

**SUBSTITUTE FOR
SENATE BILL NO. 359**

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending sections 9m and 9n (MCL 211.9m and 211.9n), as amended
by 2016 PA 108.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9m. (1) Beginning December 31, 2015 and each year
2 thereafter, qualified new personal property for which an exemption
3 has been properly claimed under subsection (2) is exempt from the
4 collection of taxes under this act.

5 (2) A person shall claim the exemption under this section and
6 section 9n by filing each year a combined document that includes:
7 the form to claim the exemption under this section and section 9n,
8 a report of the fair market value and year of acquisition by the
9 first owner of qualified new personal property, and for any year

1 before 2023, a statement under section 19. All of the following
2 apply to a claim of the exemption under this section:

3 (a) The combined document shall be in a form and manner
4 prescribed by the department of treasury.

5 (b) Leasing companies are not eligible to receive the
6 exemption under this section and may not use the combined document
7 prescribed in this section. With respect to personal property that
8 is the subject of a lease agreement, regardless of whether the
9 agreement constitutes a lease for financial or tax purposes, all of
10 the following apply:

11 (i) If the personal property is eligible manufacturing
12 personal property, the lessee and lessor may elect that the lessee
13 report the leased personal property on the combined document.

14 (ii) An election made by the lessee and the lessor under this
15 subdivision shall be made in a form and manner approved by the
16 department.

17 (iii) Absent an election, the personal property shall be
18 reported by the lessor on the personal property statement unless
19 the exemption for eligible manufacturing personal property is
20 claimed by the lessee on the combined document.

21 (c) The combined document prescribed in this section, shall be
22 completed and delivered to the assessor of the township or city in
23 which the qualified new personal property is located by February 20
24 of each year.

25 (d) The assessor shall transmit to the department of treasury
26 the information contained in the combined document filed under this
27 section, and other parcel information required by the department of

1 treasury, in the form and manner prescribed by the department of
2 treasury by no later than April 1.

3 (e) A person claiming an exemption under this section shall
4 rescind the claim of exemption by December 31 of the year in which
5 exempted property is no longer eligible for the exemption by filing
6 with the assessor of the township or city a rescission affidavit in
7 a form prescribed by the department of treasury.

8 (f) The assessor of the township or city shall annually
9 transmit the rescission affidavits filed, or the information
10 contained in the rescission affidavits filed, under this section to
11 the department of treasury in the form and in the manner prescribed
12 by the department of treasury no later than April 1.

13 (3) If the assessor of the township or city believes that
14 personal property for which the form claiming an exemption is
15 timely filed by February 20 each year is not qualified new personal
16 property or the form filed was incomplete, the assessor may deny
17 that claim for exemption by notifying the person that filed the
18 form in writing of the reason for the denial and advising the
19 person that the denial shall be appealed to the board of review
20 under section 30 by filing a combined document as prescribed under
21 subsection (2). If the denial is issued after the first meeting of
22 the March board of review that follows the organizational meeting,
23 the appeal of the denial is either to the March board of review or
24 the Michigan tax tribunal by filing a petition and a completed
25 combined document as prescribed under subsection (2), within 35
26 days of the denial notice. The assessor may deny a claim for
27 exemption under this subsection for the current year only. If the

1 assessor denies a claim for exemption, the assessor shall remove
2 the exemption of that personal property and amend the tax roll to
3 reflect the denial and the local treasurer shall within 30 days of
4 the date of the denial issue a corrected tax bill for any
5 additional taxes.

6 (4) A person claiming an exemption for qualified new personal
7 property exempt under this section shall maintain books and records
8 and shall provide access to those books and records as provided in
9 section 22.

10 (5) If a person fraudulently claims an exemption for personal
11 property under this section, that person is subject to the
12 penalties provided for in section 21(2).

13 (6) For 2016 only, if an owner of qualified new personal
14 property did not file form 5278 by February 22, 2016 or filed an
15 incomplete form 5278 by February 22, 2016 to claim the exemption
16 under this section with the assessor of the city or township in
17 which the qualified new personal property is located, that owner
18 may file form 5278 with the assessor of the city or township in
19 which the qualified new personal property is located no later than
20 May 31, 2016. If the assessor determines that the property
21 qualifies for the exemption under this section, the assessor shall
22 immediately amend the assessment roll to reflect the exemption. The
23 assessor of the township or city shall transmit the affidavits
24 filed, or the information contained in the affidavits filed, under
25 this section, and other parcel information required by the
26 department of treasury, to the department of treasury in the form
27 and in the manner prescribed by the department of treasury no later

1 than June 7, 2016. The owner shall still be required to meet all
2 deadlines required under section 7 of the state essential services
3 assessment act, 2014 PA 92, MCL 211.1057. If the assessor of the
4 township or city believes that personal property for which an
5 affidavit claiming an exemption ~~is~~ filed under this subsection by
6 May 31, 2016 is not qualified new personal property, the assessor
7 may deny that claim for exemption by notifying the person that
8 filed the affidavit in writing of the reason for the denial and
9 advising the person that the denial may be appealed to the Michigan
10 tax tribunal within 35 days of the date of the denial.

11 **(7) FOR 2017 ONLY, IF AN OWNER OF QUALIFIED NEW PERSONAL**
12 **PROPERTY DID NOT FILE THE COMBINED DOCUMENT BY FEBRUARY 21, 2017 TO**
13 **CLAIM THE EXEMPTION UNDER THIS SECTION WITH THE ASSESSOR OF THE**
14 **CITY OR TOWNSHIP IN WHICH THE QUALIFIED NEW PERSONAL PROPERTY IS**
15 **LOCATED, THAT OWNER MAY FILE THE COMBINED DOCUMENT WITH THE**
16 **ASSESSOR OF THE CITY OR TOWNSHIP IN WHICH THE QUALIFIED NEW**
17 **PERSONAL PROPERTY IS LOCATED NO LATER THAN MAY 31, 2017. IF THE**
18 **ASSESSOR DETERMINES THAT THE PROPERTY QUALIFIES FOR THE EXEMPTION**
19 **UNDER THIS SECTION, THE ASSESSOR SHALL IMMEDIATELY AMEND THE**
20 **ASSESSMENT ROLL TO REFLECT THE EXEMPTION. THE ASSESSOR OF THE**
21 **TOWNSHIP OR CITY SHALL TRANSMIT THE COMBINED DOCUMENT FILED, OR THE**
22 **INFORMATION CONTAINED IN THE COMBINED DOCUMENT FILED, UNDER THIS**
23 **SECTION, AND OTHER PARCEL INFORMATION REQUIRED BY THE DEPARTMENT OF**
24 **TREASURY, TO THE DEPARTMENT OF TREASURY IN THE FORM AND IN THE**
25 **MANNER PRESCRIBED BY THE DEPARTMENT OF TREASURY NO LATER THAN JUNE**
26 **9, 2017. THE OWNER SHALL STILL MEET ALL DEADLINES REQUIRED UNDER**
27 **SECTION 7 OF THE STATE ESSENTIAL SERVICES ASSESSMENT ACT, 2014 PA**

1 92, MCL 211.1057. IF THE ASSESSOR OF THE TOWNSHIP OR CITY BELIEVES
2 THAT PERSONAL PROPERTY FOR WHICH A COMBINED DOCUMENT CLAIMING AN
3 EXEMPTION FILED UNDER THIS SUBSECTION BY MAY 31, 2017 IS NOT
4 QUALIFIED NEW PERSONAL PROPERTY, THE ASSESSOR MAY DENY THAT CLAIM
5 FOR EXEMPTION BY NOTIFYING THE PERSON THAT FILED THE COMBINED
6 DOCUMENT IN WRITING OF THE REASON FOR THE DENIAL AND ADVISING THE
7 PERSON THAT THE DENIAL MAY BE APPEALED TO THE MICHIGAN TAX TRIBUNAL
8 WITHIN 35 DAYS OF THE DATE OF THE DENIAL.

9 (8) ~~(7)~~—As used in this section:

10 (a) "Affiliated person" means a sole proprietorship,
11 partnership, limited liability company, corporation, association,
12 flow-through entity, member of a unitary business group, or other
13 entity related to a person claiming an exemption under this
14 section.

15 (b) "Direct integrated support" means any of the following:

16 (i) Research and development related to goods produced in
17 industrial processing and conducted in furtherance of that
18 industrial processing.

19 (ii) Testing and quality control functions related to goods
20 produced in industrial processing and conducted in furtherance of
21 that industrial processing.

22 (iii) Engineering related to goods produced in industrial
23 processing and conducted in furtherance of that industrial
24 processing.

25 (iv) Receiving or storing equipment, materials, supplies,
26 parts, or components for industrial processing, or scrap materials
27 or waste resulting from industrial processing, at the industrial

1 processing site or at another site owned or leased by the owner or
2 lessee of the industrial processing site.

3 (v) Storing of finished goods inventory if the inventory was
4 produced by a business engaged primarily in industrial processing
5 and if the inventory is stored either at the site where it was
6 produced or at another site owned or leased by the business that
7 produced the inventory.

8 (vi) Sorting, distributing, or sequencing functions that
9 optimize transportation and just-in-time inventory management and
10 material handling for inputs to industrial processing.

11 (c) "Eligible manufacturing personal property" means all
12 personal property located on occupied real property if that
13 personal property is predominantly used in industrial processing or
14 direct integrated support. For personal property that is
15 construction in progress and part of a new facility not in
16 operation, eligible manufacturing personal property means all
17 personal property that is part of that new facility if that
18 personal property will be predominantly used in industrial
19 processing when the facility becomes operational. Personal property
20 that is not owned, leased, or used by the person who owns or leases
21 occupied real property where the personal property is located is
22 not eligible manufacturing personal property, unless the personal
23 property is located on the occupied real property to carry on a
24 current on-site business activity. Personal property that is placed
25 on occupied real property solely to qualify the personal property
26 for an exemption under this section or section 9n is not eligible
27 manufacturing personal property. Utility personal property as

1 described in section 34c(3) (e) and personal property used in the
2 generation, transmission, or distribution of electricity for sale
3 are not eligible manufacturing personal property. Personal property
4 located on occupied real property is predominantly used in
5 industrial processing or direct integrated support if the result of
6 the following calculation is more than 50%:

7 (i) Multiply the original cost of all personal property that
8 is subject to the collection of taxes under this act and all
9 personal property that is exempt from the collection of taxes under
10 sections 7k, 9b, 9f, 9n, and 9o and this section that is located on
11 that occupied real property and that is not construction in
12 progress by its percentage of use in industrial processing or in
13 direct integrated support. For an item of personal property that is
14 used in industrial processing, its percentage of use in industrial
15 processing shall equal the percentage of the exemption the property
16 would be eligible for under section 4t of the general sales tax
17 act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act,
18 1937 PA 94, MCL 205.94o. Utility personal property as described in
19 section 34c(3) (e) and personal property used in the generation,
20 transmission, or distribution of electricity for sale is not
21 included in this calculation.

22 (ii) Divide the result of the calculation under subparagraph
23 (i) by the total original cost of all personal property that is
24 subject to the collection of taxes under this act and all personal
25 property that is exempt from the collection of taxes under sections
26 7k, 9b, 9f, 9n, and 9o and this section that is located on that
27 occupied real property and that is not construction in progress.

1 Utility personal property as described in section 34c(3)(e) and
2 personal property used in the generation, transmission, or
3 distribution of electricity for sale is not included in this
4 calculation.

5 (d) "Fair market value" means the fair market value of
6 personal property at the time of acquisition by the first owner,
7 including the cost of freight, sales tax, installation, and other
8 capitalized costs, except capitalized interest. There is a
9 rebuttable presumption that the acquisition price paid by the first
10 owner for personal property, and any costs of freight, sales tax,
11 installation, and other capitalized costs, except capitalized
12 interest, reflect the fair market value.

13 (e) "Industrial processing" means that term as defined in
14 section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t,
15 or section 4o of the use tax act, 1937 PA 94, MCL 205.94o.
16 Industrial processing does not include the generation,
17 transmission, or distribution of electricity for sale.

18 (f) "New personal property" means property that was initially
19 placed in service in this state or outside of this state after
20 December 31, 2012 or that was construction in progress on or after
21 December 31, 2012 that had not been placed in service in this state
22 or outside of this state before 2013.

23 (g) "Occupied real property" means any of the following:

24 (i) A parcel of real property that is entirely owned, leased,
25 or otherwise occupied by a person claiming an exemption under this
26 section or under section 9n.

27 (ii) Contiguous parcels of real property that are entirely

1 owned, leased, or otherwise occupied by a person claiming an
2 exemption under this section or under section 9n and that host a
3 single, integrated business operation engaged primarily in
4 industrial processing, direct integrated support, or both. A
5 business operation is not engaged primarily in industrial
6 processing, direct integrated support, or both if it engages in
7 significant business activities that are not directly related to
8 industrial processing or direct integrated support. Contiguity is
9 not broken by a boundary between local tax collecting units, a
10 road, a right-of-way, or property purchased or taken under
11 condemnation proceedings by a public utility for power transmission
12 lines if the 2 parcels separated by the purchased or condemned
13 property were a single parcel prior to the sale or condemnation. As
14 used in this subparagraph, "single, integrated business operation"
15 means a company that combines 1 or more related operations or
16 divisions and operates as a single business unit.

17 (iii) The portion of a parcel of real property that is owned,
18 leased, or otherwise occupied by a person claiming the exemption
19 under this section or under section 9n or by an affiliated person.

20 (h) "Original cost" means the fair market value of personal
21 property at the time of acquisition by the first owner. There is a
22 rebuttable presumption that the acquisition price paid by the first
23 owner for personal property reflects the original cost of that
24 personal property. The department of treasury may provide
25 guidelines for 1 or more of the following circumstances:

26 (i) Determining original cost of personal property when the
27 actual acquisition price paid by the first owner for personal

1 property is not determinative of the original cost of that personal
2 property.

3 (ii) Estimating original cost of personal property when the
4 actual acquisition price paid by the first owner for the personal
5 property is unknown.

6 (iii) Adjusting original cost of personal property when the
7 personal property is idle, is obsolete or has material
8 obsolescence, or is surplus.

9 (i) "Person" means an individual, partnership, corporation,
10 association, limited liability company, or any other legal entity.

11 (j) "Qualified new personal property" means property that
12 meets all of the following conditions:

13 (i) Is eligible manufacturing personal property.

14 (ii) Is new personal property.

15 Sec. 9n. (1) Beginning December 31, 2015 and each year
16 thereafter, qualified previously existing personal property for
17 which an exemption has been properly claimed under subsection (2)
18 is exempt from the collection of taxes under this act.

19 (2) A person shall claim the exemption under this section and
20 section 9m by filing each year a combined document that includes:
21 the form to claim the exemption under this section and section 9m,
22 a report of the fair market value and year of acquisition by the
23 first owner of qualified previously existing personal property, and
24 for any year before 2023, a statement under section 19. All of the
25 following apply to a claim of the exemption under this section:

26 (a) The combined document shall be in a form and manner
27 prescribed by the department of treasury.

1 (b) Leasing companies are not eligible to receive the
2 exemption under this section and may not use the combined document
3 prescribed in this section. With respect to personal property that
4 is the subject of a lease agreement, regardless of whether the
5 agreement constitutes a lease for financial or tax purposes, all of
6 the following apply:

7 (i) If the personal property is eligible manufacturing
8 personal property, the lessee and lessor may elect that the lessee
9 report the leased personal property on the combined document.

10 (ii) An election made by the lessee and the lessor under this
11 subdivision shall be made in a form and manner approved by the
12 department.

13 (iii) Absent an election, the personal property shall be
14 reported by the lessor on the personal property statement unless
15 the exemption for eligible manufacturing personal property is
16 claimed by the lessee on the combined document.

17 (c) The combined document prescribed in this section, shall be
18 completed and delivered to the assessor of the township or city in
19 which the qualified previously existing personal property is
20 located by February 20 of each year.

21 (d) The assessor shall transmit to the department of treasury
22 the information contained in the combined document filed under this
23 section, and other parcel information required by the department of
24 treasury and in the manner prescribed by the department of treasury
25 no later than April 1.

26 (e) A person claiming an exemption under this section shall
27 rescind the claim of exemption by December 31 of the year in which

1 exempted property is no longer eligible for the exemption by filing
2 with the assessor of the township or city a rescission affidavit in
3 a form prescribed by the department of treasury.

4 (f) The assessor of the township or city shall annually
5 transmit the rescission affidavits filed, or the information
6 contained in the rescission affidavits filed, under this section to
7 the department of treasury in the form and in the manner prescribed
8 by the department of treasury no later than April 1.

9 (3) If the assessor of the township or city believes that
10 personal property for which the form claiming an exemption is
11 timely filed by February 20 each year is not qualified previously
12 existing personal property or the form filed was incomplete, the
13 assessor may deny that claim for exemption by notifying the person
14 that filed the form in writing of the reason for the denial and
15 advising the person that the denial, shall be appealed to the board
16 of review under section 30 by filing a combined document as
17 prescribed under subsection (2). If the denial is issued after the
18 first meeting of the March board of review that follows the
19 organizational meeting, the appeal of the denial is either to the
20 March board of review or the Michigan tax tribunal by filing a
21 petition and a completed combined document as prescribed under
22 subsection (2), within 35 days of the denial notice. The assessor
23 may deny a claim for exemption under this subsection for the
24 current year only. If the assessor denies a claim for exemption,
25 the assessor shall remove the exemption of that personal property
26 and amend the tax roll to reflect the denial and the local
27 treasurer shall within 30 days of the date of the denial issue a

1 corrected tax bill for any additional taxes.

2 (4) A person claiming an exemption for qualified previously
3 existing personal property exempt under this section shall maintain
4 books and records and shall provide access to those books and
5 records as provided in section 22.

6 (5) If a person fraudulently claims an exemption for personal
7 property under this section, that person is subject to the
8 penalties provided for in section 21(2).

9 (6) For 2016 only, if an owner of qualified previously
10 existing personal property did not file form 5278 by February 22,
11 2016 or filed an incomplete form 5278 by February 22, 2016 to claim
12 the exemption under this section with the assessor of the city or
13 township in which the qualified previously existing personal
14 property is located, that owner may file form 5278 with the
15 assessor of the city or township in which the qualified previously
16 existing personal property is located no later than May 31, 2016.
17 If the assessor determines the property qualifies for the exemption
18 under this section, the assessor shall immediately amend the
19 assessment roll to reflect the exemption. The assessor of the
20 township or city shall transmit the affidavits filed, or the
21 information contained in the affidavits filed, under this section,
22 and other parcel information required by the department of
23 treasury, to the department of treasury in the form and in the
24 manner prescribed by the department of treasury no later than June
25 7, 2016. The owner shall still be required to meet all deadlines
26 required under section 7 of the state essential services assessment
27 act, 2014 PA 92, MCL 211.1057. If the assessor of the township or

1 city believes that personal property for which an affidavit
2 claiming an exemption ~~is~~ filed under this subsection by May 31,
3 2016 is not qualified previously existing personal property, the
4 assessor may deny that claim for exemption by notifying the person
5 that filed the affidavit in writing of the reason for the denial
6 and advising the person that the denial may be appealed to the
7 Michigan tax tribunal within 35 days of the date of the denial.

8 **(7) FOR 2017 ONLY, IF AN OWNER OF QUALIFIED PREVIOUSLY**
9 **EXISTING PERSONAL PROPERTY DID NOT FILE THE COMBINED DOCUMENT BY**
10 **FEBRUARY 21, 2017 TO CLAIM THE EXEMPTION UNDER THIS SECTION WITH**
11 **THE ASSESSOR OF THE CITY OR TOWNSHIP IN WHICH THE QUALIFIED**
12 **PREVIOUSLY EXISTING PERSONAL PROPERTY IS LOCATED, THAT OWNER MAY**
13 **FILE THE COMBINED DOCUMENT WITH THE ASSESSOR OF THE CITY OR**
14 **TOWNSHIP IN WHICH THE QUALIFIED PREVIOUSLY EXISTING PERSONAL**
15 **PROPERTY IS LOCATED NO LATER THAN MAY 31, 2017. IF THE ASSESSOR**
16 **DETERMINES THE PROPERTY QUALIFIES FOR THE EXEMPTION UNDER THIS**
17 **SECTION, THE ASSESSOR SHALL IMMEDIATELY AMEND THE ASSESSMENT ROLL**
18 **TO REFLECT THE EXEMPTION. THE ASSESSOR OF THE TOWNSHIP OR CITY**
19 **SHALL TRANSMIT THE COMBINED DOCUMENT FILED, OR THE INFORMATION**
20 **CONTAINED IN THE COMBINED DOCUMENT FILED, UNDER THIS SECTION, AND**
21 **OTHER PARCEL INFORMATION REQUIRED BY THE DEPARTMENT OF TREASURY, TO**
22 **THE DEPARTMENT OF TREASURY IN THE FORM AND IN THE MANNER PRESCRIBED**
23 **BY THE DEPARTMENT OF TREASURY NO LATER THAN JUNE 9, 2017. THE OWNER**
24 **SHALL STILL MEET ALL DEADLINES REQUIRED UNDER SECTION 7 OF THE**
25 **STATE ESSENTIAL SERVICES ASSESSMENT ACT, 2014 PA 92, MCL 211.1057.**
26 **IF THE ASSESSOR OF THE TOWNSHIP OR CITY BELIEVES THAT PERSONAL**
27 **PROPERTY FOR WHICH A COMBINED DOCUMENT CLAIMING AN EXEMPTION FILED**

1 UNDER THIS SUBSECTION BY MAY 31, 2017 IS NOT QUALIFIED PREVIOUSLY
2 EXISTING PERSONAL PROPERTY, THE ASSESSOR MAY DENY THAT CLAIM FOR
3 EXEMPTION BY NOTIFYING THE PERSON THAT FILED THE COMBINED DOCUMENT
4 IN WRITING OF THE REASON FOR THE DENIAL AND ADVISING THE PERSON
5 THAT THE DENIAL MAY BE APPEALED TO THE MICHIGAN TAX TRIBUNAL WITHIN
6 35 DAYS OF THE DATE OF THE DENIAL.

7 (8) ~~(7)~~—As used in this section:

8 (a) "Direct integrated support", "eligible manufacturing
9 personal property", "fair market value", and "industrial
10 processing" mean those terms as defined in section 9m.

11 (b) "Person" means an individual, partnership, corporation,
12 association, limited liability company, or any other legal entity.

13 (c) "Qualified previously existing personal property" means
14 personal property that meets both of the following conditions:

15 (i) Is eligible manufacturing personal property.

16 (ii) Was first placed in service within this state or outside
17 this state more than 10 years before the current calendar year.