

Personal Property Tax Reform Package

Note: This package does not alter the existing exemptions for industrial and commercial personal property.

Property tax abatement/exemption extension bills

SB 1065 (Brandenburg) (PA 198)

SB 1066 (Robertson) (Technology Park Development Act)

SB 1067 (Caswell) (PA 328)

SB 1068 (Robertson) (Enterprise Zone Act)

- The four listed acts provide limited-duration property tax abatements or exemptions for certain personal property that may qualify as Eligible Manufacturing Personal Property.
- Under the bills, Eligible Manufacturing Personal Property that qualified for an abatement or exemption on 12/31/11 would continue to qualify for the abatement or exemption until that property became exempt under the General Property Tax Act.

KEY POINTS:

- Eliminates the need to have this property go back on the general tax roll only to come off again a short time later.

Small Parcel Exemption

SB 1070 (Nofs)

- Provides that Eligible Personal Property is exempt from tax beginning 12/31/12.
- "Eligible Personal Property" means all of the taxpayer's industrial and commercial personal property within the local tax collecting unit, so long as the combined taxable value of such property within the unit is less than \$40,000. A taxpayer whose property exceeds this limit receives no exemption.
- In order to claim the exemption, the taxpayer must annually file an affidavit with the local tax collecting unit and Treasury attesting that the taxpayer is eligible for the exemption.
- A taxpayer that files the required affidavit does not have to file a personal property tax statement.

KEY POINTS:

- The \$40K TV limit is applied to the combined value of all property within the local tax collecting unit. So, a business that had property in multiple tax collecting units could receive multiple exemptions. That outcome is consistent with the policy underlying the exemption, which is to eliminate all industrial and commercial parcels from the tax roll that generate less tax revenue than they cost in terms of compliance and administrative burden.
- The State Constitution's uniformity requirement will not allow us to do a gradual phase out of the exemption. We are continuing to work on a solution to this problem (i.e., the significant tax consequence of exceeding the \$40k "cliff" by even a small amount). A smaller exemption that is

available to all commercial and industrial taxpayers is one option, but it would remove far fewer parcels from the roll.

- Unlike the proposed exemptions for new and previously existing manufacturing personal property, which are use-based, this exemption will be classification-based like the existing 24 mill industrial PP exemption and 12 mill commercial PP exemption. The small parcel exemption is intended to remove small parcels from the roll, and a classification-based system is as good as any system to accomplish this objective.

Previously Existing Personal Property

SB 1071 (Nofs)

- Provides that Qualified Previously Existing Personal Property is exempt from tax beginning 12/31/15.
- "Qualified Previously Existing Personal Property" means Eligible Manufacturing Personal Property that is at least 10 years old. "Eligible Manufacturing Personal Property" is defined in the reimbursement bill (see below) to mean all personal property that is located on a parcel of real property if the personal property is used more than 50% of the time in Industrial Processing or Direct Integrated Support (both defined in the reimbursement bill).
- In order to claim the exemption on an item of personal property, the taxpayer must file an affidavit with the local tax collecting unit and Treasury only in the first year in which the exemption for that item is claimed.
- A taxpayer that files the required affidavit does not have to file a personal property tax statement for the exempt property for that tax year or any succeeding tax year.

KEY POINTS:

- When this exemption and the exemption for new manufacturing personal property kick in in 2016, approximately 75% of all industrial personal property will immediately become exempt (along with approximately 23% of all commercial personal property that will become exempt in 2013 as a result the small parcel exemption).
- In 2016, the only manufacturing personal property that will still be taxable is property purchased in 2006-2011. In each of the next 6 years, the oldest taxable manufacturing personal property will drop off the roll. All manufacturing personal property will be exempt in 2022.
- Property that was in use in another state prior to 2012 and that was brought into Michigan after 2011 will be considered previously existing property, not new property.

New Personal Property

SB 1069 (Hildenbrand)

- Provides that Qualified New Personal Property is exempt from tax beginning 12/31/15.
- "Qualified New Personal Property" means Eligible Manufacturing Personal Property that was New Personal Property after 12/31/11. "New Personal Property" means property that was first placed in service after 12/31/11 and that was initially purchased from a vendor of new property after

12/31/11. It does not include property that was in service in another state prior to 1/1/12 and that was brought into Michigan after 12/31/11.

- In order to claim the exemption on an item of personal property, the taxpayer must file an affidavit with the local tax collecting unit and Treasury only in 2016.
- A taxpayer that files the required affidavit in 2016 does not have to file a personal property tax statement for the exempt property for that tax year. Beginning in 2017, a taxpayer is not required to file an affidavit claiming the exemption for Qualified New Personal Property or a personal property tax statement for such property.
- A taxpayer must provide documentation evidencing the date of purchase to the local assessor upon request.

KEY POINTS:

- "New" means new. The bill does not allow a company to game the system by bringing in old property from out of state after 2011. If the property had been used or placed into service in another state prior to 2012, or if it was initially purchased from a vendor of new property prior to 2012, it will not be considered "new."
- The affidavit requirement only applies in 2016. (The requirement is needed in 2016 to alert the assessor to remove property placed into service after 2011 from the roll.)

Reimbursement/"Eligible Manufacturing Personal Property"

SB 1072 (Brandenburg)

Reimbursement

- Creates the "Personal Property Tax Reimbursement Fund."
- Beginning in the 2016 fiscal year, requires the department of Treasury to prepare an estimate for each category of political subdivision (e.g., counties, cities, townships, authorities, school districts, etc) of revenue lost in that fiscal year as a result of the proposed exemptions. The estimate would be calculated by adding the following amounts:
 - The aggregate amount by which revenue lost by each taxing unit in that category, not including loss associated with debt mills, exceeds 2% (1% for economically distressed taxing units) of that taxing unit's 2012 Governmental Funds revenue (essentially, total revenue, minus funds carried over from 2011, minus debt mill revenue).
 - All loss associated with debt mills for all taxing units within the category.
 - The aggregate amount of Lost Tax Capture for each tax increment financing authority in the category. ("Lost Tax Capture" means the reduction in captured revenue up to the amount of the debt service obligation for that year for obligations issued in and prior to the 2012 fiscal year.)
- Allows Treasury to consolidate 1 or more categories of political subdivision in preparing its estimates if there is a logical basis for consolidation and consolidation is reasonable and necessary for the effective administration of the act.

- Provides that revenue loss associated with school operating mills shall not be included in the estimates (the idea being that the state will make this revenue up through the foundation allowance).
- Requires local taxing units and tax increment financing authorities to provide Treasury certain property tax, debt and budget data starting 180 days after the close of their 2012 fiscal years in order to be eligible for reimbursement. This data will help the department measure yearly loss and set the baseline 2012 governmental funds amount.
- Requires Treasury to: 1) use best practices and consider all relevant data in preparing its estimates, 2) include on its website a summary of the methodology used to make its estimates, and 3) submit its estimates to the chair and minority vice-chair of the House and Senate appropriations committees.
- Provides that, beginning in the 2016 fiscal year, the legislature shall annually appropriate to the reimbursement fund, at a minimum, an amount equal to its estimate for each category and consolidated category of political subdivision. It further specifies that the legislature may appropriate additional revenue to reflect additional relevant factors.
- Requires Treasury to pay from the fund, upon appropriation, an amount determined by law to each local taxing unit and tax increment financing authority. It further provides that the total amount paid to all local taxing units and tax increment financing authorities within a category or consolidated category must equal the amount appropriated for that category or consolidated category.
- Specifies that it is the legislature's intent that the amount appropriated for reimbursement will be derived from an anticipated revenue increase from the expiration of certificated credits.

Eligible Manufacturing Personal Property

- Defines "Eligible Manufacturing Personal Property" to mean all personal property that is located on a parcel of real property if that personal property is used more than 50% of the time in Industrial Processing or in Direct Integrated Support.
 - "Industrial Processing" means "the conversion or conditioning of tangible personal property by changing the form, composition, quality, combination, or character of the property for ultimate sale at retail or for use in manufacturing of a product to ultimately be sold at retail. Industrial processing does not include the generation of electricity for sale."
 - "Direct Integrated Support" means "research and development functions, testing and quality control functions, engineering functions, and warehousing functions necessary for personal property that is the result of industrial processing."
 - Percent use is calculated by multiplying the true cash value of each individual item of personal property on the real property parcel by its percent use in industrial processing or direct integrated support, adding the results of those calculations, and dividing the total by the total true cash value of all personal property located on the parcel.

KEY POINTS:

- Will provide sufficient revenue to hold at least 98% of a local unit's budget harmless (more than 98% if the unit has debt). As budgets grow, this percentage will grow because the reimbursement threshold is based on 2% of a unit's 2012 budget.
- Revenue supporting debt will be held entirely harmless.
- The locals, themselves, will be responsible for developing distribution formulas for the revenue that is earmarked for each category or consolidated category of political subdivision. The creation of these formulas will be subject to certain ground rules (e.g., interested taxing units must be fairly represented in the negotiations; heavily reliant units must be protected for X years; after X years the formula must be dynamic and not simply based on who used to get what; revenue must first be used to cover all debt obligations, etc.). Each formula will apply to one or more specific categories of political subdivision according to the groupings Treasury uses to estimate the deposits into the fund. So, for instance, Treasury may estimate a combined amount to be deposited into the fund on behalf cities and TIF authorities within those cities. In that case, the cities and TIF authorities would need to develop a joint distribution formula for that revenue.
- The definition of Eligible Manufacturing Personal Property, which determines eligibility for the new and previously existing personal property tax exemptions, is use-based rather than classification-based. A use-based system will allow us to better target the intended recipients of the exemptions, reduce the incentive to seek reclassification simply to receive a tax exemption, prevent the mixing of unrelated concepts (classification and tax status are two different things—classification was only used as the basis of the existing 24 school mill industrial PP exemption because it was expedient), and it should reduce needless litigation.
 - Problem with the current industrial personal property tax exemption: Industrial personal property is currently classified based on the classification of the underlying real property. If that real property is misclassified, or if non-manufacturing activities are performed on an industrial parcel, the taxpayer receives an unintended tax benefit. It's this wrinkle that has required some local units to grant the 24 school mill industrial personal property tax exemption to, among other unintended recipients, doggy day cares, restaurants, laundromats, and, until recently, turbines that generate electricity for the grid.

