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SBT CREDIT: RENTAL BUSINESSES

House Bill 6040 as introduced
First Analysis (9-22-98)

Sponsor: Rep. Kirk A. Profit
Committee: Tax Policy

THE APPARENT PROBLEM:

Owners of rental businesses complain that while the inventory of retailers is exempt from the General Property Tax Act, rental inventory is not exempt, but is considered personal property and subject to taxation by local units of government. This, they complain, amounts to double taxation, since rental transactions are subject to the use tax at the same time that the items being rented are subject to the property tax. Rental business owners have said they consider the rental of equipment to be equivalent to the "sale" of some portion of the useful life of the equipment. Moreover, some retailers also rent out equipment as well as selling it, but because their inventory is considered to be for sale on tax day (December 31), they do not pay personal property taxes on any of their inventory. To rental businesses, this is a further galling inequity. The property tax law says that the exemption for inventory does not cover "property under lease or property principally intended for lease rather than sale." But rental businesses say the short-term rental of property is fundamentally different from a lease transaction. They say that with a rental transaction, the consumer can return the product at any time and pay only for the time it was kept, whereas equipment leases are typically for longer periods of time and the lease must be paid in full no matter when the equipment is returned. This distinction, they say, justifies treating rentals differently from leases. Legislation has been introduced that would help to remedy this situation.

THE CONTENT OF THE BILL:

The bill would amend the Single Business Tax Act to allow rental businesses a credit against the single business tax equal to the amount of personal property taxes paid in the tax year on certain kinds of rental inventory. If the credit exceeded the taxpayer's liability, the excess would be refunded to the taxpayer.

To qualify for the credit, a taxpayer would have to be 1) an owner of rental property the rental of which provides 50 percent or more of the owner's gross proceeds for the tax year and 2) an owner of rental property the possession of which is not transferred to the same person for more than six months in any 12-month period.

The term "rental inventory" would refer to tangible personal property that is subject to a rental agreement and that is principally rented for household use 50 percent or more of the time, the possession of which is transferred for an hourly, daily, weekly, or monthly period. The term would not include a videotape; medical supplies or equipment; recreational equipment; or linens.

MCL 208.39c

BACKGROUND INFORMATION:

Section 211.9c of the General Property Tax Act says that inventory property is exempt. It defines the term "inventory" as: 1) the stock of goods held for resale in the regular course of trade of a retail or a wholesale business; 2) finished goods, goods in process, and raw materials of a manufacturing business; and 3) materials and supplies, including repair parts and fuel. The term "inventory" does not include personal property under lease or principally intended for lease rather than sale. It also does not include property allowed a deduction or allowance for depreciation or depletion under the federal Internal Revenue Code.

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The bill aims at addressing an inequity that afflicts businesses that rent out equipment. While retailers need not pay the personal property tax on their inventory, rental businesses are assessed this tax on their rental inventory. (At the same time, rental transactions are subject to the use tax.) This bill would grant an SBT credit for personal property taxes paid by certain rental businesses on certain kinds of rental equipment. Generally speaking, the credit is for companies that derive 50 percent or more of their income from rental business; that do not rent to the same person for more than six months in any 12-month period; that rent property that is principally rented for household use 50 percent or more of the time; and that rent on an hourly, daily, weekly, or monthly basis. This means it covers those rentals many householders are familiar with: tools, power equipment, party goods, tents, etc. This credit will reduce the property tax burden of rental businesses, which will allow them to add to their inventories, which in turn will generate greater use tax revenues for the state (through additional rentals). This will help to offset any fiscal impact from the SBT credit.

Against:

This bill essentially requires the state, through an SBT credit, to reimburse certain rental businesses for the personal property taxes they pay to local units of government. Does this make sense? If levying the personal property tax on these rental items is legitimate, why shouldn't businesses pay the tax? If such a levy is not legitimate, why should it continue to be paid at all? Moreover, the bill gives special treatment to certain kinds of rental agreements and specifically excludes certain items. What justification is there for this? This makes administration of the tax laws more difficult and invites abuses. The property tax law clearly limits the inventory exemption to goods intended for resale by retailers and wholesalers; it does not extend the exemption to goods for rent. The exemption should not be extended indirectly through the Single Business Tax Act.

Response:

Rental businesses argue that rental inventory is subject to double taxation because they must pay the personal property tax on the equipment annually while the rental transactions are subject to the use tax. However, they say, local units of government have rejected this argument on the grounds that local units do not impose the double taxation, since the use tax is a state tax. So, this bill moves the credit to the state level and holds the local units harmless. (The loss of local revenue has been an obstacle to correcting this tax inequity.)

Rebuttal:

The use tax is passed on directly to the consumer in an equipment rental transaction. The business simply collects the tax on behalf of the state.

POSITIONS:

The American Rental Association of Michigan supports the bill. (9-16-98)

The Department of Treasury is opposed to this bill. (9-16-98)

Analyst: C. Couch

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.