

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators Bullard and Emmons

ENROLLED SENATE BILL No. 1054

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes thereon, and for the collection of taxes levied; making such taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts in anywise contravening any of the provisions of this act," by amending sections 8a and 13 (MCL 211.8a and 211.13), section 8a as added by 1994 PA 96, and by adding section 8c.

The People of the State of Michigan enact:

Sec. 8a. (1) Qualified personal property made available by a person that is a qualified business for use by another person shall not be assessed to the qualified business and instead is assessable and taxable to the user who acquires or possesses the qualified personal property to the extent provided for in this section. Property assessed under this section shall not be required to be assessed separately from other personal property assessed to the user.

(2) A person who is a qualified business that makes available qualified personal property shall file the statement required by section 18 not later than February 1. A person to whom qualified personal property is taxable as provided in this section shall file the statement required by section 18 by February 20 and shall include the qualified personal property on that statement. The statement filed by the qualified business shall include, itemized for each user, all of the following for all qualified personal property:

- (a) The name of the qualified business.
- (b) The user responsible for payment of the tax.
- (c) The type of property.
- (d) The location of the property, as indicated in the records of the qualified business.
- (e) The purchase price including sales tax, freight, and installation.
- (f) The year the property was purchased.
- (g) If the qualified business is the manufacturer of the property, the original selling price, and if there is no original selling price, then the original cost.
- (h) The amount and frequency of periodic payments required of the user.

(i) An affirmation that the person making the statement is a qualified business and that property included in the statement is qualified personal property as defined in this section.

(3) A user of qualified personal property may request from the assessor, and the assessor shall provide, a copy of that portion of the statement filed by the qualified business by February 1 that includes qualified personal property for that user. If a good faith statement is not filed by February 1, or if property is not included in the statement required to be filed by February 1, then that property omitted or not reported is assessable and taxable to the person who makes the property available regardless of whether the person is a qualified business or the property is qualified personal property.

(4) A designee of the local tax collecting unit who is a certified assessor may examine the books and records of a person who files the statement required by section 18 that are necessary to determine if property included in the statement required by section 18 is qualified personal property. A person is not required to be a certified personal property examiner to examine books and records pursuant to this subsection.

(5) The state tax commission shall develop additions to the statement required by section 18 necessary to assure that property reported pursuant to subsection (2) is certified under oath to be qualified personal property reported by a person to whom qualified personal property is taxable.

(6) As used in this section:

(a) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.

(b) "Qualified business" means a for-profit business that obtains services relating to that business from 30 or fewer employees or employees of independent contractors performing services substantially similar to employees during a random week in the year ending on the tax day. If a person is an entity under common control or is a member of an affiliated group as those terms are used in section 36(7) of the single business tax act, 1975 PA 228, MCL 208.36, the number of employees from whom services are obtained includes all employees of the group and employees of independent contractors of the group rendering services to the qualified business.

(c) "Qualified personal property" means property on which a retail sales tax has been paid or liability accrued contemporaneous with the user acquiring possession of the property, or on which sales tax would be payable if the property was not exempt, and that is subject to an agreement entered into after December 31, 1993 to which all of the following apply:

(i) A party engaged in a for-profit business obtains the right to use or possess personal property in exchange for making periodic payments for a noncancelable term of 12 months or more.

(ii) The party making periodic payments can obtain legal title to the property by making all the periodic payments or all of the periodic payments and a final payment that is less than the true cash value of the property determined using state tax commission cost multipliers for personal property.

(iii) The written agreement between the qualified business and the party making periodic payments requires that party to report the property as qualified personal property pursuant to section 18 and to pay taxes assessed against the property.

(d) "Random week" means a 7-day period during a calendar year beginning on a Monday and ending on a Sunday that is selected at random. Not later than January 15 each year, the state tax commission shall establish the random week for the immediately preceding year.

(7) This section does not affect the requirements for reporting or assessing personal property acquired or possessed by a nonprofit organization.

Sec. 8c. (1) Daily rental property shall be assessed to the owner at the location of the rental business and is not assessable at its location on tax day as provided in section 2 if all of the following conditions are satisfied:

(a) The location of the rental business is in this state and the daily rental property is located in this state on tax day as provided in section 2.

(b) The daily rental property is permanently labeled with the name of the owner and either the business address or current telephone number of the owner with an indication that the property is daily rental property. The owner shall also affix a unique identifying number to the daily rental property. If the daily rental property consists of multiple small items that are part of a matched set or if it is impractical to label the daily rental property, the required statement and identifying number may be placed on the daily rental property's container used to store the daily rental property when not in use.

(c) Not later than February 20 of each year, the owner provides the assessor of the city or township where the rental business is located an itemized listing of the owner's daily rental property, as of tax day. The listing shall describe the daily rental property by manufacturer, make, and model.

(d) Not later than February 20 of each tax year, the owner shall give the assessor of the city or township where the rental business is located written authorization to provide a copy of information provided pursuant to subdivision (c) to the assessor of any other city or township in which the daily rental property may have been physically located on tax day.

(e) If the owner of daily rental property is required to provide a written statement pursuant to section 18 to any local tax collecting unit other than the local tax collecting unit in which the daily rental property is assessable, the written statement shall include a written statement indicating the jurisdiction in which its daily rental property is being reported.

(2) The owner's reporting of daily rental property is subject to audit by any of the following:

(a) Any assessment jurisdiction in which the daily rental property is located on tax day.

(b) The local tax collecting unit where the rental business is located.

(c) The county equalization department of a county in which the daily rental property is located on tax day or where the rental business is located.

(d) The state tax commission.

(3) The owner's tangible personal property that is not assessable as provided in subsection (1) is assessable as provided in section 2.

(4) As used in this section:

(a) "Daily rental property" means tangible personal property that is exclusively offered on an hourly, daily, weekly, or monthly basis for a rental term of 6 months or less pursuant to a written agreement and had an acquisition cost when new of \$10,000.00 or less, including freight and sales tax. In determining whether a rental term extends beyond 6 months, the rental term shall be computed by adding all permitted or required extensions of the rental term set forth in the written agreement for the daily rental property. Daily rental property does not include tangible personal property rented in conjunction with a service contract that extends beyond 90 days.

(b) "Location of the rental business" or "where the rental business is located" means the local tax collecting unit in which the daily rental property is kept when it is not rented to a customer.

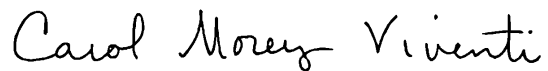
(c) "Owner" means the individual, partnership, corporation, association, or other legal entity that owns daily rental property.

Sec. 13. (1) All tangible personal property, except as otherwise provided in this act, shall be assessed to the owner of that tangible personal property, if known, in the local tax collecting unit in which the tangible personal property is located on tax day as provided in section 2. If the owner is not known and a person is beneficially entitled to tangible personal property or has possession of tangible personal property, the tangible personal property shall be assessed to that person. However, a person with only a security interest and no ownership interest in tangible personal property without possession shall not be assessed as an owner of that tangible personal property.

(2) If tangible personal property is assessed to a person in possession of that tangible personal property, that person, unless contrary to a contractual provision, has a right of action for the amount of the taxes assessed against the owner or person beneficially entitled to that tangible personal property.

(3) An assessing officer is not restricted to any particular period in preparing the assessment roll and may survey, examine, or review property at any time prior to or after the tax day as provided in section 2.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.