

HOUSE BILL No. 4555

May 5, 2015, Introduced by Rep. Yonker and referred to the Committee on Tax Policy.

A bill to amend 2014 PA 93, entitled
"Alternative state essential services assessment act,"
by amending sections 3, 5, and 7 (MCL 211.1073, 211.1075, and
211.1077).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Acquisition cost" means the fair market value of personal
3 property at the time of acquisition by the ~~current~~**FIRST** owner,
4 including the cost of freight, sales tax, and installation, and
5 other capitalized costs, except capitalized interest. There is a
6 rebuttable presumption that the acquisition price paid by the
7 ~~current~~**FIRST** owner for personal property, and any costs of
8 freight, sales tax, and installation, and other capitalized costs,
9 except capitalized interest, reflect the fair market value of the
10 personal property **AT THE TIME OF ACQUISITION BY THE FIRST OWNER.**

1 For personal property exempt under section 9m or 9n of the general
2 property tax act, 1893 PA 206, MCL 211.9m and 211.9n, that would
3 otherwise be exempt under section 7k of the general property tax
4 act, 1893 PA 206, MCL 211.7k, **UNDER AN INDUSTRIAL FACILITIES**
5 **EXEMPTION CERTIFICATE ISSUED UNDER 1974 PA 198, MCL 207.551 TO**
6 **207.572, AND EFFECTIVE BEFORE JANUARY 1, 2013,** and for personal
7 property subject to an extended industrial facilities exemption
8 certificate under section 11a of 1974 PA 198, MCL 207.561a, **THAT IS**
9 **EXEMPT UNDER AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE ISSUED**
10 **UNDER 1974 PA 198, MCL 207.551 TO 207.572, AND EFFECTIVE BEFORE**
11 **JANUARY 1, 2013,** acquisition cost means 1/2 of the fair market
12 value of that personal property at the time of acquisition by the
13 ~~current~~**FIRST** owner. The acquisition cost for personal property
14 exempt under the **MICHIGAN** renaissance zone act, 1996 PA 376, MCL
15 125.2681 to 125.2696, is \$0.00 except for the 3 years immediately
16 preceding the expiration of the exemption of that personal property
17 under the **MICHIGAN** renaissance zone act, 1996 PA 376, MCL 125.2681
18 to 125.2696, during which period of time the acquisition cost for
19 that personal property means the fair market value of that personal
20 property at the time of acquisition by the ~~current~~**FIRST** owner
21 multiplied by the percentage reduction in the exemption as provided
22 in section 9(3) of the **MICHIGAN** renaissance zone act, 1996 PA 376,
23 MCL 125.2689. The state tax commission may provide guidelines for
24 circumstances in which the actual acquisition price is not
25 determinative of fair market value and the basis of determining
26 fair market value in those circumstances, including when that
27 property is idle, obsolete, or surplus.

1 (b) "Assessment" means the alternative state essential
2 services assessment levied under section 5.

3 (c) "Assessment year" means the year in which the alternative
4 state essential services assessment levied under section 5 is due.

5 (d) "Eligible claimant" means a person that owns, leases, or
6 is in the possession of eligible personal property.

7 (e) "Eligible personal property" means personal property
8 exempt from the tax levied under the state essential services
9 assessment act, **2014 PA 92, MCL 211.1051 TO 211.1061**, and
10 determined to be subject to the alternative state essential
11 services assessment as provided in section 9 of the state essential
12 services assessment act, **2014 PA 92, MCL 211.1059**.

13 Sec. 5. (1) Beginning January 1, 2016, the alternative state
14 essential services assessment is levied on all eligible personal
15 property as provided in this section.

16 (2) The assessment under this section is a state tax on the
17 eligible personal property owned by, leased to, or in the
18 possession of an eligible claimant on December 31 of the year
19 immediately preceding the assessment year and shall be calculated
20 as follows:

21 (a) For eligible personal property acquired by the ~~eligible~~
22 ~~claimant~~ **FIRST OWNER** in a year 1 to 5 years before the assessment
23 year, multiply the acquisition cost of the eligible personal
24 property by 50% of the mills levied under section 5(2)(a) of the
25 state essential services assessment act, **2014 PA 92, MCL 211.1055**.

26 (b) For eligible personal property acquired by the ~~eligible~~
27 ~~claimant~~ **FIRST OWNER** in a year 6 to 10 years before the assessment

1 year, multiply the acquisition cost of the eligible personal
2 property by 50% of the mills levied under section 5(2)(b) of the
3 state essential services assessment act, **2014 PA 92, MCL 211.1055.**

4 (c) For eligible personal property acquired by the ~~eligible~~
5 ~~claimant~~**FIRST OWNER** in a year more than 10 years before the
6 assessment year, multiply the acquisition cost of the eligible
7 personal property by 50% of the mills levied under section 5(2)(c)
8 of the state essential services assessment act, **2014 PA 92, MCL**
9 **211.1055.**

10 Sec. 7. (1) The department of treasury shall collect and
11 administer the alternative state essential services assessment as
12 provided in this section.

13 (2) Not later than May 1 in each assessment year, the
14 department of treasury shall make available in electronic form to
15 each eligible claimant a statement for calculation of the
16 assessment as provided in section 5.

17 (3) Not later than ~~September~~**AUGUST** 15 in each assessment
18 year, each eligible claimant shall submit electronically to the
19 department of treasury the completed statement, **IN A FORM AND**
20 **MANNER PRESCRIBED BY THE DEPARTMENT OF TREASURY,** and full payment
21 of the assessment levied under section 5 for that assessment year
22 as calculated in section 5(2). The department of treasury may waive
23 or delay the electronic filing requirement at its discretion. **THE**
24 **DEPARTMENT OF TREASURY MAY ACCEPT A TIMELY FILED STATEMENT USING**
25 **REPORTING SOFTWARE APPROVED BY THE DEPARTMENT OF TREASURY, SUBJECT**
26 **TO AUDIT UNDER SUBSECTION (6).** A statement submitted by an eligible
27 claimant shall include all of the eligible claimant's eligible

1 personal property located in this state subject to the assessment
2 levied under section 5. ~~and, beginning in 2019, specify the~~
3 ~~location of that property on December 31 of the year immediately~~

4 ~~preceding the assessment year.~~ **THE COMPLETED STATEMENT REQUIRED**

5 **UNDER THIS SUBSECTION SHALL NOT BE SUBJECT TO DISCLOSURE UNDER THE**
6 **FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.**

7 (4) If an eligible claimant does not submit the statement and
8 full payment of the assessment levied under section 5 by ~~September~~
9 **AUGUST 15**, the department of treasury shall issue a notice to the
10 eligible claimant not later than ~~October~~ **SEPTEMBER 15**. The notice
11 shall include a statement explaining the consequences of nonpayment
12 as set forth in subsection (5) and instructing the eligible
13 claimant of its potential responsibility under subsection (5)(e).

14 An eligible claimant shall submit payment in full by ~~November 1~~
15 **OCTOBER 15** of the assessment year along with a penalty of 1% per
16 week on the unpaid balance for each week payment is not made in
17 full up to a maximum of 5% of the total amount due and unpaid. For
18 the eligible claimant's first assessment year, the penalty shall be
19 waived if the eligible claimant submits the statement and full
20 payment of the assessment levied under section 5 ~~within 7 business~~
21 ~~days of~~ **BY September 15. AN ELIGIBLE CLAIMANT MAY AMEND A FILED**

22 **STATEMENT FOR THE CURRENT YEAR UP TO SEPTEMBER 15. PAYMENTS MADE**
23 **DUE TO AN AMENDED STATEMENT ARE SUBJECT TO THE PENALTIES AS**
24 **DESCRIBED IN THIS SUBSECTION. THE DEPARTMENT OF TREASURY MAY ISSUE**
25 **REFUNDS FOR OVERPAYMENTS DUE TO AN AMENDED STATEMENT. ALL REFUNDS**
26 **DUE TO OVERPAYMENT SHALL BE REMITTED WITHOUT INTEREST.**

27 (5) ~~if~~ **FOR ANY ASSESSMENT YEAR IN WHICH** an eligible claimant

1 does not submit payment in full and any penalty due under
2 subsection (4) **OR (6)** by ~~November 1,~~ **OCTOBER 15**, all of the
3 following shall apply:

4 (a) The state tax commission shall ~~direct the assessor to~~
5 ~~rescind~~ **ISSUE AN ORDER TO RESCIND NO LATER THAN THE FIRST MONDAY IN**
6 **DECEMBER** for the assessment year any exemption described in section
7 9m or 9n of the general property tax act, 1893 PA 206, MCL 211.9m
8 and 211.9n, granted for ~~the eligible personal property.~~ **ANY PARCEL**
9 **FOR WHICH PAYMENT IN FULL AND ANY PENALTY DUE HAVE NOT BEEN**
10 **RECEIVED.**

11 (b) The state tax commission shall **ISSUE AN ORDER TO** rescind
12 **NO LATER THAN THE FIRST MONDAY IN DECEMBER** for the assessment year
13 any exemption under section 9f of the general property tax act,
14 1893 PA 206, MCL 211.9f, which exemption was approved under section
15 9f of the general property tax act, 1893 PA 206, MCL 211.9f, after
16 2013 **FOR ANY PARCEL FOR WHICH PAYMENT IN FULL AND ANY PENALTY DUE**
17 **HAVE NOT BEEN RECEIVED.**

18 (c) The state tax commission shall **ISSUE AN ORDER TO** rescind
19 **NO LATER THAN THE FIRST MONDAY IN DECEMBER** for the assessment year
20 any exemption for eligible personal property subject to an extended
21 industrial facilities exemption certificate under section 11a of
22 1974 PA 198, MCL 207.561a, **FOR ANY PARCEL FOR WHICH PAYMENT IN FULL**
23 **AND ANY PENALTY DUE HAVE NOT BEEN RECEIVED.**

24 (d) The state tax commission shall **ISSUE AN ORDER TO** rescind
25 **NO LATER THAN THE FIRST MONDAY IN DECEMBER** for the assessment year
26 any extended exemption for eligible personal property under section
27 9f(8)(a) of the general property tax act, 1893 PA 206, MCL 211.9f,

1 FOR ANY PARCEL FOR WHICH PAYMENT IN FULL AND ANY PENALTY DUE HAVE
2 NOT BEEN RECEIVED.

3 (e) The **ELIGIBLE** claimant shall file ~~not later than November~~
4 ~~10~~ WITH THE ASSESSOR OF THE TOWNSHIP OR CITY WITHIN 30 DAYS OF THE
5 DATE OF THE STATE TAX COMMISSION ORDER TO RESCIND ISSUED UNDER
6 SUBDIVISIONS (A) TO (D) a statement under section 19 of the general
7 property tax act, 1893 PA 206, MCL 211.19, for all property for
8 which the exemption has been rescinded under this section.

9 (f) ~~All taxes due as a result of a rescission by the~~
10 ~~department of treasury or~~ WITHIN 60 DAYS OF AN ORDER OF RESCISSION
11 by the state tax commission under subdivisions (a) to (d), **THE**
12 **TREASURER OF THE LOCAL TAX COLLECTING UNIT SHALL ISSUE AMENDED TAX**
13 **BILLS FOR ANY TAXES, INCLUDING PENALTY AND INTEREST,** that were not
14 billed under the general property tax act, 1893 PA 206, MCL 211.1
15 to 211.155, or under 1974 PA 198, MCL 207.551 to 207.572, ~~on the~~
16 ~~summer bill shall be billed under the general property tax act,~~
17 ~~1893 PA 206, MCL 211.1 to 211.155, or under 1974 PA 198, MCL~~
18 ~~207.551 to 207.572, on the winter tax bill.~~ **AND THAT ARE OWED AS A**
19 **RESULT OF THE ORDER OF RESCISSION.**

20 (6) ~~(g) A person who files a statement under section 7~~ **AN**
21 **ELIGIBLE CLAIMANT** shall provide access to the books and records,
22 **FOR AUDIT PURPOSES,** relating to the **LOCATION AND** description; the
23 date of purchase, lease, or acquisition; and the purchase price,
24 lease amount, or value of all ~~industrial personal property and~~
25 ~~commercial~~ personal property owned by, leased by, or in the
26 possession of that person or a related entity if requested by the
27 assessor of the ~~local tax collecting unit,~~ **TOWNSHIP OR CITY,** county

1 equalization department, or department of treasury for the year in
2 which the statement is filed and the immediately preceding 3 years.
3 THE DEPARTMENT OF TREASURY SHALL DEVELOP AND IMPLEMENT AN AUDIT
4 PROGRAM WHICH INCLUDES, BUT IS NOT LIMITED TO, THE AUDIT OF
5 STATEMENTS SUBMITTED UNDER SUBSECTION (3) AND AMENDED STATEMENTS
6 SUBMITTED UNDER SUBSECTION (4) FOR THE CURRENT CALENDAR YEAR AND
7 THE 3 CALENDAR YEARS IMMEDIATELY PRECEDING THE COMMENCEMENT OF AN
8 AUDIT. AN ASSESSMENT AS A RESULT OF AN AUDIT SHALL BE PAID IN FULL
9 WITHIN 35 DAYS OF ISSUANCE AND SHALL INCLUDE PENALTIES AND INTEREST
10 AS DESCRIBED IN SECTION 154(3) OF THE GENERAL PROPERTY TAX ACT,
11 1893 PA 206, MCL 211.154. REFUNDS AS A RESULT OF AN AUDIT UNDER
12 THIS SUBSECTION SHALL BE WITHOUT INTEREST. THE EXEMPTION FOR
13 PERSONAL PROPERTY FOR WHICH AN ASSESSMENT HAS BEEN ISSUED AS A
14 RESULT OF AN AUDIT UNDER THIS SUBSECTION SHALL BE SUBJECT TO THE
15 RESCISSION PROVISIONS OF SUBSECTION (5) FOR THE YEARS OF THE
16 ASSESSMENT IF FULL PAYMENT IS NOT TIMELY MADE AS REQUIRED BY THIS
17 SUBSECTION.

18 (7) ~~(6)~~—An eligible claimant may appeal an assessment levied
19 under section 5 or a penalty or rescission under this section to
20 the state tax commission by filing a petition not later than
21 December 31 in that tax year. **AN ELIGIBLE CLAIMANT MAY APPEAL AN**
22 **ASSESSMENT ISSUED, INCLUDING PENALTIES, INTEREST, OR RESCISSION, AS**
23 **A RESULT OF AN AUDIT CONDUCTED UNDER SUBSECTION (6) BY FILING A**
24 **PETITION WITH THE STATE TAX COMMISSION WITHIN 30 DAYS OF THE DATE**
25 **OF THAT ASSESSMENT'S ISSUANCE.**

26 The department of treasury may appeal to the state tax commission
27 by filing a petition for the current calendar year and 3

1 immediately preceding calendar years. The state tax commission
2 shall decide any appeal based on the written petition and the
3 written recommendation of state tax commission staff and any other
4 relevant information. The department of treasury or any eligible
5 claimant may appeal the ~~decision~~**DETERMINATION** of the state tax
6 commission to the Michigan tax tribunal **WITHIN 35 DAYS OF THE DATE**
7 **OF THE DETERMINATION.**