

HOUSE BILL NO. 4833

May 12, 2021, Introduced by Reps. Ellison and Tisdell and referred to the Committee on Local Government and Municipal Finance.

A bill to provide for the exemption of certain property from certain taxes; to levy and collect a specific tax upon the owners of certain property; to provide for the disposition of that specific tax; to provide for the powers and duties of certain state and local governmental officers and entities; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. This act shall be known and may be cited as the
- 2 "qualified heavy equipment rental personal property specific tax

1 act".

2 Sec. 3. As used in this act:

3 (a) "Department" means the department of treasury.

4 (b) "Eligible personal property" means personal property
5 exempt under section 9p of the general property tax act, 1893 PA
6 206, MCL 211.9p, and qualified heavy equipment rental personal
7 property acquired or brought into this state during the tax year by
8 a qualified renter to a qualified renter business location.

9 (c) "Fund" means the qualified heavy equipment rental personal
10 property exemption reimbursement fund created in section 9(1).

11 (d) "Local tax collecting unit" means a township or city that
12 assesses and collects property taxes pursuant to the general
13 property tax act, 1893 PA 206, MCL 211.1 to 211.155.

14 (e) "Person" means an individual, corporation, limited
15 liability company, partnership, association, or any other legal
16 entity.

17 (f) "Qualified heavy equipment rental personal property",
18 "qualified renter", "qualified renter business location", and
19 "rent" or "rental" mean those terms as defined in section 9p of the
20 general property tax act, 1893 PA 206, MCL 211.9p.

21 (g) "Qualified heavy equipment rental personal property
22 specific tax" and "tax" mean the specific tax levied under section
23 5.

24 (h) "Rental price" means the total amount of the consideration
25 for renting qualified heavy equipment rental personal property,
26 excluding any separately stated charges, fees, and costs, such as
27 delivery and pickup fees, damage waivers, environmental mitigation
28 fees, use or sales taxes, or insurance.

29 (i) "Reporting periods" means the quarterly periods ending on

1 March 31, June 30, September 30, and December 31 for which a
2 qualified renter must report and remit the tax collected under this
3 act.

4 Sec. 5. (1) Beginning January 1, 2022, in addition to all
5 other taxes, the qualified heavy equipment rental personal property
6 specific tax is levied on each transaction of a qualified renter
7 for renting eligible personal property as provided in this section.

8 (2) The tax under this section is a state specific tax that
9 must be paid by a qualified renter in an amount equal to 2% of the
10 rental price of the eligible personal property net of any customer
11 credits given at the end of the rental.

12 (3) A qualified renter shall collect the tax under this
13 section as part of each rental payment made by the customer renting
14 the eligible personal property and shall remit the tax to the
15 department as provided in this act.

16 (4) The tax under this section does not apply to the rental of
17 eligible personal property to the United States or any agency,
18 department, administration, or political subdivision of the United
19 States, to any federally recognized Indian tribes, to this state,
20 to any local governmental entity in this state, or to any other
21 public body corporate in this state.

22 Sec. 7. (1) The department shall collect and administer the
23 tax as provided in this section.

24 (2) Not later than March 31 each year beginning in 2022, the
25 department shall make available a statement, to be submitted in a
26 form and manner prescribed by the department, for calculating the
27 tax as provided in section 5.

28 (3) Not later than April 30, July 31, October 31, and January
29 31 each year, a qualified renter shall submit to the department a

1 completed statement along with full payment of the tax levied and
2 collected under section 5 for the immediately preceding reporting
3 period as calculated under section 5(2). The department may accept
4 a timely filed statement transmitted using reporting software
5 approved by the department, subject to audit under subsection (6).
6 A statement filed by a qualified renter must include the total
7 rental price of all rental transactions for the eligible personal
8 property for the immediately preceding reporting period, a listing
9 of exempt sales, and the total tax collected on or otherwise due
10 with respect to all rental transactions for the eligible personal
11 property for the immediately preceding reporting period. The
12 amounts reported under this section must be reported separately for
13 each qualified renter business location. The statement required
14 under this subsection is not subject to disclosure under the
15 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

16 (4) If a qualified renter does not submit a completed
17 statement and full payment of the tax levied under section 5 by the
18 applicable deadline in subsection (3), the department shall issue a
19 notice to the qualified renter within 30 days after that deadline.
20 The notice must include a statement explaining the consequences of
21 nonpayment as described in subsection (5) and instructing the
22 qualified renter of its potential responsibility under subsection
23 (5)(b). A qualified renter shall submit payment in full within 90
24 days after the issuance of the notice with a penalty of 3% per
25 month calculated from the applicable deadline in subsection (3) on
26 the unpaid balance for each month payment is not made in full. In
27 calculating the penalty, a partial month is considered a whole
28 month and the penalty must not be prorated based on the day of the
29 month the late payment is received. For the qualified renter's

1 first assessment year, the penalty must be waived if the qualified
2 renter submits a completed statement along with full payment of the
3 tax levied under section 5 within 30 days after the issuance of the
4 department's notice. A qualified renter may amend a submitted
5 statement for any of the 3 reporting periods immediately preceding
6 the reporting period in which the amendment is submitted. Payments
7 made due to an amended statement are subject to the penalties
8 described in this subsection. The total penalty on each late
9 payment under this subsection must not exceed 21%. The department
10 shall issue refunds for overpayments due to an amended statement.
11 All refunds due to overpayment must be remitted without interest.

12 (5) All of the following apply if a qualified renter does not
13 submit payment in full and any penalty due under subsection (4)
14 within 90 days after the issuance of the department's notice under
15 subsection (4), if a qualified renter does not submit payment in
16 full and any penalty due under subsection (6) within 90 days after
17 an audit assessment under subsection (6), or if the department
18 discovers that the property is not eligible for exemption under
19 section 9p of the general property tax act, 1893 PA 206, MCL
20 211.9p:

21 (a) The department shall rescind no later than the first
22 Monday in June for the immediately preceding year any exemption
23 described in section 9p of the general property tax act, 1893 PA
24 206, MCL 211.9p, granted for any property for which payment in full
25 and any penalty due have not been received or for which the
26 department discovers that the property is not eligible under
27 section 9p of the general property tax act, 1893 PA 206, MCL
28 211.9p.

29 (b) The person whose exemption was rescinded under subdivision

1 (a) shall file with the assessor of the township or city within 30
2 days after the date of the rescission issued under subdivision (a)
3 a statement under section 19 of the general property tax act, 1893
4 PA 206, MCL 211.19, for all property for which the exemption has
5 been rescinded under this section.

6 (c) Within 60 days after a rescission under subdivision (a),
7 the treasurer of the local tax collecting unit or village shall
8 issue amended tax bills for any taxes, including penalty and
9 interest, that were not billed under the general property tax act,
10 1893 PA 206, MCL 211.1 to 211.155, and that are owed as a result of
11 the rescission.

12 (6) A qualified renter shall provide the department access to
13 all books and records relevant to the department's collection and
14 enforcement of the tax under this act for the current calendar year
15 and the immediately preceding 3 calendar years. The department
16 shall develop and implement an audit program that includes, but is
17 not limited to, the audit of statements submitted under subsection
18 (3) and amended statements submitted under subsection (4) for the
19 current calendar year and the 3 calendar years immediately
20 preceding the commencement of an audit. An assessment as a result
21 of an audit must be paid in full within 90 days after the date of
22 issuance and must include penalties as described in subsection (4).
23 Refunds as a result of an audit under this subsection must be
24 without interest. The exemption for personal property for which an
25 assessment has been issued as a result of an audit under this
26 subsection is subject to the rescission provisions in subsection
27 (5) for the years of the assessment if full payment is not timely
28 made as required by this subsection.

29 (7) A qualified renter may appeal the tax levied under section

1 5 or a penalty or rescission under this section to the Michigan tax
2 tribunal by filing a petition not later than December 31 in that
3 tax year. A qualified renter may appeal an assessment issued,
4 including penalties or rescission, as a result of an audit
5 conducted under subsection (6) by filing a petition with the
6 Michigan tax tribunal within 60 days after the date of that
7 assessment's issuance. The department may appeal to the Michigan
8 tax tribunal by filing a petition for the current calendar year and
9 3 immediately preceding calendar years.

10 Sec. 9. (1) The qualified heavy equipment rental personal
11 property exemption reimbursement fund is created within the state
12 treasury. All proceeds from the qualified heavy equipment rental
13 personal property specific tax levied under this act are dedicated
14 to this fund.

15 (2) The state treasurer shall direct the investment of the
16 fund. The state treasurer shall credit to the fund interest and
17 earnings from fund investments.

18 (3) Money in the fund at the close of the fiscal year must
19 remain in the fund and not lapse to the general fund.

20 (4) The department is the administrator of the fund for
21 auditing purposes.

22 (5) The department shall distribute money from the fund, upon
23 appropriation, only for the following purposes and in the following
24 order of priority:

25 (a) Starting for fiscal year 2021-2022, to the department, for
26 administrative costs associated with administering this act, an
27 amount equal to \$400,000.00. For each fiscal year after fiscal year
28 2021-2022, to the department, for administrative costs associated
29 with administering this act, an amount equal to the amount allowed

1 under this subdivision in the prior fiscal year increased for
2 inflation, as measured by the ratio of the average published
3 monthly Detroit Consumer Price Index values for the previous fiscal
4 year to the published monthly Detroit Consumer Price Index values
5 for the fiscal year prior to the previous fiscal year, minus 1.

6 (b) After the distribution in subdivision (a), distribute the
7 remaining balance as follows:

8 (i) By September 30, 2022, and each September 30 thereafter,
9 distribute 90% of the revenues deposited into the fund in the
10 preceding January through June, less any amount distributed under
11 subdivision (a) during the preceding January through June, to
12 eligible local tax collecting units. By March 31, 2023, and each
13 March 31 thereafter, distribute 90% of the revenues deposited into
14 the fund in the preceding July through December, less any amount
15 distributed under subdivision (a) during the preceding July through
16 December, to eligible local tax collecting units. The distribution
17 under this subparagraph must be allocated to each eligible local
18 tax collecting unit based on the proportion that the total tax
19 collected in the 2 immediately preceding quarterly reporting
20 periods from each qualified renter business location in the
21 eligible local tax collecting unit bears to the total tax collected
22 in the 2 immediately preceding quarterly reporting periods from all
23 qualified renters. At the time the department makes distributions
24 under this subparagraph, the department shall provide each eligible
25 local tax collecting unit the amount of tax collected in the 2
26 immediately preceding quarterly reporting periods from each
27 qualified renter business location in the eligible local tax
28 collecting unit. Within 35 days after an eligible local tax
29 collecting unit receives an allocation under this subparagraph, the

1 eligible local tax collecting unit shall distribute its allocation
2 to the taxing units in proportion to the tax levied under this act
3 and paid from each qualified renter business location in the
4 eligible local tax collecting unit and each millage rate levied on
5 commercial personal property by each taxing unit in the prior
6 calendar year in each qualified renter business location in the
7 eligible local tax collecting unit. The amount that would otherwise
8 be disbursed under this subsection to a local school district for
9 school operating purposes must be paid instead to the state
10 treasury and credited to the state school aid fund established by
11 section 11 of article IX of the state constitution of 1963. Of the
12 amount that would otherwise be disbursed under this subsection to
13 an intermediate school district receiving state aid under section
14 56 or 62 of the state school aid act of 1979, 1979 PA 94, MCL
15 388.1656 and 388.1662, all or a portion, to be determined on the
16 basis of the tax rates being utilized to compute the amount of
17 state aid, must be paid to the state treasury to the credit of the
18 state school aid fund established by section 11 of article IX of
19 the state constitution of 1963. As used in this subparagraph,
20 "eligible local tax collecting unit" means a local tax collecting
21 unit in which is located a qualified renter business location that
22 was reported under section 7(3) for the 2 immediately preceding
23 quarterly reporting periods.

24 (ii) By July 31, 2023, and each July 31 thereafter, distribute
25 10% of the revenues deposited into the fund in the previous
26 calendar year, less any amount distributed under subdivision (a)
27 during the previous calendar year, to those cities, villages,
28 townships, and counties that do not directly or indirectly receive
29 money distributed under subparagraph (i). The distribution under

1 this subparagraph must be allocated to each city, village,
2 township, or county, that does not directly or indirectly receive
3 money distributed under subparagraph (i), based on the proportion
4 that its distribution of local community stabilization share
5 revenue, for the calendar year in question, under section
6 17(4) (a) (i) to (vi) and 17(4) (b) to (e) of the local community
7 stabilization authority act, 2014 PA 86, MCL 123.1357, bears to the
8 total amount of local community stabilization share revenue
9 distributed, for the calendar year in question, under section
10 17(4) (a) (i) to (vi) and 17(4) (b) to (e) of the local community
11 stabilization authority act, 2014 PA 86, MCL 123.1357, to all
12 cities, villages, townships, and counties not directly or
13 indirectly receiving money distributed under subparagraph (i).

14 Sec. 11. Qualified heavy equipment rental personal property
15 specific taxes are not subject to capture by any tax increment
16 finance authority. This section does not prohibit a tax increment
17 finance authority from sharing in the distribution of a local tax
18 collecting unit's allocation described in section 9(5) (b) (i).

19 Sec. 13. The department may promulgate rules as necessary for
20 the administration of this act pursuant to the administrative
21 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

22 Enacting section 1. This act does not take effect unless
23 Senate Bill No. ____ or House Bill No. 4834 (request no. 01233'21)
24 of the 101st Legislature is enacted into law.