

HOUSE BILL No. 5712

March 26, 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) person who is a qualified business that makes available
10 qualified personal property shall file the statement required by
11 section 18 not later than February 1. A person to whom QUALIFIED

1 PERSONAL property is taxable as provided in this section shall
2 file the statement required by section 18 by February 20 AND
3 SHALL INCLUDE THE QUALIFIED PERSONAL PROPERTY ON THAT STATEMENT.
4 The statement filed by the qualified business shall include, sep-
5 arately for each user, all of the following for all qualified
6 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 (4) A designee of the local tax collecting unit who is a
12 certified assessor may examine the books and records of a person
13 who files the statement required by subsection (2) that are nec-
14 essary to determine if the person is a qualified business and if
15 property included in the statement required by subsection (2) is
16 qualified personal property. A person is not required to be a
17 certified personal property examiner to examine books and records
18 pursuant to this subsection.

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

24 (6) As used in this section:

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

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

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

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

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

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

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

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

13 ~~-(8) This section applies to personal property assessments~~
14 ~~made after 1994 and before 2000.~~