

HOUSE BILL NO. 5505

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

A bill to amend 2014 PA 93, entitled
"Alternative state essential services assessment act,"
by amending section 7 (MCL 211.1077), as amended by 2018 PA 505.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) The department shall collect and administer the
2 alternative state essential services assessment as provided in this
3 section.

4 (2) Not later than May 1 in each assessment year, the
5 department shall make available in electronic form to each eligible
6 claimant a statement for calculation of the assessment as provided

1 in section 5. That statement ~~shall~~**must** be developed from ~~the~~**1 or**
2 **both of the following, as applicable:**

3 (a) **The** information submitted by the eligible claimant on the
4 combined document as required by sections 9m and 9n of the general
5 property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

6 (b) **Beginning in 2024, the information on the statement**
7 **submitted under subsection (3) for the immediately preceding**
8 **assessment year if no rescission was requested under section 9m or**
9 **9n of the general property tax act, 1893 PA 206, MCL 211.9m and**
10 **211.9n. A rescission issued under subsection (5) for failure to**
11 **submit payment in full and any penalty due under subsection (4) in**
12 **the immediately preceding year must not result in omission of the**
13 **parcel on the statement for the current year.**

14 (3) Not later than August 15 in each assessment year, each
15 eligible claimant shall electronically revise as necessary and
16 certify the completed statement and make full payment of the
17 assessment levied under section 5 for that assessment year as
18 calculated in section 5(2). The department may waive or delay the
19 electronic certification requirement at its discretion. The
20 department may accept a timely filed statement that calculates the
21 tax under this act that is transmitted and certified using
22 reporting software approved by the department, subject to audit
23 under subsection (6). A statement certified by an eligible claimant
24 ~~shall~~**must** include all of the eligible claimant's eligible personal
25 property located in this state subject to the assessment levied
26 under section 5. The statement required under this subsection ~~shall~~
27 **is not** ~~be~~ subject to disclosure under the freedom of information
28 act, 1976 PA 442, MCL 15.231 to 15.246.

29 (4) If an eligible claimant does not certify the statement and

1 **make** full payment of the assessment levied under section 5 by
2 August 15, the department shall issue a notice to the eligible
3 claimant not later than September 15. The notice ~~shall~~**must** include
4 a statement explaining the consequences of nonpayment as set forth
5 in subsection (5) and instructing the eligible claimant of its
6 potential responsibility under subsection (5)(e). An eligible
7 claimant shall submit payment in full by April 15 of the year
8 following the assessment year along with a penalty of 3% per month
9 on the unpaid balance for each month payment is not made in full up
10 to a maximum of 27% of the total amount due and unpaid. In
11 calculating the penalty, a partial month is considered a whole
12 month and the penalty ~~shall~~**is** not **to** be prorated based on the day
13 of the month the late payment is received. For the eligible
14 claimant's first assessment year, the penalty ~~shall~~**must** be waived
15 if the eligible claimant certifies the statement and makes full
16 payment of the assessment levied under section 5 by September 15.
17 An eligible claimant may amend a certified statement for the
18 current year up to September 15. Payments made due to an amended
19 statement are subject to the penalties as described in this
20 subsection. The department shall issue refunds for overpayments due
21 to an amended statement. All refunds due to overpayment ~~shall~~**must**
22 be remitted without interest except as provided by section 37 of
23 the tax tribunal act, 1973 PA 186, MCL 205.737.

24 (5) For any assessment year in which an eligible claimant does
25 not submit payment in full and any penalty due under subsection (4)
26 ~~or (6)~~ by April 15 of the year following the assessment year, or if
27 the department discovers that the property is not eligible under
28 section 9m or 9n of the general property tax act, 1893 PA 206, MCL
29 211.9m and 211.9n, all of the following ~~shall~~ apply:

1 (a) The department shall ~~issue an order to~~ rescind no later
2 than the first Monday in June for the immediately preceding
3 assessment year any exemption described in section 9m or 9n of the
4 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n,
5 granted for any parcel for which payment in full and any penalty
6 due have not been received or for which the department discovers
7 that the property is not eligible under section 9m or 9n of the
8 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

9 (b) Upon ~~the~~ request of the department, the state tax
10 commission shall issue an order to rescind no later than the first
11 Monday in June for the immediately preceding assessment year any
12 exemption under section 9f of the general property tax act, 1893 PA
13 206, MCL 211.9f, which exemption was approved under section 9f of
14 the general property tax act, 1893 PA 206, MCL 211.9f, after 2013
15 for any parcel for which payment in full and any penalty due have
16 not been received or for which the state tax commission discovers
17 that the property is not eligible personal property.

18 (c) Upon ~~the~~ request of the department, the state tax
19 commission shall issue an order to rescind no later than the first
20 Monday in June for the immediately preceding assessment year any
21 exemption for eligible personal property subject to an extended
22 industrial facilities exemption certificate under section 11a of
23 1974 PA 198, MCL 207.561a, for any parcel for which payment in full
24 and any penalty due have not been received or for which the
25 department discovers that the property is not eligible personal
26 property.

27 (d) Upon ~~the~~ request of the department, the state tax
28 commission shall issue an order to rescind no later than the first
29 Monday in June for the immediately preceding assessment year any

1 extended exemption for eligible personal property under section
2 9f(8) (a) of the general property tax act, 1893 PA 206, MCL 211.9f,
3 for any parcel for which payment in full and any penalty due have
4 not been received or for which the department discovers that the
5 property is not eligible personal property.

6 (e) The eligible claimant shall file with the assessor of the
7 township or city within 30 days of the date of the rescission
8 issued under subdivisions (a) to (d) a statement under section 19
9 of the general property tax act, 1893 PA 206, MCL 211.19, for all
10 property for which the exemption has been rescinded under this
11 section.

12 (f) Within 60 days of a rescission under subdivisions (a) to
13 (d), the treasurer of the local tax collecting unit shall issue
14 amended tax bills for any taxes, including penalty and interest,
15 that were not billed under the general property tax act, 1893 PA
16 206, MCL 211.1 to 211.155, or under 1974 PA 198, MCL 207.551 to
17 207.572, and that are owed as a result of the rescission.

18 (6) An eligible claimant shall provide access to the books and
19 records, for audit purposes, relating to the location and
20 description; the date of purchase, lease, or acquisition; and the
21 purchase price, lease amount, or value of all personal property
22 owned by, leased by, or in the possession of that person or a
23 related entity if requested by the assessor of the township or
24 city, county equalization department, or department for the year in
25 which the statement is filed and the immediately preceding 3 years.
26 The department shall develop and implement an audit program ~~which~~
27 **that** includes, but is not limited to, **the audit of exemptions**
28 **claimed under sections 9m and 9n of the general property tax act,**
29 **1893 PA 206, MCL 211.9m and 211.9n, to determine eligibility,** the

1 audit of statements submitted under subsection (3), and amended
2 statements submitted under subsection (4) for the current calendar
3 year and the 3 calendar years immediately preceding the
4 commencement of an audit. An assessment as a result of an audit
5 ~~shall~~**must** be paid in full within 35 days of issuance and ~~shall~~
6 **must** include penalties and interest as described in section 154(3)
7 of the general property tax act, 1893 PA 206, MCL 211.154. Refunds
8 as a result of an audit under this subsection ~~shall~~**must** be without
9 interest. ~~The exemption for personal property for which an~~
10 ~~assessment has been issued as a result of an audit under this~~
11 ~~subsection shall be subject to the rescission provisions of~~
12 ~~subsection (5) for the years of the assessment if full payment is~~
13 ~~not timely made as required by this subsection.~~**Upon completion of**
14 **the audit conducted under this subsection, the department shall**
15 **rescind any exemption on personal property for which full payment**
16 **of an assessment, including any penalty and interest, is not**
17 **received within 35 days of issuance of the audit determination or**
18 **for personal property the department discovers is not eligible**
19 **under section 9m or 9n of the general property tax act, 1893 PA**
20 **206, MCL 211.9m and 211.9n.**

21 (7) An eligible claimant may appeal an assessment levied under
22 section 5 or a penalty or rescission under this section to the
23 Michigan tax tribunal by filing a petition not later than December
24 31 in that tax year. An eligible claimant may appeal an assessment
25 issued, including penalties, interest, or rescission, as a result
26 of an audit conducted under subsection (6) by filing a petition
27 with the Michigan tax tribunal within 35 days of the date of that
28 assessment's issuance. The department may appeal to the Michigan
29 tax tribunal by filing a petition for the current calendar year and

1 3 immediately preceding calendar years.

2 (8) The department may require eligible claimants to ~~annually~~
3 file by the dates required under the general property tax act, 1893
4 PA 206, MCL 211.1 to ~~211.55~~, **211.155**, a combined document that
5 includes the form to claim the exemption under sections 9f(9), 9m,
6 and 9n of the general property tax act, 1893 PA 206, MCL 211.9f,
7 211.9m, and 211.9n, and under section 11a of 1974 PA 198, MCL
8 207.561a, a report of the fair market value and year of acquisition
9 by the first owner of eligible personal property, and for any year
10 before 2023, a statement under section 19 of the general property
11 tax act, 1893 PA 206, MCL 211.19. All of the following apply to the
12 filing of a combined document under this subsection:

13 (a) The combined document ~~shall~~**must** be in a form prescribed
14 by the department.

15 (b) As provided in sections 9m and 9n of the general property
16 tax act, 1893 PA 206, MCL 211.9m and 211.9n, leasing companies are
17 not eligible to receive the exemption for qualified new personal
18 property and qualified previously existing personal property and
19 may not use the combined document prescribed in this section. With
20 respect to personal property that is the subject of a lease
21 agreement, regardless of whether the agreement constitutes a lease
22 for financial or tax purposes, all of the following apply:

23 (i) If the personal property is eligible manufacturing personal
24 property, the lessee and lessor may elect that the lessee report
25 the leased personal property on the combined document.

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

29 (iii) Absent an election, the personal property ~~shall~~**must** be

1 reported by the lessor on the personal property statement unless
2 the exemption for eligible manufacturing personal property is
3 claimed by the lessee on the combined document.

4 (c) For eligible personal property exempt under the Michigan
5 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, an
6 eligible claimant shall report the fair market value of that
7 personal property at the time of acquisition by the first owner,
8 including the cost of freight, sales tax, installation, and other
9 capitalized costs, except capitalized interest.

10 (d) The combined document ~~shall~~**must** be filed with the
11 assessor of the township or city in which the eligible personal
12 property is located.

13 (e) The assessor shall transmit ~~the~~**any new** information
14 contained in the combined document filed under this subsection, and
15 other parcel information required by the department, to the
16 department in the form and in the manner prescribed by the
17 department no later than April 1.

18 **(9) Concurrent with the internet publication of the**
19 **department's annual distribution calculations under section 18(3)**
20 **of the local community stabilization authority act, 2014 PA 86, MCL**
21 **123.1358, the department shall make available on the internet the**
22 **calculated total acquisition cost of all eligible personal property**
23 **for each municipality as determined in section 17(4) (b) (i) of the**
24 **local community stabilization authority act, 2014 PA 86, MCL**
25 **123.1357. Upon request, the department shall make available to a**
26 **requesting municipality the details of the calculation of the total**
27 **acquisition cost of all eligible personal property and other**
28 **information, as needed, regarding the calculation of the**
29 **distribution under section 17(4) (b) of the local community**

1 stabilization authority act, 2014 PA 86, MCL 123.1357. As used in
2 this subsection, "municipality" means that term as defined in
3 section 5(s) of the local community stabilization authority act,
4 2014 PA 86, MCL 123.1345.

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

8 (a) Senate Bill No.____ or House Bill No. 5504 (request no.
9 04379'21).

10 (b) Senate Bill No.____ or House Bill No. 5503 (request no.
11 04381'21).

12 (c) Senate Bill No.____ or House Bill No. 5502 (request no.
13 04382'21).