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BUILDINGS ON LEASED LAND: TREAT AS REAL PROPERTY

House Bill 4373 with committee amendment
First Analysis (5-20-99)

Sponsor: Rep. Nancy Cassis
Committee: Tax Policy

THE APPARENT PROBLEM:

Buildings are typically considered to be real property under the General Property Tax Act. However, the act says that buildings and improvements located upon leased real property are to be treated as personal property except where the value of the real property is also assessed to the lessee or owner of those buildings and improvements. The question of whether this is sound public policy has been raised in recent years in the discussions over reforming, reducing, or eliminating taxes on personal property. For example, one obstacle to reducing or eliminating personal property taxes is that it constitutes a large portion of total taxable property in some local units. According to tax specialists, in one local unit (Midland) personal property taxes constitute about one-half of total property taxes. Yet inquiries revealed that one facility alone -- a large co-generation plant -- makes up a large portion of the total personal property taxes. If this facility was classified as real property, the local unit would be less vulnerable to reductions in personal property taxes. Also, say tax specialists, the current classification of buildings on leased land as personal property would encourage the use of leased land for buildings as a tax dodge if taxes on personal property were reduced or eliminated. Legislation has been introduced that would treat buildings on leased land as real property for tax purposes.

THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act to specify that, generally speaking, for taxes levied after December 31, 1998, buildings and improvements located upon leased real property would be taxed as real property to their owner if the value of the buildings or improvements was not otherwise included in the assessment of real property. Further, a building on leased land would bear the same classification as the parcel on which it was located.

Currently, the act says that buildings and improvements located upon leased real property are to be treated as personal property except where the value of the real property is also assessed to the lessee or owner of those buildings and improvements. This provision would apply only for taxes levied before January 1, 1999. (Tax specialists say this means the bill would first apply to taxes levied on December 1, 1999; that is, property taxes paid in 2000.)

The bill also would delete a provision that reads:

"All animals kept throughout the year in some township other than where the owner resides shall be assessed to such owner or the person in possession in the township where kept."

MCL 211.2 et al.

BACKGROUND INFORMATION:

Public Act 20 of 1999 (Senate Bill 102) provides an exemption for new personal property for certain "eligible businesses" in certain localities at the discretion of the local unit of government. (The bill was intended for General Motors and Lansing.) That bill, it should be noted, specifically said that personal property located on real property owned by another, including buildings on leased land, is not eligible for an exemption as new personal property.

FISCAL IMPLICATIONS:

The bill has no fiscal implications, according to the House Fiscal Agency. (5-18-99)

ARGUMENTS:

For:

Supporters of this proposal say it is important to address reforms in the personal property tax before addressing the various proposals for personal property tax relief. Treating buildings on leased land as real property is a sensible reform. It treats buildings alike regardless of the ownership of the land on which they sit. This classification is of little consequence if real and personal property are treated alike for tax purposes. However, if proposals to treat personal property differently were enacted, the re-classification would be important. For example, if new personal property was exempted from taxation, and the current treatment of buildings on leased land stayed in place, there would be an incentive for businesses to put buildings on leased land to escape property taxes.

Response:

More examination of this issue is necessary so that all of its possible ramifications can be explored. There are a number of technical issues that remain to be worked through.

POSITIONS:

The Michigan Chamber of Commerce testified in support of the bill. (5-18-99)

The Department of Treasury is still reviewing the proposal. (5-18-99)

The Michigan Assessors Association supports the bill. (5-18-99)

The Michigan Townships Association has indicated support for the bill. (5-18-99)

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.