

Legislative Analysis



PERSONAL PROPERTY TAX EXEMPTION FILING

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5261 (H-2) as reported from committee

Sponsor: Rep. Jim Tedder

Committee: Tax Policy

Complete to 2-9-18

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 132 of 2018)

BRIEF SUMMARY: House Bill 5261 would amend the General Property Tax Act to revise the manner in which a taxpayer claims a personal property tax exemption under section 90 of the act. (The exemption under section 90 is for “eligible personal property” that is industrial or commercial personal property owned by a taxpayer with a true cash value of less than \$80,000 in a particular local tax collecting unit. This is commonly referred to as the small taxpayer or small business exemption.) Under the bill, filing would change from annually to one-time, so long as the personal property remained eligible property.

FISCAL IMPACT: Because the dollar amount of use tax that can be levied by the Local Community Stabilization Authority for reimbursement of exempt personal property is contained in statute, the bill would have no impact on state revenue or expenditures. Local units of government could potentially realize some savings from reduced costs since statements would no longer be filed annually. However, it is not possible to quantify any savings that might occur.

THE APPARENT PROBLEM:

Reportedly, many of the personal property tax changes implemented by the state have not been fully understood or utilized by eligible taxpayers. With regard to the small business property tax exemption, it has been suggested that up to 50% of businesses actually pay personal property taxes even when they are not required to. In response, filing deadlines for exemption forms have been extended in recent years to accommodate filers who missed the deadline or filers who were unaware of their eligibility for such an exemption. Some believe that more needs to be done to make it easier for taxpayers to receive tax benefits the state has approved. Legislation has been introduced to change, with regard to a specific exemption form, from an annual filing requirement to a one-time filing requirement.

THE CONTENT OF THE BILL:

Currently under the act, the owner of eligible personal property claims the small business property tax exemption by filing a statement with the local tax collecting unit in which the property is located by February 20 of each tax year.¹

¹ See “Affidavit to Claim Small Business Tax Exemption Under MCL 211.90,” Michigan Department of Treasury, Form 5076. Available online: https://www.michigan.gov/documents/treasury/5076f_493854_7.pdf

House Bill 5261 would make the following changes to this filing:

- The owner would claim the exemption by filing a statement with the local tax collecting unit where the property is located by February 20 of the first year the exemption is claimed.
- The exemption granted would remain in effect until the personal property is no longer eligible personal property.
- If the personal property were no longer eligible personal property, the owner would have to file a rescission by February 20 of the year in which the property is no longer eligible. The owner would also have to file with the assessing officer a general statement of personal property. The rescission would be filed on a form prescribed by the Department of Treasury. Upon receiving a rescission form, the local assessor would remove the exemption.

The bill would include the following process for addressing noncompliance with this new filing structure:

- An owner who failed to file a rescission and whose property was later determined to be ineligible for the exemption would be subject to repayment of any additional taxes with interest.
- Upon discovery that the property is no longer eligible personal property, the local assessor would remove the exemption of that personal property and amend the tax roll to reflect the removal of the exemption. The local treasurer would, within 30 days of the discovery, issue a corrected tax bill for any additional taxes, with interest at 1% per month and penalties from the date at which the taxes were last payable without penalty. [If the tax roll is held by the county treasurer, the county treasurer would amend the tax roll and issue a supplemental tax bill for any additional taxes.]
- Interest on any tax in a corrected or supplemental tax bill would begin to accrue 60 days after the date the corrected or supplemental bill is issued, again at 1% per month. The taxes levied would be returned as delinquent on March 1 of the year immediately after the year the corrected or supplemental bill is issued.

A local unit of government could develop and implement an audit program to audit the information submitted in the statements, for the current calendar year and the immediately preceding three calendar years. Any assessment from the audit would have to be paid within 35 days of issuance and would include the interest described above.

Finally, the bill would delete language pertaining to the current filing and potential denial.

MCL 211.9o

ARGUMENTS:

For:

The bill is a commonsense solution to address what has become an ongoing problem: noncompliance with filing requirements for personal property tax exemptions. The bill makes the filing straightforward and efficient and will save costs for both taxpayers and local units of government. Switching to a one-time filing, while requiring a voluntary rescission when personal property increases above the \$80,000 threshold, will make the system much easier: local governments will not have to process annual statements, and businesses will receive tax benefits without a filing burden. Finally, the work of local auditors and the audit program will ensure compliance with the filing requirements.

POSITIONS:

Representatives of the Michigan Department of Treasury testified in support of the bill.
(11-29-17, 2-7-18)

Representatives of the following entities indicated support for the bill:

Michigan Chamber of Commerce (11-29-17)
National Federation of Independent Business (2-7-18)
Michigan Manufacturers Association (2-7-18)
Michigan Assessors Association (2-7-18)

Legislative Analyst: Patrick Morris
Fiscal Analyst: Jim Stansell

■ 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.