

Act No. 96  
Public Acts of 1994  
Approved by the Governor  
April 12, 1994  
Filed with the Secretary of State  
April 13, 1994

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1994**

Introduced by Senator Dunaskiss

# **ENROLLED SENATE BILL No. 215**

AN ACT to amend Act No 206 of the Public Acts of 1893 entitled as amended 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 as amended being sections 211 1 to 211 157 of the Michigan Compiled Laws by adding section 8a

*The People of the State of Michigan enact*

Section 1 Act No 206 of the Public Acts of 1893 as amended being sections 211 1 to 211 157 of the Michigan Compiled Laws is amended by adding section 8a to read as follows

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 property is taxable as provided in this section shall

file the statement required by section 18 by February 20. The statement filed by the qualified business shall include separately 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 person who makes available qualified personal property that files the statement provided for in subsection (2) shall provide a copy of the statement to each user of property responsible for payment of the tax along with a notice that the user is responsible for reporting the property and the payment of the tax. 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 the statement is not filed by February 1, or if property is not included in the statement required to be filed by February 1, then property 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 subsection (2) that are necessary to determine if the person is a qualified business and if property included in the statement required by subsection (2) 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 qualified business.

(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, Act No. 228 of the Public Acts of 1975, being section 208.36 of the Michigan Compiled Laws, 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 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.

(8) This section applies to personal property assessments made after 1994 and before 2000.

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor