owner shall also affix a
20 unique identifying number to the daily rental property. If the
21 daily rental property consists of multiple small items that are
22 part of a matched set or if it is impractical to label the daily
23 rental property, the required statement and identifying number
24 may be placed on the daily rental property's container used to
25 store the daily rental property when not in use.

26 (c) Not later than ~~February 20 of~~ THE DATE PRESCRIBED IN
27 SECTION 19 IN each year, the owner provides the assessor of the

1 city or township where the rental business is located an itemized
2 listing of the owner's daily rental property, as of tax day. The
3 listing shall describe the daily rental property by manufacturer,
4 make, and model.

5 (d) Not later than ~~February 20~~ THE DATE PRESCRIBED IN SEC-
6 TION 19 of each tax year, the owner shall give the assessor of
7 the city or township where the rental business is located written
8 authorization to provide a copy of information provided pursuant
9 to subdivision (c) to the assessor of any other city or township
10 in which the daily rental property may have been physically
11 located on tax day.

12 (e) If the owner of daily rental property is required to
13 provide a written statement pursuant to section 18 to any local
14 tax collecting unit other than the local tax collecting unit in
15 which the daily rental property is assessable, the written state-
16 ment shall include a written statement indicating the jurisdic-
17 tion in which its daily rental property is being reported.

18 (2) The owner's reporting of daily rental property is
19 subject to audit by any of the following:

20 (a) Any assessment jurisdiction in which the daily rental
21 property is located on tax day.

22 (b) The local tax collecting unit where the rental business
23 is located.

24 (c) The county equalization department of a county in which
25 the daily rental property is located on tax day or where the
26 rental business is located.

1 (d) The state tax commission.

2 (3) The owner's tangible personal property that is not
3 assessable as provided in subsection (1) is assessable as pro-
4 vided in section 2.

5 (4) As used in this section:

6 (a) "Daily rental property" means tangible personal property
7 that is exclusively offered on an hourly, daily, weekly, or
8 monthly basis for a rental term of 6 months or less pursuant to a
9 written agreement and had an acquisition cost when new of
10 \$10,000.00 or less, including freight and sales tax. In deter-
11 mining whether a rental term extends beyond 6 months, the rental
12 term shall be computed by adding all permitted or required exten-
13 sions of the rental term set forth in the written agreement for
14 the daily rental property. Daily rental property does not
15 include tangible personal property rented in conjunction with a
16 service contract that extends beyond 90 days.

17 (b) "Location of the rental business" or "where the rental
18 business is located" means the local tax collecting unit in which
19 the daily rental property is kept when it is not rented to a
20 customer.

21 (c) "Owner" means the individual, partnership, corporation,
22 association, or other legal entity that owns daily rental
23 property.

24 Sec. 19. (1) A written statement described in section 18
25 shall be in a form prescribed by the state tax commission. ~~A~~

26 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), A form
27 required under ~~Section~~ SECTION 18(2) shall be completed and

1 delivered to the supervisor or assessor on or before February 20
2 of each year. A supervisor or assessor shall not require that a
3 written statement described in section 18 be filed before
4 February 20 of each year.

5 (3) A SUPERVISOR OR ASSESSOR MAY EXTEND THE TIME WITHIN
6 WHICH A WRITTEN STATEMENT DESCRIBED IN SECTION 18 SHALL BE FILED
7 FOR A PERIOD NOT TO EXCEED 15 DAYS AFTER THE DATE PRESCRIBED IN
8 SUBSECTION (2).