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PERSONAL PROPERTY TAX: INVENTORY DEFINITION

House Bill 5153 as enrolled
Public Act 317 of 2000
Second Analysis (10-25-00)

Sponsor: Rep. Nancy Cassis
House Committee: Tax Policy
Senate Committee: Finance

THE APPARENT PROBLEM:

Businesses pay property taxes on personal property to local units of government. The General Property Tax Act, however, exempts the inventory of businesses from the tax and defines "inventory" as 1) the stock of goods held for resale in the regular course of trade of a retail or wholesale business; 2) finished goods, goods in process, and raw materials of a manufacturing business; and c) materials and supplies, including repair parts and fuel. The act specifically provides that "inventory" does not cover personal property under lease or principally intended for lease rather than sale and does not include personal property allowed a deduction or allowance for depreciation or depletion under the federal Internal Revenue Code.

This means goods held by a business for resale are exempt from the personal property tax, but goods held by a business for lease or rent are taxed. However, some firms provide products, notably large heavy construction machinery, on a rental or lease basis for a brief period and then sell them to the same customers, with the rental or lease payments already made counting toward the purchase price. While the company selling the equipment considers the machines as inventory under the law (as goods held for resale) and thus tax-exempt, tax assessors consider them as equipment being rented or under lease, and thus taxable. Sellers of heavy equipment believe this is unfair. They say that the interpretation of what is taxable and not taxable differs from jurisdiction to jurisdiction and that the situation is confusing for companies and their tax administrators. Legislation to address the issue has been introduced.

THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act to exempt heavy earth moving equipment subject to one or more lease agreements with the same person totaling not more than one year and principally intended for sale rather than lease. A lease agreement used to support the exemption would have to be made available to the assessor on request and would be considered confidential information to be used for assessment purposes only. The exemption would apply on and after December 31, 2000. Such equipment would be classified under the act as "inventory".

Heavy earth moving equipment that was subject to one or more lease agreements with the same person totaling more than one year or principally intended for lease rather than sale would not be considered as inventory (and so would not be exempt). Currently, the act also excludes from the category of inventory any property allowed a deduction or allowance for depreciation or depletion under the federal Internal Revenue Code. The bill would rewrite that provision to exclude from inventory personal property for which a deduction or allowance for depreciation, depletion, or amortization was allowed or had been taken under the Internal Revenue Code of 1986.

MCL 211.9c

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that the bill would cause state and local property tax revenues to fall, but the dollar amounts cannot be ascertained at this time. (Fiscal Note dated 12-1-99)

ARGUMENTS:

For:

The bill would clarify what large construction equipment retailers say is currently a grey area. Business inventory -- property intended for resale– is exempt from the personal property tax. Yet certain property intended for resale is first rented out or leased for a brief period of time, with the rent or lease payments counting against the eventual purchase. This method of purchasing expensive equipment is often advantageous for companies engaged in heavy construction; the equipment can be very expensive. Equipment sellers consider the property inventory and exempt from tax, but assessors often consider it taxable, since it is property being rented or leased. This leads to conflict and assessment protests. Dealers in heavy construction equipment who rent-to-sell (and who derive the majority of their income from equipment sales) complain that current assessment practices produce an unfair tax burden. They say the personal property tax on such equipment is inconsistently administered by local governments (and personal property is inconsistently reported by companies), leading to inequities.

Analyst: C. Couch

#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.