

THE GENERAL PROPERTY TAX ACT (EXCERPT)
Act 206 of 1893

211.8a Qualified personal property of qualified business; availability for use by another person; assessment to user; statements; filing; copies; examination of books and records; additions to statement; definitions; requirements of nonprofit organization not affected.

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 19 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 19 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 19 that are necessary to determine if property included in the statement required by section 19 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 19 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 a unified business group as that term is defined in section 117 of the Michigan business tax act, 2007 PA 36, MCL 208.1117, the number of employees from whom services are obtained includes all employees of the unitary business group and employees of independent contractors of the unitary business 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 19 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.

History: Add. 1994, Act 96, Imd. Eff. Apr. 13, 1994 ;-- Am. 1998, Act 537, Imd. Eff. Jan. 19, 1999 ;-- Am. 2007, Act 191, Imd. Eff. Dec. 21, 2007

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