

Legislative Analysis



PERSONAL PROPERTY TAX ADMINISTRATION

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House Bill 5525 (reported from committee as H-1 Substitute)
Sponsor: Rep. Aric Nesbitt

Analysis available at
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House Bill 5526 (reported from committee as H-1 Substitute)
House Bill 5527 (reported without amendment)
House Bill 5545 (reported without amendment)
Sponsor: Rep. Jeff Farrington

Committee: Tax Policy
Complete to 4-20-16

SUMMARY:

Each of these bills contains amendments related to the administration of personal property tax exemptions that were passed by the legislature and approved by voters in 2014. That legislation proposed the phase-out of the personal property tax (PPT) for property predominantly used in industrial processing or direct integrated support (property referred to as "eligible manufacturing personal property"). It also contained a method for the reimbursement of local units of government for lost revenue out of state use tax revenue.

According to testimony, the amendments contained in the bills are in response to concerns arising in the first year of the implementation of the personal property tax phase-out. These amendments have been primarily initiated by the Michigan Department of Treasury. The proposal includes, for 2016 only, an extended filing deadline for the exemption claims.

House Bills 5525-5527, and House Bill 5545, contain interrelated amendments to the exemption processes created by the 2014 legislation. That 2014 legislation included, among other things:

- An exemption *beginning in 2016* for eligible manufacturing property that is qualified new personal property. "New personal property" means property initially placed in service in this state or outside of this state after December 31, 2012 or that was construction in progress on or after December 31, 2012. This is found in Section 9m of the General Property Tax Act.
- An exemption also *beginning in 2016* for eligible manufacturing property that is qualified previously existing personal property, which refers to personal property that was first placed in service within this state or outside of this state more than 10 years before the current calendar year.) This is found in Section 9n of the General Property Tax Act.
- A new state essential services assessment to be levied against exempt personal property beginning in 2016, with the revenue going to the state's General Fund. The rate of the special assessment depends on the length of time the taxpayer has

owned the eligible personal property; the longer the personal property has been held the lower the rate of assessment. Personal property is to be assessed based on its acquisition cost and taxed at a rate of 2.4 mills in the first five years after it is acquired, 1.25 mills for the next five years, and 0.9 mills thereafter. This is found in a separate act, the State Essential Services Assessment Act. There is also an alternative assessment with reduced rates for businesses selected by the Michigan Strategic Fund.

(Additionally, the PPT package also contains a small business taxpayer exemption that applies when the combined true cash value of all industrial personal property and commercial personal property owned by, leased by or in the possession of the owner or a related entity claiming the exemption is less than \$80,000 in the local tax collecting unit. That pre-existed but was ratified by the 2014 referendum. It is found in Section 9o of the General Property Tax Act.)

House Bill 5526 would amend the General Property Tax Act. House Bill 5525 would amend the State Essential Services Assessment Act. House Bill 5527 would amend the Plant Rehabilitation and Industrial Development Act (also known as PA 198). House Bill 5545 would amend the Alternative State Essential Services Assessment Act.

Following are key provisions in the bills.

2016 Filing Exception for Exempt Personal Property

Under House Bill 5526, for 2016 only, an owner of qualified new or existing personal property who did not file the required Form 5278 by February 22, 2016, or filed an incomplete form, could file up until May 31, 2016.

If the assessor determines the property qualifies for the exemption, the assessor would immediately amend the assessment roll to reflect the exemption. The assessor would have to transmit the affidavits filed, or information contained in the affidavits, and other required parcel information to the Department of Treasury no later than June 7, 2016. The owner would still be required to meet all deadlines under the State Essential Services Assessment Act.

If the assessor believes the personal property for which an affidavit was filed by May 31, 2016, is not qualified new or existing personal property, the assessor can deny the claim, notify the person who filed the affidavit in writing of the denial, and advise them that the denial could be appealed to the Michigan Tax Tribunal within 35 days of the date of the denial.

Role of Department of Treasury

In various places in the bills, administrative roles now played by the State Tax Commission would be carried out instead by the Department of Treasury.

Appeals to Tax Tribunal

Similarly, appeals that are now made under the various acts to the State Tax Commission would be made instead directly to the Michigan Tax Tribunal. Those changes are primarily found in House Bill 5525 and House Bill 5545.

Combined Document

Under House Bill 5526, personal property tax exemptions under Sections 9m (new property) and 9n (previously existing property) of the General Property Tax Act would be claimed by filing each year a new "***combined document***" in a form and manner prescribed by the Department of Treasury. That document is also referred to in complementary amendments in House Bill 5525, House Bill 5527, and House Bill 5545. The combined document would include:

- The form to claim the exemption;
- A report of the fair market value and year of acquisition by the first owner; and
- For any year before 2023, the statement required under Section 19 of the GPTA. That section requires the owner of personal property to make a statement of all the personal property of that person whether owned by that person or held for the use of another to be completed and delivered to the supervisor or assessor

The combined document must be completed and delivered to the assessor [of the township or city where property is located] by February 20 each year. The assessor would transmit the information in the combined document and other required parcel information to the Department of Treasury no later than April 1.

Leased Property Clarification

The bill also specifies that leasing companies are not eligible to receive the exemption and may not use the combined document. With respect to personal property that is the subject of a lease agreement, regardless of whether the agreement constitutes a lease for financial or tax purposes, all of the following apply:

** The lessee (the person using the property) and lessor (the owner of property) could elect that the lessee report the leased equipment on the combined document. The election would be made in a form and manner approved by the Department of Treasury

**In the absence of such an election, the personal property must be reported by the lessor on the personal property tax statement, unless the exemption for personal property is claimed by the lessee on the combined document.

Appeals of Denials

If the local assessor believes property is not qualified new or existing personal property, the claim would be denied and the assessor would notify the person filing the claim of the reason for the denial and that the denial is to be appealed to the local board of review. If the denial is issued after the date of the first meeting of the board of review following its organizational meeting, then the appeal is either to the March board of review or the Michigan Tax Tribunal by filing a petition and completed combined document within 35 days of being notified of the denial.

Utility Personal Property

House Bill 5526 amends definition of "eligible manufacturing property" to specify that utility personal property [described in Sec. 34c(3)(e)] and personal property used in the generation, transmission, or distribution of electricity for sale are not eligible manufacturing personal property.

Contiguity of Parcels

The General Property Tax Act refers to personal property that is located on "occupied real property," and then defines that term so as to include contiguous parcels of property that host a single, integrated business operation. House Bill 5526 would specify that "contiguity is not broken by a boundary between local tax collecting units, a road, a right-of-way, or property purchased or taken under condemnation proceedings for utility power lines if the separated parcels were a single parcel prior to the sale or condemnation.

Definition of "Fair Market Value"

House Bill 5526 provides the following new definition of "fair market value": the fair market value of personal property at the time of acquisition by the first owner, including the cost of freight, sales tax, and installation, and other capital costs, except capitalized interest. There is a rebuttable presumption that the acquisition price paid by the first owner, including the cost of freight, sales tax, and installation, and other capital costs, except capitalized interest reflect fair market value.

Construction in Progress (State Essential Services Assessment Act)

The rate of the state essential services assessment is based on when the eligible personal property was acquired by the first owner. (The longer ago acquired, the lower the rate.) House Bill 5525 and House Bill 5545 would specify that the phrase "acquired by" for property that is "construction in progress" means, the year the property is first reported on the combined document in the report of the fair market value and the year of acquisition by the first owner of qualified new property or qualified previously existing property. Beginning in 2017, for construction in progress, the acquisition cost used in determining the services assessment would be *one-half of the fair market value* at the time of acquisition by the first owner rather than the full acquisition cost.

FISCAL IMPACT:

As written, the bills appears to be primarily administrative in nature, and would not be expected to have a significant fiscal impact. The dollar amounts of the 6% use tax the local community stabilization authority can levy are contained in 2014 PA 80, which is not amended by these bills, so the only potential fiscal impact to the state would be through changes to the state essential services assessment. From a local perspective, because the local community stabilization authority can only redistribute the amounts it is allowed to levy, the bills could potentially alter the distribution of those funds to the extent that extending filing deadlines might alter the locational mix of exempt property.

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