



Senate Fiscal Agency  
P.O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bills 5502 through 5506 (as passed by the House)

Sponsor: Representative Mark A. Tisdell (H.B. 5502)  
Representative Diana Farrington (H.B. 5503)  
Representative Julie Calley (H.B. 5504)  
Representative Mary Cavanagh (H.B. 5505)  
Representative Jim Ellison (H.B. 5506)

House Committee: Tax Policy  
Senate Committee: Finance

Date Completed: 12-8-21

### **CONTENT**

**House Bills 5502 and 5503 would amend Sections 9m and 9n of the General Property Tax Act, respectively, to do the following:**

- Specify that an exemption granted under the Act for new personal property or qualified previously existing personal property would remain in effect until the personal property was no longer qualified new personal property or qualified previously existing personal property.
- Require a combined document for the claim of an exemption under the Act to be completed and delivered to the assessor of the township or city in which the qualified new personal property or qualified previously existing personal property was located by February 20 of each year for any year the exemption was claimed before 2023 and the first year the exemption was claimed in a year after 2022.
- Require a person claiming an exemption to rescind the claim by February 20, or if February 20 of a year were a Saturday, Sunday, or legal holiday, the next business day of the year in which exempted property was no longer eligible for the exemption.
- Specify that an owner that failed to file a rescission for property later determined to be ineligible for the exemption would be subject to repayment of any additional taxes with interest.
- Require a local assessor, local treasurer, or county treasurer, depending on the affected tax roll, to take certain action after discovering that property was no longer eligible manufacturing personal property (EMPP).
- Specify that interest on any tax set forth in a corrected or supplemental tax bill would begin to accrue again 60 days after the date the corrected or supplemental tax bill was issued at the rate of 1.0% per month or fraction of a month.

**House Bills 5504 and 5505 would amend the State Essential Services Assessment Act and the Alternative State Essential Services Assessment Act, respectively, to do the following:**

- Allow the information on the tax assessment statement submitted for the immediately preceding year if no rescission were requested under Section 9m or

**9n of the General Property Tax Act, as proposed in House Bills 5502 and 5503, to be used to develop the current year's statement, beginning in 2024.**

- Require the Department of Treasury to rescind, after completing an audit, any exemption on personal property for which full payment of an assessment was not received within 35 days of issuance of an audit determination or for personal property the Department discovered was not eligible under Sections 9m or 9n of the General property Tax Act.**
- Require the Department to make available on the internet the calculated total acquisition costs of all eligible personal property for each municipality as determined in the Local Community Stabilization Authority Act.**

**House Bill 5506 would amend Public Act 198 of 1974, which governs plant rehabilitation districts and industrial development districts in local governmental units, to specify that a new industrial facilities exemption certificate could not be approved under the Act after December 30, 2021, for any personal property that qualified as EMPP as defined under Section 9m of the General Property Tax Act.**

House Bills 5502 through 5505 are tie-barred to each other.

### **House Bills 5502 & 5503**

#### Tax Exemption Claim

Sections 9m and 9n of the General Property Tax Act exempt from the collection of taxes under the Act qualified new personal property and qualified previously existing personal property, respectively, for which an exemption has been properly claimed. For an exemption to be properly claimed, a person must file each year a combined document that includes the form to claim the exemption, a report of the fair market value and year of acquisition by the first owner of qualified new personal property, and for any year before 2023, a statement of all the personal property of that person whether owned by that person or held for the use of another. The bill would delete the requirement that a person file the information described above *each year*.

("New personal property" means property that was initially placed in service in the State or outside of the State after December 31, 2012 or that was construction in progress on or after December 31, 2012 that had not been placed in service in the State or outside of the State before 2013. "Qualified previously existing personal property" means personal property that is eligible manufacturing personal property and that was first placed in service within the State or outside the State more than 10 years before the current calendar year. Generally, "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, or for personal property that is construction in progress and part of a new facility not in operation, the term means all personal property that is part of that new facility if the personal property will be predominantly used in industrial processing when the facility becomes operational.)

Sections 9m and 9n of the Act specify that the combined document for the claim of the exemption must be completed and delivered to the assessor of the township or city in which the qualified new personal property or the qualified previously existing personal property is located by February 20 of each year. Instead, under the bills, the combined document would have to be completed and delivered to the assessor of the township or city in which the qualified new personal property or the qualified previously existing personal property was located by February 20 of each year for any year the exemption was claimed before 2023 and the first year the exemption was claimed in a year after 2022.

Under the bills, beginning in 2023, an exemption would remain in effect until the personal property was no longer qualified new personal property or qualified previously existing personal property.

#### Rescission of a Tax Exemption Claim

Sections 9m and 9n of the Act require a person claiming an exemption to rescind the claim by December 31 of the year in which exempted property is no longer eligible for the exemption by filing with the assessor of the township or city a recession affidavit in a form prescribed by the Department of Treasury. Instead, under the bills, a person claiming an exemption would have to rescind the claim by February 20, or if February 20 of a year were a Saturday, Sunday, or legal holiday, the next day that was not a Saturday, Sunday, or legal holiday of the year in which exempted property was no longer eligible for the exemption by filing with the assessor of the township or city a rescission form prescribed by the Department of Treasury and the statement of all the personal property of that person whether owned by that person or held for the use of another. The bills specify that after receiving a timely filed rescission form, the local assessor would have to remove it.

An owner that failed to file a rescission for property later determined to be ineligible for the exemption would be subject to repayment of any additional taxes with interest. After discovering that the property was no longer EMPP, the assessor would have to remove the exemption and, if the tax roll were in the local tax collecting unit's possession, amend the tax roll to reflect the removal of the exemption. The local treasurer would have to issue a corrected tax bill for any additional taxes with interest at a rate of 1.0% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty within 30 days of the discovery.

If the tax roll were in the county treasurer's possession, it would have to be amended to reflect the removal of the exemption. The county treasurer would have to prepare and submit a supplemental tax bill for any additional taxes, together with interest at a rate of 1.0% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty, within 30 days of the date of the removal.

Interest on any tax set forth in a corrected or supplemental tax bill would begin to accrue again 60 days after the date the corrected or supplemental tax bill was issued at the rate of 1.0% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill would have to be returned as delinquent on March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill was issued.

### **House Bills 5504 & 5505**

#### Electronic Statement

Under the State Essential Services Assessment Act, the State essential services assessment (or State ESA) is a specific tax on eligible personal property owned by, leased to, or in the possession of an eligible claimant (a person claiming an exemption for the property) on December 31 of the year immediately preceding the assessment year. The assessment took effect on January 1, 2016.

"Eligible personal property" means personal property that is exempt under Section 9m or 9n under the General Property Tax Act (which provide for the exemption of qualified new personal and qualified previously existing personal property, respectively); personal property that is eligible manufacturing personal property as defined in Section 9m and that has an approved exemption under Section 9f of the Act (which allows certain entities to adopt a resolution

exempting from the collection of taxes under the Act all new personal property leased or owned by an eligible business located in an eligible district) unless certain conditions are satisfied; personal property subject to an extended industrial facilities exemption certificate under Section 11a of the plant rehabilitation and industrial development act (which specifies when a portion of a facility that is eligible manufacturing personal property must remain subject to the industrial facilities tax and exempt from ad valorem property taxes); and personal property that is subject to an extended exemption under Section 9f(8)(a) of the General Property Tax Act (which provides for continuation of an exemption issued before or on April 30, 1999).

The Alternative State Essential Services Assessment Act provides for the "alternative essential services assessment", which is a specific tax on eligible personal property owned by, leased to, or in the possession of an eligible claimant on December 31 of the year immediately preceding the assessment year. The assessment took effect on January 1, 2016, and is 50% of the State ESA.

The State Essential Services Assessment Act and the Alternative State Essential Services Assessment require the Department of Treasury to collect and administer the respective assessments. By May 1 in each assessment year, the Department must make available in electronic form to each eligible claimant a statement for calculation of the assessments. The statement must be developed from the information submitted by the eligible claimant on the combined document as required by Sections 9m and 9n of the General Property Tax Act.

Instead, under the bills, the statement would have to be developed from one or both of the following, as applicable:

- The information submitted by the eligible claimant on the combined document as required by Sections 9m and 9n of the General Property Tax Act.
- Beginning 2024, the information on the statement submitted for the immediately preceding year if no rescission were requested under Section 9m or 9n of the General Property Tax Act.

A rescission issued for failure to submit payment in full and any penalty due in the immediately preceding year could not result in omission of the parcel on the statement for the current year.

#### Audit

The Acts require an eligible claimant to provide access to the books and records, for auditing purposes, relating to the location and description; the date of purchase, lease, or acquisition; and the purchase price, lease amount, or value of all personal property owned by, leased by, or in the possession of that person or a related entity if requested by the assessor of the township or city, county equalization department, or department for the year in which the statement is filed and the immediately preceding three years.

Under each Act, the Department must develop and implement an audit program that includes the audit of statements and amended statements submitted for the current calendar year and the three calendar years immediately preceding the commencement of an audit. Under the bills, each audit program also would have to include the audit of exemptions claimed under Sections 9m and 9n of the General Property Tax Act to determine eligibility.

The Acts specify that an assessment as a result of an audit must be paid in full within 35 days of issuance and must include penalties and interest as described in the General Property Tax Act. Refunds as a result of an audit must be without interest.

The exemption for personal property for which an assessment has been issued as a result of an audit are subject to the rescission provisions for the years of the assessment if full payment is not made timely. The bills would delete this provision.

Under the bills, after completing an audit, the Department would have to rescind any exemption on personal property for which full payment of the assessment, including any penalty and interest, was not received within 35 days of issuance of the audit determination or for personal property the Department discovered was not eligible under Sections 9m or 9n of the General Property Tax Act.

#### Calculated Total Acquisition Costs

Under the bills, concurrent with the internet publication of the Department's annual distribution calculations of the Local Community Stabilization Authority Act, the Department would have to make available on the internet the calculated total acquisition costs of all eligible personal property for each municipality as determined in the Local Community Stabilization Authority Act. Upon request, the Department would have to make available to a requesting municipality the details of the calculation of the total acquisition costs of all eligible personal property and other information as needed regarding the calculation of the distribution. As used in these provisions, "municipality" would mean that term as defined in the Local Community Stabilization Authority Act. (Under that Act, "municipality" includes counties, cities, villages, townships, local authorities, local school districts, intermediate school districts, community college districts, libraries, tax increment finance authorities, and other local and intergovernmental taxing units.)

#### **House Bill 5506**

Public Act 198 of 1974 requires the legislative body of a local governmental unit by resolution to approve or disapprove the application for an industrial facilities exemption certificate within 60 days after its clerk receives an application.

Under the bill, a new industrial facilities exemption certificate could not be approved and issued under the Act after December 30, 2021, for any personal property that qualified as EMPP as defined under Section 9m of the General Property Tax Act.

MCL 211.9m (H.B. 5502)  
211.9n (H.B. 5503)  
211.1057 (H.B. 5504)  
211.1077 (H.B. 5505)  
207.556 (H.B. 5506)

Legislative Analyst: Jeff Mann

#### **FISCAL IMPACT**

#### **House Bills 5502 & 5503**

The bills would have no fiscal impact on the State or local governments. The changes to reporting requirements would not change the eligibility requirements or cost of exemptions. The amount of the use tax levy for the Local Community Stabilization Authority (LCSA) is set in State statute and would not be changed.

## **House Bills 5504 & 5505**

The bills would have no fiscal impact on the State or local governments. The bills would not alter the liability for the Essential Services Assessment.

## **House Bill 5506**

The bill would have an indeterminate, though likely very small, fiscal impact on the State and local governments. If personal property is eligible for either an industrial facilities exemption certificate or an EMPP exemption, the property is exempt from the levy of ad valorem property taxes. Property exempted with an industrial facilities exemption is subject to a specific tax called the industrial facilities tax, which is levied at essentially one half the rate of ad valorem property taxes and is distributed in the same manner as those taxes. The State receives a share of that tax as School Aid Fund (SAF) revenue. Property exempt as EMPP is subject either to the ESA or the alternative essential services assessment, which is assessed at between 0.45 mills and 2.4 mills, depending on the age of the personal property and whether it is subject to the alternative assessment. The ESA is paid to the State and the revenue is General Fund/General Purpose (GF/GP) revenue. The LCSA makes payments to local units based on the value of property reported for the ESA.

In most cases, it would be advantageous for an owner of EMPP to seek that exemption, so it is unclear how much property would be affected by the bill's restriction. If, because of the bill's provisions, personal property were exempted from ad valorem property taxes as EMPP instead of receiving an industrial facilities exemption, the State would receive less SAF revenue and more GF/GP revenue. The affected local government would not receive the partial property tax reimbursement from the industrial facilities tax, however it would receive a greater reimbursement from the LCSA. The magnitude of the changes would depend on the value of exempted property and the millages applicable to that property.

Fiscal Analyst: Ryan Bergan  
Cory Savino

SAS\S2122\s5502sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.