

Act No. 154
Public Acts of 2013
Approved by the Governor
November 5, 2013
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Senators Brandenburg, Robertson, Caswell, Proos, Marleau, Colbeck and Booher

ENROLLED SENATE BILL No. 490

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 on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture 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 with property delinquent for taxes; 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 acts and parts of acts," by amending sections 9m and 9n (MCL 211.9m and 211.9n), section 9m as added by 2012 PA 401 and section 9n as added by 2012 PA 403.

The People of the State of Michigan enact:

Sec. 9m. (1) Beginning December 31, 2015 and each year thereafter, qualified new personal property for which an exemption has been properly claimed under subsection (2) is exempt from the collection of taxes under this act.

(2) A person shall claim the exemption under this section by filing an affidavit with the local tax collecting unit in which the qualified new personal property is located as provided in subsection (3). The affidavit shall be in a form prescribed by the state tax commission. An affidavit claiming an exemption under this section applies to all existing and subsequently acquired qualified new personal property.

(3) If a person claiming an exemption under this section has not filed an affidavit under this section in any prior year with the local tax collecting unit in which the qualified new personal property is located, that person shall file the affidavit described under subsection (2) with that local tax collecting unit not later than February 10 of the first year for which the person is claiming the exemption for qualified new personal property in the local tax collecting unit.

(4) Except for a person claiming an exemption under this section for personal property that was subject to section 9f or 1974 PA 198, MCL 207.551 to 207.572, in 2015, if an affidavit claiming the exemption under this section is filed as provided in subsection (3) by February 10, 2016, and the person claiming the exemption under this section complied with section 19(9) in 2015, or if the filing requirement under section 19(9) was not applicable because the qualified new personal property was acquired in 2015, the person claiming the exemption under this section is not required to file a statement under section 19 for that qualified new personal property in 2016. Except for a person claiming an exemption under this section for personal property that was subject to section 9f or 1974 PA 198, MCL 207.551 to 207.572, in 2015, if an affidavit claiming the exemption under this section is filed as provided in subsection (3), beginning in 2017, the person claiming the exemption under this section is not required to file a statement under section 19 for qualified new personal property exempt under this section. For a person claiming an exemption under this section for personal

property that was subject to section 9f or 1974 PA 198, MCL 207.551 to 207.572, in 2015, if an affidavit claiming the exemption under this section is filed as provided in subsection (3) and the person claiming the exemption under this section complied with section 19(9) in 2015, the person claiming the exemption under this section is not required to file a statement under section 19 for that qualified new personal property in the first year for which that person is claiming an exemption under this section or in any subsequent year. For a person claiming an exemption under this section for personal property that was subject to section 9f or 1974 PA 198, MCL 207.551 to 207.572, in 2015, if an affidavit claiming the exemption under this section is filed as provided in subsection (3), but the person claiming the exemption under this section did not comply with section 19(9) in 2015, the person claiming the exemption under this section shall file a statement under section 19 for that person's qualified new personal property in the first year for which that person is claiming an exemption under this section for qualified new personal property, but that person is not required to file a statement under section 19 for that qualified new personal property in any subsequent year. If the person claiming the exemption under this section has not filed an affidavit as required under subsection (2), the personal property for which the person is claiming an exemption is subject to the collection of taxes under this act and that person shall file a statement under section 19.

(5) If the assessor of the local tax collecting unit believes that personal property for which an affidavit claiming an exemption is filed under subsection (2) is not qualified new personal property, the assessor may deny that claim for exemption by notifying the person that filed the affidavit in writing of the reason for the denial and advising the person that the denial may be appealed to the board of review under section 30 or 53b. The assessor may deny a claim for exemption under this subsection for the current year only. If the assessor denies a claim for exemption, the assessor shall remove the exemption of that personal property and amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes.

(6) A person claiming an exemption for qualified new personal property exempt under this section shall maintain books and records and shall provide access to those books and records as provided in section 22.

(7) If a person fraudulently claims an exemption for personal property under this section, that person is subject to the penalties provided for in section 21(2).

(8) As used in this section:

(a) "Affiliated person" means a sole proprietorship, partnership, limited liability company, corporation, association, flow-through entity, member of a unitary business group, or other entity related to a person claiming an exemption under this section.

(b) "Direct integrated support" means any of the following:

(i) Research and development related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(ii) Testing and quality control functions related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(iii) Engineering related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(iv) Receiving or storing equipment, materials, supplies, parts, or components for industrial processing, or scrap materials or waste resulting from industrial processing, at the industrial processing site or at another site owned or leased by the owner or lessee of the industrial processing site.

(v) Storing of finished goods inventory if the inventory was produced by a business engaged primarily in industrial processing and if the inventory is stored either at the site where it was produced or at another site owned or leased by the business that produced the inventory.

(vi) Sorting, distributing, or sequencing functions that optimize transportation and just-in-time inventory management and material handling for inputs to industrial processing.

(c) "Eligible manufacturing personal property" means all personal property located on occupied real property if that personal property is predominantly used in industrial processing or direct integrated support. Personal property located on occupied real property is predominantly used in industrial processing or direct integrated support if the result of the following calculation is more than 50%:

(i) Multiply the original cost of all personal property located on that occupied real property by its percentage of use in industrial processing or in direct integrated support. Personal property is used in industrial processing if it is not used to generate electricity for sale and if its purchase or use by the person claiming the exemption would be eligible for exemption under section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. For an item of personal property that is used in industrial processing, its percentage of use in industrial processing shall equal the percentage of the exemption the property would be eligible for under section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o.

(ii) Divide the result of the calculation under subparagraph (i) by the total original cost of all personal property located on that occupied real property.

(d) "Industrial processing" means that term as defined in section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. Industrial processing does not include the generation of electricity for sale.

(e) "New personal property" means property that was initially placed in service in this state or outside of this state after December 31, 2012.

(f) "Occupied real property" means all of the following:

(i) A parcel of real property that is entirely owned, leased, or otherwise occupied by a person claiming an exemption under this section.

(ii) Contiguous parcels of real property that are entirely owned, leased, or otherwise occupied by a person claiming an exemption under this section and that host a single, integrated business operation engaged primarily in industrial processing, direct integrated support, or both. A business operation is not engaged primarily in industrial processing, direct integrated support, or both if it engages in significant business activities that are not directly related to industrial processing or direct integrated support.

(iii) The portion of a parcel of real property that is owned, leased, or otherwise occupied by a person claiming the exemption or by an affiliated person.

(g) "Qualified new personal property" means property that meets all of the following conditions:

(i) Is eligible manufacturing personal property.

(ii) Is new personal property.

Sec. 9n. (1) Beginning December 31, 2015 and each year thereafter, qualified previously existing personal property for which an exemption has been properly claimed under subsection (2) is exempt from the collection of taxes under this act.

(2) A person shall claim the exemption under this section by filing an affidavit with the local tax collecting unit in which the qualified previously existing personal property is located as provided in subsection (3). The affidavit shall be in a form prescribed by the state tax commission. A person claiming an exemption for previously existing personal property is only required to file the affidavit claiming the exemption under this section for the first year for which the exemption for that qualified previously existing personal property is claimed in the local tax collecting unit.

(3) If a person claiming an exemption under this section has not filed an affidavit under this section in any prior year with the local tax collecting unit in which the qualified previously existing personal property is located claiming an exemption for that qualified previously existing personal property, that person shall file the affidavit described under subsection (2) with that local tax collecting unit not later than February 10 of the first year for which the person is claiming the exemption for that qualified previously existing personal property in the local tax collecting unit. If an affidavit claiming the exemption for qualified previously existing personal property under this section is filed as provided in this subsection and the person claiming an exemption for that qualified previously existing personal property complied with section 19(9) with respect to that qualified previously existing personal property in 2015, or if the filing requirement under section 19(9) was not applicable because the qualified previously existing personal property was acquired in 2015 or later, the person claiming the exemption under this section is not required to also file a statement under section 19 for that qualified previously existing personal property in the first year for which the exemption is claimed or in any subsequent year. If an affidavit claiming the exemption for qualified previously existing personal property under this section is filed as provided in this subsection but the person claiming the exemption under this section did not comply with section 19(9) with respect to that qualified previously existing personal property in 2015, the person claiming the exemption under this section shall file a statement under section 19 for that qualified previously existing personal property in the first year for which the person is claiming an exemption for that qualified previously existing personal property, but the person is not required to file a statement under section 19 for that qualified previously existing personal property in any subsequent year. If a person claiming an exemption for qualified previously existing personal property has not filed an affidavit as required under this section, that person's qualified previously existing personal property is subject to the collection of taxes under this act and that person shall file a statement under section 19.

(4) If the assessor of the local tax collecting unit believes that personal property for which an affidavit claiming an exemption is filed under subsection (2) is not qualified previously existing personal property, the assessor may deny that claim for exemption by notifying the person that filed the affidavit in writing of the reason for the denial and advising the person that the denial may be appealed to the board of review under section 30 or 53b. The assessor may deny a claim for exemption under this subsection for the current year only. If the assessor denies a claim for exemption, the assessor shall remove the exemption of that personal property and amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes.

(5) A person claiming an exemption for qualified previously existing personal property exempt under this section shall maintain books and records and shall provide access to those books and records as provided in section 22.

(6) If a person fraudulently claims an exemption for personal property under this section, that person is subject to the penalties provided for in section 21(2).

(7) As used in this section:

(a) "Direct integrated support", "eligible manufacturing personal property", and "industrial processing" mean those terms as defined in section 9m.

(b) "Qualified previously existing personal property" means personal property that meets all of the following conditions:

(i) Is eligible manufacturing personal property.

(ii) Meets any of the following conditions:

(A) Has been subject to or exempt from the collection of taxes under this act for the immediately preceding 10 years.

(B) If that personal property was located both outside of and within this state in the immediately preceding 10 years, that personal property was subject to or exempt from the collection of taxes under this act, or would have been subject to or exempt from the collection of taxes under this act if located in this state, for the immediately preceding 10 years.

(C) If that personal property was located outside of this state in the immediately preceding 10 years, that personal property would have been subject to or exempt from the collection of taxes under this act for the immediately preceding 10 years if that personal property had been located in this state.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor