Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5261 (Substitute H-2 as passed by the House)
Sponsor: Representative Jim Tedder
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 3-12-18

CONTENT

The bill would amend the General Property Tax Act to do the following:

- **Remove the requirement that a person file an exemption statement annually to claim a tax exemption for industrial or commercial personal property (under what is sometimes called the small parcel exemption).**
- **Specify that an exemption would remain in effect until the personal property was no longer eligible personal property.**
- **Require an owner of personal property that was no longer eligible personal property to file a rescission.**
- **Provide that 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.**
- **Delete provisions that authorize an assessor to deny a claim for exemption for the current year and the immediately preceding three calendar years.**
- **Allow a local unit of government to develop and implement a program to audit all of the information submitted with a claim for exemption for the current calendar year and the three previous calendar years.**

Filing Modifications

Under Section 9o of the Act, beginning December 31, 2013, eligible industrial personal property or commercial personal property owned by a person in a local tax collecting unit is exempt from the tax levied under the Act if the combined true cash value of all industrial personal property and commercial personal property in the local tax collecting unit owned by, leased by, or in the possession of the owner or a related entity is less than $80,000 on December 31 of the preceding year. (As noted above, this is referred to as the small parcel exemption.)

An owner of eligible personal property must claim the exemption by annually filing a statement with the local tax collecting unit in which the eligible personal property is located no later than February 20 or, if February 20 is a Saturday, Sunday, or legal holiday, no later than the next day that was not one of those days. The bill would delete the requirement that the statement be filed annually, and instead require the statement to be filed no later than February 20 of the first year the exemption was claimed, unless that date fell on a Saturday, Sunday, or legal holiday.

Exemption Rescission

The bill provides that an exemption granted under Section 9o would remain in effect until the personal property was no longer eligible personal property. By February 20 of the year that the property was no longer eligible, the property owner would have to file a rescission and the statement required under Section 19. (Under Section 19 an assessing officer must require a person to make a statement of all the personal property of the person whether owned by that person or held for use of another.) The rescission would have to be filed on a form prescribed by the Department of Treasury. Upon receiving a rescission form, the local assessor would have to immediately remove the exemption.

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 was no longer eligible personal property, the assessor would have to remove the exemption of that property and, if the tax roll were in the local tax collecting unit's possession, amend it to reflect the removal of the exemption. The local treasurer would have to issue a corrected tax bill within 30 days of the date of the discovery for any additional taxes with interest at the rate of 1% per month or a fraction of a month, and penalties would have to be computed from the date the taxes were last payable without interest or penalty. If the tax roll were in the county treasurer's possession, it would have to be amended to reflect the removal of the exemption and the county treasurer would have to prepare and submit within 30 days of the date of the removal a supplemental tax bill for any additional taxes, together with interest at the same rate.

Interest on any tax set forth in a corrected or supplemental tax bill again would begin to accrue 60 days after the date that tax bill was issued at the rate of 1% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill would have to be returned as delinquent on the March 1 in the year immediately succeeding the year in which the tax bill was issued.

Current Exemption Denial

Under the Act, if the assessor of the local tax collecting unit believes that personal property for which a statement claiming an exemption is timely and properly filed is not eligible personal property, the assessor may deny that claim for exemption by notifying the person that filed the statement in writing of the reason for the denial and advising the person that the denial may be appealed to the board of review during that year.

Also, the assessor may deny a claim for exemption for the current year and the immediately preceding three calendar years. If the assessor denies a claim for exemption, the assessor must remove the exemption of that personal property. The tax roll must be amended to reflect the denial and a supplemental tax bill with interest must be issued (as the bill would require for the rescission of an exemption). The bill would delete these provisions.

Audit Program

The Act states that a person who claims an exemption under Section 9o must maintain books and records and provide access to them as provided for under the Act. The bill also provides that a local unit of government could develop and implement an audit program that included the audit of all information submitted with the claim for exemption for the current calendar year and the three calendar years immediately preceding the audit. Any assessment as a result of an audit would have to be paid in full within 35 days of issuance and would have to include interest as described above.

MCL 211.9o   Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government, depending on whether deleting the annual filing requirement would result in an increase in claims for a personal property exemption. In general, an additional exemption from personal property taxation reduces local property tax revenue and State School Aid Fund revenue from the State Education Tax, increases the State cost of the foundation allowance, increases State General Fund revenue from the Essential Services Assessment, and changes the distribution of reimbursement payments from the Local Community Stabilization Authority (LCSA) to eligible local governmental units, although total LCSA reimbursements are set in statute and would not be changed by the bill. The distributional changes in reimbursements from the LCSA would mean that some local units would experience a positive fiscal impact, while others would experience a negative fiscal impact. The General Fund also is required to reimburse the School Aid Fund for lost revenue and additional costs of the personal property tax exemptions. The magnitude and direction of these effects would depend on the number and specific characteristics of the properties approved that would not otherwise receive the exemption.

In addition, the change from annual to one-time filing for the exemption could lead to reduced administrative costs for local taxing units.

Fiscal Analyst: Ryan Bergan

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