

# SENATE BILL No. 359

May 2, 2017, Introduced by Senator HILDENBRAND and referred to the Committee on Finance.

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

1 first owner of qualified new personal property, and for any year  
2 before 2023, a statement under section 19. All of the following  
3 apply to a claim of the exemption under this section:

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

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

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

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

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

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

26 (d) The assessor shall transmit to the department of treasury  
27 the information contained in the combined document filed under this

1 section, and other parcel information required by the department of  
2 treasury, in the form and manner prescribed by the department of  
3 treasury by no later than April 1.

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

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

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

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

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

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

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

1 and in the manner prescribed by the department of treasury no later  
2 than June 7, 2016. The owner shall still be required to meet all  
3 deadlines required under section 7 of the state essential services  
4 assessment act, 2014 PA 92, MCL 211.1057. If the assessor of the  
5 township or city believes that personal property for which an  
6 affidavit claiming an exemption is filed under this subsection by  
7 May 31, 2016 is not qualified new personal property, the assessor  
8 may deny that claim for exemption by notifying the person that  
9 filed the affidavit in writing of the reason for the denial and  
10 advising the person that the denial may be appealed to the Michigan  
11 tax tribunal within 35 days of the date of the denial.

12 (7) FOR 2017 ONLY, IF AN OWNER OF QUALIFIED NEW PERSONAL  
13 PROPERTY DID NOT FILE FORM 5278 BY FEBRUARY 22, 2017 OR FILED AN  
14 INCOMPLETE FORM 5278 BY FEBRUARY 22, 2017 TO CLAIM THE EXEMPTION  
15 UNDER THIS SECTION WITH THE ASSESSOR OF THE CITY OR TOWNSHIP IN  
16 WHICH THE QUALIFIED NEW PERSONAL PROPERTY IS LOCATED, THAT OWNER  
17 MAY FILE FORM 5278 WITH THE ASSESSOR OF THE CITY OR TOWNSHIP IN  
18 WHICH THE QUALIFIED NEW PERSONAL PROPERTY IS LOCATED NO LATER THAN  
19 JUNE 15, 2017. IF THE ASSESSOR DETERMINES THAT THE PROPERTY  
20 QUALIFIES FOR THE EXEMPTION UNDER THIS SECTION, THE ASSESSOR SHALL  
21 IMMEDIATELY AMEND THE ASSESSMENT ROLL TO REFLECT THE EXEMPTION. THE  
22 ASSESSOR OF THE TOWNSHIP OR CITY SHALL TRANSMIT THE AFFIDAVITS  
23 FILED, OR THE INFORMATION CONTAINED IN THE AFFIDAVITS FILED, UNDER  
24 THIS SECTION, AND OTHER PARCEL INFORMATION REQUIRED BY THE  
25 DEPARTMENT OF TREASURY, TO THE DEPARTMENT OF TREASURY IN THE FORM  
26 AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF TREASURY NO LATER  
27 THAN JUNE 23, 2017. THE OWNER SHALL STILL BE REQUIRED TO MEET ALL

1 DEADLINES REQUIRED UNDER SECTION 7 OF THE STATE ESSENTIAL SERVICES  
2 ASSESSMENT ACT, 2014 PA 92, MCL 211.1057. IF THE ASSESSOR OF THE  
3 TOWNSHIP OR CITY BELIEVES THAT PERSONAL PROPERTY FOR WHICH AN  
4 AFFIDAVIT CLAIMING AN EXEMPTION IS FILED UNDER THIS SUBSECTION BY  
5 JUNE 15, 2017 IS NOT QUALIFIED NEW PERSONAL PROPERTY, THE ASSESSOR  
6 MAY DENY THAT CLAIM FOR EXEMPTION BY NOTIFYING THE PERSON THAT  
7 FILED THE AFFIDAVIT IN WRITING OF THE REASON FOR THE DENIAL AND  
8 ADVISING THE PERSON THAT THE DENIAL MAY BE APPEALED TO THE MICHIGAN  
9 TAX TRIBUNAL WITHIN 35 DAYS OF THE DATE OF THE DENIAL.

10 (8) ~~(7)~~—As used in this section:

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

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

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

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

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

26 (iv) Receiving or storing equipment, materials, supplies,  
27 parts, or components for industrial processing, or scrap materials

1 or waste resulting from industrial processing, at the industrial  
2 processing site or at another site owned or leased by the owner or  
3 lessee of the industrial processing site.

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

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

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

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

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

23 (ii) Divide the result of the calculation under subparagraph  
24 (i) by the total original cost of all personal property that is  
25 subject to the collection of taxes under this act and all personal  
26 property that is exempt from the collection of taxes under sections  
27 7k, 9b, 9f, 9n, and 9o and this section that is located on that



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

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

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

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

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

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

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

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

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

27           (i) Determining original cost of personal property when the

1 actual acquisition price paid by the first owner for personal  
2 property is not determinative of the original cost of that personal  
3 property.

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

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

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

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

14 (i) Is eligible manufacturing personal property.

15 (ii) Is new personal property.

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

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

27 (a) The combined document shall be in a form and manner

1 prescribed by the department of treasury.

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

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

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

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

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

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

27 (e) A person claiming an exemption under this section shall

1 rescind the claim of exemption by December 31 of the year in which  
2 exempted property is no longer eligible for the exemption by filing  
3 with the assessor of the township or city a rescission affidavit in  
4 a form prescribed by the department of treasury.

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

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

1 treasurer shall within 30 days of the date of the denial issue a  
2 corrected tax bill for any additional taxes.

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

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

10 (6) For 2016 only, if an owner of qualified previously  
11 existing personal property did not file form 5278 by February 22,  
12 2016 or filed an incomplete form 5278 by February 22, 2016 to claim  
13 the exemption under this section with the assessor of the city or  
14 township in which the qualified previously existing personal  
15 property is located, that owner may file form 5278 with the  
16 assessor of the city or township in which the qualified previously  
17 existing personal property is located no later than May 31, 2016.  
18 If the assessor determines 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 affidavits filed, or the  
22 information contained in the affidavits filed, under this section,  
23 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 7, 2016. The owner shall still be required to meet all deadlines  
27 required under section 7 of the state essential services assessment

1 act, 2014 PA 92, MCL 211.1057. If the assessor of the township or  
2 city believes that personal property for which an affidavit  
3 claiming an exemption is filed under this subsection by May 31,  
4 2016 is not qualified previously existing personal property, the  
5 assessor may deny that claim for exemption by notifying the person  
6 that filed the affidavit in writing of the reason for the denial  
7 and advising the person that the denial may be appealed to the  
8 Michigan tax tribunal within 35 days of the date of the denial.

9 (7) FOR 2017 ONLY, IF AN OWNER OF QUALIFIED PREVIOUSLY  
10 EXISTING PERSONAL PROPERTY DID NOT FILE FORM 5278 BY FEBRUARY 22,  
11 2017 OR FILED AN INCOMPLETE FORM 5278 BY FEBRUARY 22, 2017 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 JUNE 15, 2017.  
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 23, 2017. 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 JUNE 15,  
3 2017 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 (8) ~~(7)~~—As used in this section:

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

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

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

16 (i) Is eligible manufacturing personal property.

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