

HOUSE BILL No. 5545

April 13, 2016, Introduced by Rep. Farrington and referred to the Committee on Tax Policy.

A bill to amend 2014 PA 93, entitled
"Alternative state essential services assessment act,"
by amending sections 3, 7, and 9 (MCL 211.1073, 211.1077, and
211.1079), sections 3 and 7 as amended by 2015 PA 121.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (A) "ACQUIRED BY" MEANS, FOR PROPERTY THAT IS CONSTRUCTION IN
3 PROGRESS ONLY, THE YEAR THE PROPERTY IS FIRST REPORTED ON THE
4 COMBINED DOCUMENT FILED PURSUANT TO SECTION 7(8) IN THE REPORT OF
5 THE FAIR MARKET VALUE AND YEAR OF ACQUISITION BY THE FIRST OWNER OF
6 QUALIFIED NEW PERSONAL PROPERTY OR QUALIFIED PREVIOUSLY EXISTING
7 PERSONAL PROPERTY.

8 (B) ~~(a)~~"Acquisition cost" means the fair market value of
9 personal property at the time of acquisition by the first owner,

1 including the cost of freight, sales tax, and installation, and
2 other capitalized costs, except capitalized interest. There is a
3 rebuttable presumption that the acquisition price paid by the first
4 owner for personal property, and any costs of freight, sales tax,
5 and installation, and other capitalized costs, except capitalized
6 interest, reflect the acquisition cost. For personal property
7 exempt under section 9m or 9n of the general property tax act, 1893
8 PA 206, MCL 211.9m and 211.9n, that ~~would otherwise be~~ **PRIOR TO THE**
9 **CURRENT TAX YEAR WAS** exempt under section 7k of the general
10 property tax act, 1893 PA 206, MCL 211.7k, under an industrial
11 facilities exemption certificate issued under 1974 PA 198, MCL
12 207.551 to 207.572, and effective before January 1, 2013, ~~and~~ **WHICH**
13 **HAS BEEN EXTENDED FOR PROPERTY NOT YET EXEMPT UNDER SECTION 9M OR**
14 **9N OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND**
15 **211.9N**, for personal property subject to an extended industrial
16 facilities exemption certificate under section 11a of 1974 PA 198,
17 MCL 207.561a, that is exempt under an industrial facilities
18 exemption certificate issued under 1974 PA 198, MCL 207.551 to
19 207.572, and effective before January 1, 2013, **AND BEGINNING IN**
20 **2017 FOR CONSTRUCTION IN PROGRESS**, acquisition cost means 1/2 of
21 the fair market value of that personal property at the time of
22 acquisition by the first owner, including the cost of freight,
23 sales tax, and installation, and other capitalized costs, except
24 capitalized interest. The acquisition cost for personal property
25 exempt under the Michigan renaissance zone act, 1996 PA 376, MCL
26 125.2681 to 125.2696, is \$0.00 except for the 3 years immediately
27 preceding the expiration of the exemption of that personal property

1 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681
2 to 125.2696, during which period of time the acquisition cost for
3 that personal property means the fair market value of that personal
4 property at the time of acquisition by the first owner, including
5 the cost of freight, sales tax, and installation, and other
6 capitalized costs, except capitalized interest, multiplied by the
7 percentage reduction in the exemption as provided in section 9(3)
8 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2689.
9 The ~~state tax commission~~**DEPARTMENT** may provide guidelines for
10 circumstances in which the actual acquisition price is not
11 determinative of acquisition cost and the basis of determining
12 acquisition cost in those circumstances. When the acquisition cost,
13 year of acquisition by the first owner, or both are unknown, the
14 ~~state tax commission~~**DEPARTMENT** may provide guidelines for
15 estimating the acquisition cost and year of acquisition by the
16 first owner. The ~~state tax commission~~**DEPARTMENT** may issue
17 guidelines that allow for the reduction of acquisition cost for
18 property that is idle, is obsolete or has material obsolescence, or
19 is surplus.

20 (C) ~~(b)~~-"Assessment" means the alternative state essential
21 services assessment levied under section 5.

22 (D) ~~(e)~~-"Assessment year" means the year in which the
23 alternative state essential services assessment levied under
24 section 5 is due.

25 (E) ~~(d)~~-"Eligible claimant" means a person that owns, leases,
26 or is in the possession of eligible personal property.

27 (F) ~~(e)~~-"Eligible personal property" means personal property

1 exempt from the tax levied under the state essential services
2 assessment act, 2014 PA 92, MCL 211.1051 to 211.1061, and
3 determined to be subject to the alternative state essential
4 services assessment as provided in section 9 of the state essential
5 services assessment act, 2014 PA 92, MCL 211.1059.

6 (G) "DEPARTMENT" MEANS THE DEPARTMENT OF TREASURY.

7 Sec. 7. (1) The department ~~of treasury~~ shall collect and
8 administer the alternative state essential services assessment as
9 provided in this section.

10 (2) Not later than May 1 in each assessment year, the
11 department ~~of treasury~~ shall make available in electronic form to
12 each eligible claimant a statement for calculation of the
13 assessment as provided in section 5. **THAT STATEMENT SHALL BE**
14 **DEVELOPED FROM THE INFORMATION SUBMITTED BY THE ELIGIBLE CLAIMANT**
15 **ON THE COMBINED DOCUMENT AS REQUIRED BY SECTIONS 9M AND 9N OF THE**
16 **GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N.**

17 (3) Not later than August 15 in each assessment year, each
18 eligible claimant shall ~~submit electronically to the department of~~
19 ~~treasury~~ **REVISE AS NECESSARY AND CERTIFY** the completed statement ~~,~~
20 ~~in a form and manner prescribed by the department of treasury,~~ and
21 **MAKE** full payment of the assessment levied under section 5 for that
22 assessment year as calculated in section 5(2). The department ~~of~~
23 ~~treasury~~ may waive or delay the electronic ~~filing~~ **CERTIFICATION**
24 requirement at its discretion. The department ~~of treasury~~ may
25 accept a timely filed statement **THAT CALCULATES THE TAX UNDER THIS**
26 **ACT THAT IS TRANSMITTED AND CERTIFIED** using reporting software
27 approved by the department, ~~of treasury,~~ subject to audit under

1 subsection (6). A statement ~~submitted~~**CERTIFIED** by an eligible
2 claimant shall include all of the eligible claimant's eligible
3 personal property located in this state subject to the assessment
4 levied under section 5. The ~~completed~~ statement required under this
5 subsection shall not be subject to disclosure under the freedom of
6 information act, 1976 PA 442, MCL 15.231 to 15.246.

7 (4) If an eligible claimant does not ~~submit~~**CERTIFY** the
8 statement and full payment of the assessment levied under section 5
9 by August 15, the department ~~of treasury~~ shall issue a notice to
10 the eligible claimant not later than September 15. The notice shall
11 include a statement explaining the consequences of nonpayment as
12 set forth in subsection (5) and instructing the eligible claimant
13 of its potential responsibility under subsection (5)(e). An
14 eligible claimant shall submit payment in full by October 15 of the
15 assessment year along with a penalty of 1% per week on the unpaid
16 balance for each week payment is not made in full up to a maximum
17 of 5% of the total amount due and unpaid. For the eligible
18 claimant's first assessment year, the penalty shall be waived if
19 the eligible claimant ~~submits~~**CERTIFIES** the statement and **MAKES**
20 full payment of the assessment levied under section 5 by September
21 15. An eligible claimant may amend a ~~filed~~**CERTIFIED** statement for
22 the current year up to September 15. Payments made due to an
23 amended statement are subject to the penalties as described in this
24 subsection. The department ~~of treasury~~ shall issue refunds for
25 overpayments due to an amended statement. All refunds due to
26 overpayment shall be remitted without interest except as provided
27 by section 37 of the tax tribunal act, 1973 PA 186, MCL 205.737.

1 (5) For any assessment year in which an eligible claimant does
2 not submit payment in full and any penalty due under subsection (4)
3 or (6) by October 15, or if the ~~state tax commission~~**DEPARTMENT**
4 discovers that the property is not eligible under section 9m or 9n
5 of the general property tax act, 1893 PA 206, MCL 211.9m and
6 211.9n, all of the following shall apply:

7 (a) The ~~state tax commission~~**DEPARTMENT** shall issue an order
8 to rescind no later than the first Monday in December for the
9 assessment year any exemption described in section 9m or 9n of the
10 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n,
11 granted for any parcel for which payment in full and any penalty
12 due have not been received or for which the ~~state tax commission~~
13 **DEPARTMENT** discovers that the property is not eligible under
14 section 9m or 9n of the general property tax act, 1893 PA 206, MCL
15 211.9m and 211.9n.

16 (b) ~~The~~**UPON THE REQUEST OF THE DEPARTMENT, THE** state tax
17 commission shall issue an order to rescind no later than the first
18 Monday in December for the assessment year any exemption under
19 section 9f of the general property tax act, 1893 PA 206, MCL
20 211.9f, which exemption was approved under section 9f of the
21 general property tax act, 1893 PA 206, MCL 211.9f, after 2013 for
22 any parcel for which payment in full and any penalty due have not
23 been received or for which the state tax commission discovers that
24 the property is not eligible ~~under section 9m or 9n of the general~~
25 ~~property tax act, 1893 PA 206, MCL 211.9m and 211.9n.~~**PERSONAL**
26 **PROPERTY.**

27 (c) ~~The~~**UPON THE REQUEST OF THE DEPARTMENT, THE** state tax

1 commission shall issue an order to rescind no later than the first
 2 Monday in December for the assessment year any exemption for
 3 eligible personal property subject to an extended industrial
 4 facilities exemption certificate under section 11a of 1974 PA 198,
 5 MCL 207.561a, for any parcel for which payment in full and any
 6 penalty due have not been received or for which the ~~state tax~~
 7 ~~commission~~ **DEPARTMENT** discovers that the property is not eligible
 8 ~~under section 9m or 9n of the general property tax act, 1893 PA~~
 9 ~~206, MCL 211.9m and 211.9n.~~ **PERSONAL PROPERTY.**

10 (d) ~~The~~ **UPON THE REQUEST OF THE DEPARTMENT, THE** state tax
 11 commission shall issue an order to rescind no later than the first
 12 Monday in December for the assessment year any extended exemption
 13 for eligible personal property under section 9f(8) (a) of the
 14 general property tax act, 1893 PA 206, MCL 211.9f, for any parcel
 15 for which payment in full and any penalty due have not been
 16 received or for which the ~~state tax commission~~ **DEPARTMENT** discovers
 17 that the property is not eligible ~~under section 9m or 9n of the~~
 18 ~~general property tax act, 1893 PA 206, MCL 211.9m and~~
 19 ~~211.9n.~~ **PERSONAL PROPERTY.**

20 (e) The eligible claimant shall file with the assessor of the
 21 township or city within 30 days of the date of the ~~state tax~~
 22 ~~commission order to rescind~~ **RESCISSION** issued under subdivisions
 23 (a) to (d) a statement under section 19 of the general property tax
 24 act, 1893 PA 206, MCL 211.19, for all property for which the
 25 exemption has been rescinded under this section.

26 (f) Within 60 days of ~~an order of rescission by the state tax~~
 27 ~~commission~~ **A RESCISSION** under subdivisions (a) to (d), the

1 treasurer of the local tax collecting unit shall issue amended tax
2 bills for any taxes, including penalty and interest, that were not
3 billed under the general property tax act, 1893 PA 206, MCL 211.1
4 to 211.155, or under 1974 PA 198, MCL 207.551 to 207.572, and that
5 are owed as a result of the ~~order of rescission~~.

6 (6) An eligible claimant shall provide access to the books and
7 records, for audit purposes, relating to the location and
8 description; the date of purchase, lease, or acquisition; and the
9 purchase price, lease amount, or value of all personal property
10 owned by, leased by, or in the possession of that person or a
11 related entity if requested by the assessor of the township or
12 city, county equalization department, or department ~~of treasury~~ for
13 the year in which the statement is filed and the immediately
14 preceding 3 years. The department ~~of treasury~~ shall develop and
15 implement an audit program which includes, but is not limited to,
16 the audit of statements submitted under subsection (3) and amended
17 statements submitted under subsection (4) for the current calendar
18 year and the 3 calendar years immediately preceding the
19 commencement of an audit. An assessment as a result of an audit
20 shall be paid in full within 35 days of issuance and shall include
21 penalties and interest as described in section 154(3) of the
22 general property tax act, 1893 PA 206, MCL 211.154. Refunds as a
23 result of an audit under this subsection shall be without interest.
24 The exemption for personal property for which an assessment has
25 been issued as a result of an audit under this subsection shall be
26 subject to the rescission provisions of subsection (5) for the
27 years of the assessment if full payment is not timely made as

1 required by this subsection.

2 (7) An eligible claimant may appeal an assessment levied under
 3 section 5 or a penalty or rescission under this section to the
 4 ~~state tax commission~~ **MICHIGAN TAX TRIBUNAL** by filing a petition not
 5 later than December 31 in that tax year. An eligible claimant may
 6 appeal an assessment issued, including penalties, interest, or
 7 rescission, as a result of an audit conducted under subsection (6)
 8 by filing a petition with the ~~state tax commission~~ **MICHIGAN TAX**
 9 **TRIBUNAL** within ~~30~~ **35** days of the date of that assessment's
 10 issuance. The department of ~~treasury~~ may appeal to the ~~state tax~~
 11 ~~commission~~ **MICHIGAN TAX TRIBUNAL** by filing a petition for the
 12 current calendar year and 3 immediately preceding calendar years.
 13 ~~The state tax commission shall decide any appeal based on the~~
 14 ~~written petition and the written recommendation of state tax~~
 15 ~~commission staff and any other relevant information. The department~~
 16 ~~of treasury or any eligible claimant may appeal the determination~~
 17 ~~of the state tax commission to the Michigan tax tribunal within 35~~
 18 ~~days of the date of the determination.~~

19 (8) ~~For any year before 2023, the~~ **THE** department of treasury
 20 may require eligible claimants to **ANNUALLY** file by February 20 of
 21 ~~the~~ **EACH** year a combined document that includes the affidavit **FORM**
 22 **TO CLAIM THE EXEMPTION** under sections 9f(9), 9m, and 9n of the
 23 general property tax act, 1893 PA 206, MCL 211.9f, 211.9m, and
 24 211.9n, ~~the affidavit~~ **AND** under section 11a of 1974 PA 198, MCL
 25 207.561a, **A REPORT OF THE FAIR MARKET VALUE AND YEAR OF ACQUISITION**
 26 **BY THE FIRST OWNER OF ELIGIBLE PERSONAL PROPERTY, AND FOR ANY YEAR**
 27 **BEFORE 2023**, a statement under section 19 of the general property

1 tax act, 1893 PA 206, MCL 211.19. ~~and a report of the acquisition~~
2 ~~cost and year of acquisition by the first owner of eligible~~
3 ~~personal property.~~ ALL OF THE FOLLOWING APPLY TO THE FILING OF A
4 COMBINED DOCUMENT UNDER THIS SUBSECTION:

5 (A) The combined document shall be in a form prescribed by the
6 ~~state tax commission.~~ DEPARTMENT.

7 (B) LEASING COMPANIES ARE NOT ELIGIBLE TO RECEIVE THE
8 EXEMPTION UNDER THIS SECTION AND MAY NOT USE THE COMBINED DOCUMENT
9 PRESCRIBED IN THIS SECTION. WITH RESPECT TO PERSONAL PROPERTY THAT
10 IS THE SUBJECT OF A LEASE AGREEMENT, REGARDLESS OF WHETHER THE
11 AGREEMENT CONSTITUTES A LEASE FOR FINANCIAL OR TAX PURPOSES, ALL OF
12 THE FOLLOWING APPLY:

13 (i) IF THE PERSONAL PROPERTY IS ELIGIBLE MANUFACTURING
14 PERSONAL PROPERTY, THE LESSEE AND LESSOR MAY ELECT THAT THE LESSEE
15 REPORT THE LEASED PERSONAL PROPERTY ON THE COMBINED DOCUMENT.

16 (ii) AN ELECTION MADE BY THE LESSOR AND THE LESSEE UNDER THIS
17 SUBDIVISION SHALL BE MADE IN A FORM AND MANNER APPROVED BY THE
18 DEPARTMENT.

19 (iii) ABSENT AN ELECTION, THE PERSONAL PROPERTY SHALL BE
20 REPORTED BY THE LESSOR ON THE PERSONAL PROPERTY STATEMENT UNLESS
21 THE EXEMPTION FOR ELIGIBLE MANUFACTURING PERSONAL PROPERTY IS
22 CLAIMED BY THE LESSEE ON THE COMBINED DOCUMENT.

23 (C) FOR ELIGIBLE PERSONAL PROPERTY EXEMPT UNDER THE MICHIGAN
24 RENAISSANCE ZONE ACT, 1996 PA 376, MCL 125.2681 TO 125.2696, AN
25 ELIGIBLE CLAIMANT SHALL REPORT THE FAIR MARKET VALUE OF THAT
26 PERSONAL PROPERTY AT THE TIME OF ACQUISITION BY THE FIRST OWNER,
27 INCLUDING THE COST OF FREIGHT, SALES TAX, INSTALLATION, AND OTHER

1 **CAPITALIZED COSTS, EXCEPT CAPITALIZED INTEREST.**

2 (D) The combined document shall be filed with the assessor of
3 the township or city in which the eligible personal property is
4 located.

5 (E) The assessor shall transmit the information contained in
6 the combined document filed under this subsection, and other parcel
7 information required by the department, ~~of treasury,~~ to the
8 department ~~of treasury~~ in the form and in the manner prescribed by
9 the department ~~of treasury~~ no later than April 1.

10 Sec. 9. (1) Proceeds of the assessment collected under section
11 7 shall be credited to the general fund.

12 (2) Beginning in fiscal year 2014-2015 and each fiscal year
13 thereafter, the legislature shall appropriate funds in an amount
14 equal to the necessary expenses incurred by the department ~~of~~
15 ~~treasury~~ in implementing this act.