

HOUSE BILL NO. 5502

November 02, 2021, Introduced by Reps. Tisdell, Calley, Ellison, Cavanagh and Hall and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 9m (MCL 211.9m), as amended by 2017 PA 261.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9m. (1) Beginning December 31, 2015 and each year
2 thereafter, qualified new personal property for which an exemption
3 has been properly claimed under subsection (2) is exempt from the
4 collection of taxes under this act.

5 (2) A person shall claim the exemption under this section and
6 section 9n by filing ~~each year~~ a combined document that includes:

1 the form to claim the exemption under this section and section 9n,
2 a report of the fair market value and year of acquisition by the
3 first owner of qualified new personal property, and for any year
4 before 2023, a statement under section 19. All of the following
5 apply to a claim of the exemption under this section:

6 (a) The combined document ~~shall~~**must** be in a form and manner
7 prescribed by the department of treasury.

8 (b) Leasing companies are not eligible to receive the
9 exemption under this section and may not use the combined document
10 prescribed in this section. With respect to personal property that
11 is the subject of a lease agreement, regardless of whether the
12 agreement constitutes a lease for financial or tax purposes, all of
13 the following apply:

14 (i) If the personal property is eligible manufacturing personal
15 property, the lessee and lessor may elect that the lessee report
16 the leased personal property on the combined document.

17 (ii) An election made by the lessee and the lessor under this
18 subdivision ~~shall~~**must** be made in a form and manner approved by the
19 department.

20 (iii) Absent an election, the personal property ~~shall~~**must** be
21 reported by the lessor on the personal property statement unless
22 the exemption for eligible manufacturing personal property is
23 claimed by the lessee on the combined document.

24 (c) The combined document prescribed in this section ~~, shall~~
25 **must** be completed and delivered to the assessor of the township or
26 city in which the qualified new personal property is located by
27 February 20 of each year **for any year the exemption is claimed**
28 **before 2023 and the first year the exemption is claimed in a year**
29 **after 2022**. However, if February 20 of a year is a Saturday,

Sunday, or legal holiday, the delivery deadline for that year is the next day that is not a Saturday, Sunday, or legal holiday. For purposes of a combined document delivered by the United States Postal Service, the delivery is timely if the postmark date is on or before the delivery deadline prescribed in this subdivision. If the combined document prescribed in this section is not timely delivered to the assessor of the township or city, a late application may be filed directly with the March board of review before its final adjournment by submitting the combined document prescribed in this section. The board of review shall not accept a filing after adjournment of its March meeting. An appeal of a denial by the March board of review may be made by filing a petition with the Michigan tax tribunal within 35 days of the denial notice.

(d) The assessor shall transmit to the department of treasury the information contained in the combined document filed under this section, and other parcel information required by the department of treasury, in the form and manner prescribed by the department of treasury by no later than April 1.

(e) **Beginning in 2023, an exemption granted under this section remains in effect until the personal property is no longer qualified new personal property.** A person claiming an exemption under this section shall rescind the claim of exemption by ~~December 31~~ **February 20, or if February 20 of a year is a Saturday, Sunday, or legal holiday, the next day that is not a Saturday, Sunday, or legal holiday,** of the year in which exempted property is no longer eligible for the exemption by filing with the assessor of the township or city a rescission ~~affidavit in a form~~ prescribed by the department of treasury **and the statement required under section 19.**

1 Upon receipt of a timely filed rescission form, the local assessor
2 shall immediately remove the exemption. An owner that fails to file
3 a rescission for property later determined to be ineligible for the
4 exemption will be subject to repayment of any additional taxes with
5 interest as described in this subdivision. Upon discovery that the
6 property is no longer eligible manufacturing personal property, the
7 assessor shall remove the exemption of that personal property and,
8 if the tax roll is in the local tax collecting unit's possession,
9 amend the tax roll to reflect the removal of the exemption, and the
10 local treasurer shall within 30 days of the date of the discovery
11 issue a corrected tax bill for any additional taxes with interest
12 at the rate of 1% per month or fraction of a month and penalties
13 computed from the date the taxes were last payable without interest
14 or penalty. If the tax roll is in the county treasurer's
15 possession, the tax roll must be amended to reflect the removal of
16 the exemption and the county treasurer shall within 30 days of the
17 date of the removal prepare and submit a supplemental tax bill for
18 any additional taxes, together with interest at the rate of 1% per
19 month or fraction of a month and penalties computed from the date
20 the taxes were last payable without interest or penalty. Interest
21 on any tax set forth in a corrected or supplemental tax bill again
22 begins to accrue 60 days after the date the corrected or
23 supplemental tax bill is issued at the rate of 1% per month or
24 fraction of a month. Taxes levied in a corrected or supplemental
25 tax bill must be returned as delinquent on the March 1 in the year
26 immediately succeeding the year in which the corrected or
27 supplemental tax bill is issued.

28 (f) The assessor of the township or city shall annually
29 transmit the rescission ~~affidavits~~**-forms** filed, or the information

1 contained in the rescission ~~affidavits~~**-forms** filed, under this
2 section to the department of treasury in the form and in the manner
3 prescribed by the department of treasury no later than April 1.

4 (3) If the assessor of the township or city believes that
5 personal property for which the form claiming an exemption is
6 timely filed each year under subsection (2)(c) is not qualified new
7 personal property or the form filed was incomplete, the assessor
8 may deny that claim for exemption by notifying the person that
9 filed the form in writing of the reason for the denial and advising
10 the person that the denial ~~shall~~**must** be appealed to the board of
11 review under section 30 by filing a combined document as prescribed
12 under subsection (2). If the denial is issued after the first
13 meeting of the March board of review that follows the
14 organizational meeting, the appeal of the denial is either to the
15 March board of review or the Michigan tax tribunal by filing a
16 petition and a completed combined document as prescribed under
17 subsection (2), within 35 days of the denial notice. The assessor
18 may deny a claim for exemption under this subsection for the
19 current year only. If the assessor denies a claim for exemption,
20 the assessor shall remove the exemption of that personal property
21 and amend the tax roll to reflect the denial and the local
22 treasurer shall within 30 days of the date of the denial issue a
23 corrected tax bill for any additional taxes.

24 (4) A person claiming an exemption for qualified new personal
25 property exempt under this section shall maintain books and records
26 and shall provide access to those books and records as provided in
27 section 22.

28 (5) If a person fraudulently claims an exemption for personal
29 property under this section, that person is subject to the

1 penalties provided for in section 21(2).

2 ~~(6) For 2016 only, if an owner of qualified new personal~~
3 ~~property did not file form 5278 by February 22, 2016 or filed an~~
4 ~~incomplete form 5278 by February 22, 2016 to claim the exemption~~
5 ~~under this section with the assessor of the city or township in~~
6 ~~which the qualified new personal property is located, that owner~~
7 ~~may file form 5278 with the assessor of the city or township in~~
8 ~~which the qualified new personal property is located no later than~~
9 ~~May 31, 2016. If the assessor determines that the property~~
10 ~~qualifies for the exemption under this section, the assessor shall~~
11 ~~immediately amend the assessment roll to reflect the exemption. The~~
12 ~~assessor of the township or city shall transmit the affidavits~~
13 ~~filed, or the information contained in the affidavits filed, under~~
14 ~~this section, and other parcel information required by the~~
15 ~~department of treasury, to the department of treasury in the form~~
16 ~~and in the manner prescribed by the department of treasury no later~~
17 ~~than June 7, 2016. The owner shall still be required to meet all~~
18 ~~deadlines required under section 7 of the state essential services~~
19 ~~assessment act, 2014 PA 92, MCL 211.1057. If the assessor of the~~
20 ~~township or city believes that personal property for which an~~
21 ~~affidavit claiming an exemption filed under this subsection by May~~
22 ~~31, 2016 is not qualified new personal property, the assessor may~~
23 ~~deny that claim for exemption by notifying the person that filed~~
24 ~~the affidavit in writing of the reason for the denial and advising~~
25 ~~the person that the denial may be appealed to the Michigan tax~~
26 ~~tribunal within 35 days of the date of the denial.~~

27 ~~(7) For 2017 only, if an owner of qualified new personal~~
28 ~~property did not file the combined document by February 21, 2017 to~~
29 ~~claim the exemption under this section with the assessor of the~~

~~city or township in which the qualified new personal property is located, that owner may file the combined document with the assessor of the city or township in which the qualified new personal property is located no later than May 31, 2017. If the assessor determines that the property qualifies for the exemption under this section, the assessor shall immediately amend the assessment roll to reflect the exemption. The assessor of the township or city shall transmit the combined document filed, or the information contained in the combined document filed, under this section, and other parcel information required by the department of treasury, to the department of treasury in the form and in the manner prescribed by the department of treasury no later than June 9, 2017. The owner shall still meet all deadlines required under section 7 of the state essential services assessment act, 2014 PA 92, MCL 211.1057. If the assessor of the township or city believes that personal property for which a combined document claiming an exemption filed under this subsection by May 31, 2017 is not qualified new personal property, the assessor may deny that claim for exemption by notifying the person that filed the combined document in writing of the reason for the denial and advising the person that the denial may be appealed to the Michigan tax tribunal within 35 days of the date of the denial.~~

~~(6) (8)~~ As used in this section:

(a) "Affiliated person" means a sole proprietorship, partnership, limited liability company, corporation, association, flow-through entity, member of a unitary business group, or other entity related to a person claiming an exemption under this section.

(b) "Direct integrated support" means any of the following:

1 (i) Research and development related to goods produced in
2 industrial processing and conducted in furtherance of that
3 industrial processing.

4 (ii) Testing and quality control functions related to goods
5 produced in industrial processing and conducted in furtherance of
6 that industrial processing.

7 (iii) Engineering related to goods produced in industrial
8 processing and conducted in furtherance of that industrial
9 processing.

10 (iv) Receiving or storing equipment, materials, supplies,
11 parts, or components for industrial processing, or scrap materials
12 or waste resulting from industrial processing, at the industrial
13 processing site or at another site owned or leased by the owner or
14 lessee of the industrial processing site.

15 (v) Storing of finished goods inventory if the inventory was
16 produced by a business engaged primarily in industrial processing
17 and if the inventory is stored either at the site where it was
18 produced or at another site owned or leased by the business that
19 produced the inventory.

20 (vi) Sorting, distributing, or sequencing functions that
21 optimize transportation and just-in-time inventory management and
22 material handling for inputs to industrial processing.

23 (c) "Eligible manufacturing personal property" means all
24 personal property located on occupied real property if that
25 personal property is predominantly used in industrial processing or
26 direct integrated support. For personal property that is
27 construction in progress and part of a new facility not in
28 operation, eligible manufacturing personal property means all
29 personal property that is part of that new facility if that

personal property will be predominantly used in industrial processing when the facility becomes operational. Personal property that is not owned, leased, or used by the person who owns or leases occupied real property where the personal property is located is not eligible manufacturing personal property, unless the personal property is located on the occupied real property to carry on a current on-site business activity. Personal property that is placed on occupied real property solely to qualify the personal property for an exemption under this section or section 9n is not eligible manufacturing personal property. Utility personal property as described in section 34c(3)(e) and personal property used in the generation, transmission, or distribution of electricity for sale are not eligible manufacturing personal property. Personal property located on occupied real property is predominantly used in industrial processing or direct integrated support if the result of the following calculation is more than 50%:

(i) Multiply the original cost of all personal property that is subject to the collection of taxes under this act and all personal property that is exempt from the collection of taxes under sections 7k, 9b, 9f, 9n, and 9o and this section that is located on that occupied real property and that is not construction in progress by its percentage of use in industrial processing or in direct integrated support. For an item of personal property that is used in industrial processing, its percentage of use in industrial processing ~~shall~~**must** equal the percentage of the exemption the property would be eligible for under section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. Utility personal property as described in section 34c(3)(e) and personal property used in the

1 generation, transmission, or distribution of electricity for sale
2 is not included in this calculation.

3 (ii) Divide the result of the calculation under subparagraph (i)
4 by the total original cost of all personal property that is subject
5 to the collection of taxes under this act and all personal property
6 that is exempt from the collection of taxes under sections 7k, 9b,
7 9f, 9n, and 9o and this section that is located on that occupied
8 real property and that is not construction in progress. Utility
9 personal property as described in section 34c(3)(e) and personal
10 property used in the generation, transmission, or distribution of
11 electricity for sale is not included in this calculation.

12 (d) "Fair market value" means the fair market value of
13 personal property at the time of acquisition by the first owner,
14 including the cost of freight, sales tax, installation, and other
15 capitalized costs, except capitalized interest. There is a
16 rebuttable presumption that the acquisition price paid by the first
17 owner for personal property, and any costs of freight, sales tax,
18 installation, and other capitalized costs, except capitalized
19 interest, reflect the fair market value.

20 (e) "Industrial processing" means that term as defined in
21 section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t,
22 or section 4o of the use tax act, 1937 PA 94, MCL 205.94o.
23 Industrial processing does not include the generation,
24 transmission, or distribution of electricity for sale.

25 (f) "New personal property" means property that was initially
26 placed in service in this state or outside of this state after
27 December 31, 2012 or that was construction in progress on or after
28 December 31, 2012 that had not been placed in service in this state
29 or outside of this state before 2013.

1 (g) "Occupied real property" means any of the following:

2 (i) A parcel of real property that is entirely owned, leased,
3 or otherwise occupied by a person claiming an exemption under this
4 section or under section 9n.

5 (ii) Contiguous parcels of real property that are entirely
6 owned, leased, or otherwise occupied by a person claiming an
7 exemption under this section or under section 9n and that host a
8 single, integrated business operation engaged primarily in
9 industrial processing, direct integrated support, or both. A
10 business operation is not engaged primarily in industrial
11 processing, direct integrated support, or both if it engages in
12 significant business activities that are not directly related to
13 industrial processing or direct integrated support. Contiguity is
14 not broken by a boundary between local tax collecting units, a
15 road, a right-of-way, or property purchased or taken under
16 condemnation proceedings by a public utility for power transmission
17 lines if the 2 parcels separated by the purchased or condemned
18 property were a single parcel prior to the sale or condemnation. As
19 used in this subparagraph, "single, integrated business operation"
20 means a company that combines 1 or more related operations or
21 divisions and operates as a single business unit.

22 (iii) The portion of a parcel of real property that is owned,
23 leased, or otherwise occupied by a person claiming the exemption
24 under this section or under section 9n or by an affiliated person.

25 (h) "Original cost" means the fair market value of personal
26 property at the time of acquisition by the first owner. There is a
27 rebuttable presumption that the acquisition price paid by the first
28 owner for personal property reflects the original cost of that
29 personal property. The department of treasury may provide

1 guidelines for 1 or more of the following circumstances:

2 (i) Determining original cost of personal property when the
3 actual acquisition price paid by the first owner for personal
4 property is not determinative of the original cost of that personal
5 property.

6 (ii) Estimating original cost of personal property when the
7 actual acquisition price paid by the first owner for the personal
8 property is unknown.

9 (iii) Adjusting original cost of personal property when the
10 personal property is idle, is obsolete or has material
11 obsolescence, or is surplus.

12 (i) "Person" means an individual, partnership, corporation,
13 association, limited liability company, or any other legal entity.

14 (j) "Qualified new personal property" means property that
15 meets all of the following conditions:

16 (i) Is eligible manufacturing personal property.

17 (ii) Is new personal property.

18 Enacting section 1. This amendatory act does not take effect
19 unless all of the following bills of the 101st Legislature are
20 enacted into law:

21 (a) Senate Bill No. ____ or House Bill No. 5504 (request no.
22 04379'21).

23 (b) Senate Bill No. ____ or House Bill No. 5505 (request no.
24 04380'21).

25 (c) Senate Bill No. ____ or House Bill No. 5503 (request no.
26 04381'21).