

Legislative Analysis



ALLOW PARTNERSHIPS TO DEFER SUMMER TAXES ON AGRICULTURAL PROPERTY

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Senate Bill 634 (reported from House Committee without amendment)

Sponsor: Sen. Joe Hune

House Committee: Agriculture

Senate Committee: Finance

First Analysis (3-5-12)

BRIEF SUMMARY: The bill would amend the General Property Tax Act to allow the deferment of summer taxes on agricultural property owned by a partnership. A partnership could only claim the deferment if the individual partners qualified for a deferment before they formed the partnership. This practice is currently allowed for limited liability companies (LLC).

FISCAL IMPACT: As written, the bill would have no impact on overall property tax collections received by local units of government. It would, however, potentially change the timing of payments from some taxpayers, and thus alter the cash flow received by the local unit.

THE APPARENT PROBLEM:

In Michigan, it is common for property taxes to be collected in summer and winter installments. For some, summer property taxes present a hardship. This is particularly true for farmers who may rely on the receipts from fall or winter harvests to pay their property taxes. To remedy this situation, the General Property Tax Act allows certain groups of taxpayers to defer summer property tax payments until the following February 15. A deferment is allowed for agricultural property if the gross receipts from agricultural or horticultural operations in the previous year, or the average gross receipts in the previous three years, are not less than the owner's household income in the previous year.

(Deferments are also available for individual taxpayers; individuals wishing to defer summer payments must meet eligibility criteria related to physical disability, age, or military service, and have a household income from the previous year that does not exceed \$40,000.)

The General Property Tax Act was amended in 2009 (2009 PA 189) to extend the property tax deferment to agricultural property owned by limited liability companies (LLC), provided the individual members qualified for the deferment before joining the LLC. This was necessary because an increasing number of farmers were forming LLC's, which made the agricultural land ineligible for determent. For the sake of fairness and uniformity, this bill seeks to extend the current property tax deferment for agricultural property to also include property owned by a partnership

THE CONTENT OF THE BILL:

Senate Bill 634 would amend Section 51 to allow a partnership to defer summer property taxes on agricultural property it owns, provided the income criteria in the act is met and the individual partners qualified for a deferment before the partnership was formed. The act originally applied to individual owners of agricultural property, and was then amended in

2009 to allow this deferment for individuals organized as a limited liability company (LLC). This bill, as noted, extends the eligibility to partnerships.

Currently, property tax deferments are available for taxes on the principal residence of a taxpayer who meets criteria related to a physical disability, military service, or age, and who also meets household income guidelines. Deferments are currently allowed for agricultural real property if (1) the gross receipts of the agricultural or horticultural operations in the previous year or (2) the average gross receipts of the operations in the previous three years are not less than the household income of the owner in the previous year or the combined household incomes in the previous year of the individual members of an LLC that owns the agricultural real property. An LLC may only claim a deferment if the individual members qualified for the deferment before they the LLC. Senate Bill 634 would extend these provisions to now include partnerships.

MCL 211.51

HOUSE COMMITTEE ACTION:

The committee reported the senate-passed version of the bill without amendment.

BACKGROUND INFORMATION:

For the summer tax deferment form, see Department of Treasury *Form 471*, at: www.michigan.gov/documents/homestead1_2541_7.pdf.

ARGUMENTS:

For:

Some farmers find it advantageous to enter into partnerships for a variety of reasons. However, when farmers enter into a partnership, the agricultural property is no longer eligible to defer summer property taxes. It is common for agricultural operations to need the revenue from fall or winter harvests to pay summer property taxes. The bill seeks to accommodate this situation and extend the same tax provisions that currently exist for LLC's. According to testimony, this will provide farmers additional flexibility and provide tools to better manage cash flow.

Against:

There was no opposition at the committee level.

POSITIONS:

The Michigan Department of Treasury supports the bill. (2-29-12)

Michigan Farm Bureau supports the bill. (2-29-12)

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