

SENATE BILL NO. 1054

April 15, 1998, Introduced by Senators BULLARD and EMMONS and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 8a and 13 (MCL 211.8a and 211.13), section 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 BY THE LOCAL
4 TAX COLLECTING UNIT IN WHICH THE QUALIFIED BUSINESS IS LOCATED
5 and ~~instead~~ is NOT assessable BY THE LOCAL TAX COLLECTING UNIT
6 IN WHICH THE QUALIFIED PERSONAL PROPERTY IS LOCATED and IS NOT
7 taxable to the user who acquires or possesses the qualified per-
8 sonal property. ~~to the extent provided for in this section.~~
9 ~~Property assessed under this section shall not be required to be~~

1 ~~assessed separately from other personal property assessed to the~~
 2 ~~user.~~

3 (2) A person who is a qualified business that makes avail-
 4 able qualified personal property shall file the statement
 5 required by section 18. ~~not later than February 1. A person to~~
 6 ~~whom property is taxable as provided in this section shall file~~
 7 ~~the statement required by section 18 by February 20.~~ The state-
 8 ment filed by the qualified business shall include ~~, separately~~
 9 ~~for each user,~~ all of the following for all qualified personal
 10 property:

11 (a) The name of the qualified business.

12 (b) The user ~~responsible for payment of the tax~~ IN POSSES-
 13 SION OF THE QUALIFIED PERSONAL PROPERTY.

14 (c) The type of property.

15 (d) The location of the QUALIFIED PERSONAL property, as
 16 indicated in the records of the qualified business.

17 (e) The purchase price OF THE QUALIFIED PERSONAL PROPERTY,
 18 including sales tax, freight, and installation.

19 (f) The year the QUALIFIED PERSONAL property was purchased.

20 (g) If the qualified business is the manufacturer of the
 21 QUALIFIED PERSONAL property, the original selling price, and if
 22 there is no original selling price, then the original cost.

23 (h) The amount and frequency of periodic payments FOR THE
 24 QUALIFIED PERSONAL PROPERTY required of the user.

25 (i) An affirmation that the person making the statement is a
 26 qualified business and that property included in the statement is
 27 qualified personal property as defined in this section.

1 (3) A ~~person who~~ QUALIFIED BUSINESS THAT makes available
2 qualified personal property AND that files the statement provided
3 for in subsection (2) shall provide a copy of the statement to
4 each user of THE QUALIFIED PERSONAL property ~~responsible for~~
5 ~~payment of the tax~~ along with a notice that the ~~user~~ QUALIFIED
6 BUSINESS is responsible for reporting the property and the pay-
7 ment of the tax. A user of qualified personal property may
8 request from the assessor OF THE LOCAL TAX COLLECTING UNIT IN
9 WHICH THE QUALIFIED BUSINESS IS LOCATED, and the assessor shall
10 provide, a copy of that portion of the statement filed by the
11 qualified business ~~by February 1~~ that includes qualified per-
12 sonal property ~~for~~ IN THE POSSESSION OF that user. ~~If the~~
13 ~~statement is not filed by February 1, or if property is not~~
14 ~~included in the statement required to be filed by February 1,~~
15 ~~then property is assessable and taxable to the person who makes~~
16 ~~the property available regardless of whether the person is a~~
17 ~~qualified business or the property is qualified personal~~
18 ~~property.~~

19 (4) A designee of the local tax collecting unit who is a
20 certified assessor may examine the books and records of a ~~person~~
21 ~~who~~ QUALIFIED BUSINESS THAT files the statement required by sub-
22 section (2) that are necessary to determine if the person is a
23 qualified business and if property included in the statement
24 required by subsection (2) is qualified personal property. A
25 person is not required to be a certified personal property
26 examiner to examine books and records ~~pursuant to~~ UNDER this
27 subsection.

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

6 (6) As used in this section:

7 ~~(a) "Employee" means a person who performs a service for~~
8 ~~wages or other remuneration under a contract of hire, written or~~
9 ~~oral, express or implied.~~

10 (A) ~~(b) "Qualified business" means a for-profit business~~
11 ~~that obtains services relating to that business from 30 or fewer~~
12 ~~employees or employees of independent contractors performing~~
13 ~~services substantially similar to employees during a random week~~
14 ~~in the year ending on the tax day. If a person is an entity~~
15 ~~under common control or is a member of an affiliated group as~~
16 ~~those terms are used in section 36(7) of the single business tax~~
17 ~~act, Act No. 228 of the Public Acts of 1975, being section 208.36~~
18 ~~of the Michigan Compiled Laws, the number of employees from whom~~
19 ~~services are obtained includes all employees of the group and~~
20 ~~employees of independent contractors of the group rendering serv-~~
21 ~~ices to the qualified business.~~ GRANTS THE RIGHT TO USE OR POS-
22 SESS PERSONAL PROPERTY IN EXCHANGE FOR PERIODIC PAYMENTS.

23 (B) ~~(c) "Qualified personal property" means property on~~
24 ~~which THAT a retail sales tax has been paid or liability~~
25 ~~accrued contemporaneous with the user acquiring possession of the~~
26 ~~property, or on which sales tax would be payable if the property~~
27 ~~was not exempt, and that is subject to an agreement entered into~~

1 ~~after December 31, 1993 to which all of the following apply: (i)~~
2 ~~A party engaged in a for-profit business~~ PERSON obtains the
3 right to use or possess ~~personal property~~ in exchange for
4 making periodic payments. ~~for a noncancelable term of 12 months~~
5 ~~or more.~~

6 ~~(ii) The party making periodic payments can obtain legal~~
7 ~~title to the property by making all the periodic payments or all~~
8 ~~of the periodic payments and a final payment that is less than~~
9 ~~the true cash value of the property determined using state tax~~
10 ~~commission cost multipliers for personal property.~~

11 ~~(iii) The written agreement between the qualified business~~
12 ~~and the party making periodic payments requires that party to~~
13 ~~report the property pursuant to section 18 and to pay taxes~~
14 ~~assessed against the property.~~

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

20 ~~(7) This section does not affect the requirements for~~
21 ~~reporting or assessing personal property acquired or possessed by~~
22 ~~a nonprofit organization.~~

23 ~~(8) This section applies to personal property assessments~~
24 ~~made after 1994 and before 2000.~~

25 Sec. 13. (1) All tangible personal property, except as
26 provided in ~~section~~ SECTIONS 8A AND 14, shall be assessed to
27 the owner ~~thereof~~ OF THAT TANGIBLE PERSONAL PROPERTY, if known,

1 in the ~~township~~ LOCAL TAX COLLECTING UNIT in which ~~it~~ THE
 2 TANGIBLE PERSONAL PROPERTY is located on ~~the~~ tax day AS PRO-
 3 VIDED IN SECTION 2. If the owner is not known and ~~there is~~ a
 4 person ~~, firm or corporation~~ IS beneficially entitled to ~~any~~
 5 tangible personal property or ~~having charge or~~ HAS possession
 6 ~~thereof, then to such~~ OF TANGIBLE PERSONAL PROPERTY, THE TANGI-
 7 BLE PERSONAL PROPERTY SHALL BE ASSESSED TO THAT person. ~~, firm~~
 8 ~~or corporation: Provided, That one having~~

9 (2) A PERSON WITH a security interest IN TANGIBLE PERSONAL
 10 PROPERTY without possession ~~may~~ SHALL not be assessed as an
 11 owner of THAT tangible personal property. ~~∴ Provided, That~~
 12 ~~when~~

13 (3) IF tangible personal property is assessed to a person ~~,~~
 14 ~~firm or corporation~~ in ~~charge or~~ possession of ~~such~~ THAT
 15 TANGIBLE PERSONAL property, ~~such~~ THAT person, ~~firm or corpora-~~
 16 ~~tion shall,~~ unless contrary to a contractual provision, ~~have~~
 17 HAS a right of action for the amount of ~~such~~ THE taxes ASSESSED
 18 against the owner or person beneficially entitled to ~~such~~ THAT
 19 TANGIBLE PERSONAL property.

20 ~~Inventories of goods, wares, materials, merchandise and~~
 21 ~~supplies such as are commonly used in trade or commerce or manu-~~
 22 ~~facture shall, upon the filing by the owner thereof of a sworn~~
 23 ~~statement with the assessing officer showing the total of such~~
 24 ~~inventories for each of the preceding 12 months ending December~~
 25 ~~31, be assessed on the basis of the average monthly inventory for~~
 26 ~~such 12-month period. The average monthly inventory shall be~~
 27 ~~computed on the basis of the number of months during which said~~

1 ~~inventories of goods, wares, merchandise and supplies had a~~
2 ~~taxable situs in the assessing district. No~~

3 (4) AN assessing officer ~~shall be~~ IS NOT restricted to any
4 particular period in ~~the preparation of~~ PREPARING the assess-
5 ment roll ~~but~~ AND may survey, examine, or review ~~properties~~
6 PROPERTY at any time prior to or after ~~said~~ THE tax day AS PRO-
7 VIDED IN SECTION 2.