

HOUSE BILL No. 5704

March 18, 1998, Introduced by Rep. Profit and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 8a (MCL 211.8a), as added by 1994 PA 96.

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.

9 (2) ~~A person who is a qualified business that makes~~
10 ~~available qualified personal property shall file the statement~~
11 ~~required by section 18 not later than February 1.~~ A person to

1 whom QUALIFIED PERSONAL property is taxable as provided in this
2 section shall file the statement required by section 18 by
3 February 20 AND SHALL INCLUDE THE QUALIFIED PERSONAL PROPERTY ON
4 THAT STATEMENT. ~~The statement filed by the qualified business~~
5 ~~shall include, separately for each user, all of the following for~~
6 ~~all qualified personal property:~~

7 ~~(a) The name of the qualified business.~~

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

9 ~~(c) The type of property.~~

10 ~~(d) The location of the property, as indicated in the~~
11 ~~records of the qualified business.~~

12 ~~(e) The purchase price including sales tax, freight, and~~
13 ~~installation.~~

14 ~~(f) The year the property was purchased.~~

15 ~~(g) If the qualified business is the manufacturer of the~~
16 ~~property, the original selling price, and if there is no original~~
17 ~~selling price, then the original cost.~~

18 ~~(h) The amount and frequency of periodic payments required~~
19 ~~of the user.~~

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

23 ~~(3) A person who makes available qualified personal property~~
24 ~~that files the statement provided for in subsection (2) shall~~
25 ~~provide a copy of the statement to each user of property respon-~~
26 ~~sible for payment of the tax along with a notice that the user is~~
27 ~~responsible for reporting the property and the payment of the~~

1 ~~tax. A user of qualified personal property may request from the~~
2 ~~assessor, and the assessor shall provide, a copy of that portion~~
3 ~~of the statement filed by the qualified business by February 1~~
4 ~~that includes qualified personal property for that user. If the~~
5 ~~statement is not filed by February 1, or if property is not~~
6 ~~included in the statement required to be filed by February 1,~~
7 ~~then property is assessable and taxable to the person who makes~~
8 ~~the property available regardless of whether the person is a~~
9 ~~qualified business or the property is qualified personal~~
10 ~~property.~~

11 (3) ~~-(4)-~~ A designee of the local tax collecting unit who is
12 a certified assessor may examine the books and records of a
13 person who files the statement required by ~~subsection (2)-~~
14 SECTION 18 that are necessary to determine if ~~the person is a~~
15 ~~qualified business and if~~ property included in the statement
16 required by ~~subsection (2)-~~ SECTION 18 is qualified personal
17 property. A person is not required to be a certified personal
18 property examiner to examine books and records pursuant to this
19 subsection.

20 (4) ~~-(5)-~~ The state tax commission shall develop additions
21 to the statement required by section 18 necessary to assure that
22 property reported pursuant to subsection (2) is certified under
23 oath to be qualified personal property reported by a ~~qualified~~
24 ~~business-~~ PERSON TO WHOM QUALIFIED PERSONAL PROPERTY IS TAXABLE.

25 (5) ~~-(6)-~~ As used in this section:

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

4 (b) "Qualified business" means a for-profit business that
5 obtains services relating to that business from 30 or fewer
6 employees or employees of independent contractors performing
7 services substantially similar to employees during a random week
8 in the year ending on the tax day. If a person is an entity
9 under common control or is a member of an affiliated group as
10 those terms are used in section 36(7) of the single business tax
11 act, ~~Act No. 228 of the Public Acts of 1975, being section~~
12 ~~208.36 of the Michigan Compiled Laws~~ 1975 PA 228, MCL 208.36,
13 the number of employees from whom services are obtained includes
14 all employees of the group and employees of independent contrac-
15 tors of the group rendering services to the qualified business.

16 (c) "Qualified personal property" means property on which a
17 retail sales tax has been paid or liability accrued contemporane-
18 ous with the user acquiring possession of the property, or on
19 which sales tax would be payable if the property was not exempt,
20 and that is subject to an agreement entered into after December
21 31, 1993 to which all of the following apply:

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

25 (ii) The party making periodic payments can obtain legal
26 title to the property by making all the periodic payments or all
27 of the periodic payments and a final payment that is less than

1 the true cash value of the property determined using state tax
2 commission cost multipliers for personal property.

3 (iii) The written agreement between the qualified business
4 and the party making periodic payments requires that party to
5 report the property pursuant to section 18 and to pay taxes
6 assessed against the property.

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

12 (6) ~~—(7)—~~ This section does not affect the requirements for
13 reporting or assessing personal property acquired or possessed by
14 a nonprofit organization.

15 (7) ~~—(8)—~~ This section applies to personal property assess-
16 ments made after 1994 and before 2000.