

State Tax Commission



Assessor Guide to the Small Business Taxpayer Personal Property Tax Exemption

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Introduction:

In December of 2012, initial legislation was passed that significantly changed the taxation of personal property. The Acts, as amended, exempt about ½ of personal property from ad valorem taxation through two main provisions: 1) Small Business Taxpayer Exemption (MCL 211.9o) and 2) Eligible Manufacturing Personal Property Exemption (MCL 211.9m and MCL 211.9n). The Acts also identified a replacement specific tax on personal property, Essential Services Assessment (ESA) and reimbursement for local units lost revenue.

This Guide will focus on detailed information that assessors need to know regarding the Small Business Taxpayer Exemption. Information regarding the Eligible Manufacturing Personal Property Exemption can be found in the *Assessor Guide to Eligible Manufacturing Personal Property Tax Exemption and ESA* available on the State Tax Commission website at www.michigan.gov/stc.

Statutory Review:

MCL 211.9o provides for a personal property tax exemption for “eligible personal property”. This is commonly referred to as the Small Business Taxpayer Exemption.

MCL 211.9o defines “eligible personal property” as meeting all of the following criteria:

The personal property must be classified as industrial personal property or commercial personal property as defined in MCL 211.34c or would be classified as industrial personal property or commercial personal property if not exempt **and**

The combined true cash value of all industrial personal property and commercial personal property owned by, leased by or in the possession of the owner or a related entity claiming the exemption is less than \$80,000 in the local tax collecting unit **and**

The property is not leased to or used by a person that previously owned the property or a person that, directly or indirectly controls, is controlled by, or under common control with the person that previously owned the property.

Industrial personal property is defined in MCL 211.34c as:

- (i) All machinery and equipment, furniture and fixtures, and dies on industrial parcels, and inventories not exempt by law.
- (ii) Personal property of mining companies.

Commercial personal property is defined in MCL 211.34c as:

- (i) All equipment, furniture, and fixtures on commercial parcels, and inventories not exempt by law.
- (ii) All outdoor advertising signs and billboards.

- (iii) Well drilling rigs and other equipment attached to a transporting vehicle but not designed for operation while the vehicle is moving on the highway.
- (iv) Unlicensed commercial vehicles or commercial vehicles licensed as special mobile equipment or by temporary permits.

True Cash Value is defined in MCL 211.27: As used in this act, "true cash value" means the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.

Person means an individual, partnership, corporation, association, Limited Liability Company or other legal entity.

Related entity means a person that directly or indirectly, controls, is controlled by or is under the common control with the person claiming the exemption.

Control, Controlled By and Under Common Control with means the possession of the power to direct or cause the direction of the management and policies of a related entity, directly or indirectly, whether derived from a management position, official office, or corporate office held by an individual; by an ownership interest, beneficial interest, or equitable interest; or by contractual agreement or other similar arrangement. There is a rebuttable presumption that control exists if any person, directly or indirectly, owns, controls, or holds the power to vote, directly or by proxy, 10% or more of the ownership interest of any other person or has contributed more than 10% of the capital of the other person. Indirect ownership includes ownership through attribution or through one or more intermediary entities.

Claiming the Exemption:

In order to claim the exemption a taxpayer must annually file Form 5076 *Affidavit to Claim Small Business Tax Exemption Under MCL 211.9o* with the local unit where the personal property is located, no later than February 10th.

The State Tax Commission has determined **annually filed by February 10**, means **postmarked by February 10**. This is distinctly different from the requirements for filing personal property statements and distinctly different from the requirements to file for the Eligible Manufacturing Personal Property Exemption. The burden of proof remains with the taxpayer to demonstrate postmark by February 10th.

Form 5076 is defined in statute as an affidavit and as such must contain an original signature. Statute **does not** provide for the use of facsimile or electronic signatures on Form 5076.

Form 5076 must be filled out in its entirety. The STC strongly recommends that assessors contact taxpayers who have not fully completed Form 5076 in an effort to obtain the missing information before issuance of a denial.

Review of Form 5076:

Form 5076 (see appendix) must be filed annually by the taxpayer or the taxpayer's authorized representative. The form begins with general taxpayer information including name and address of the taxpayer and name of the local unit where the personal property is located.

Taxpayers must also list all addresses where personal property is located within the Township or City, as well as names of all other businesses having personal property at the locations included in the affidavit. This is very important because of the following eligibility requirement:

The combined true cash value of all industrial personal property and commercial personal property owned by, leased by or in the possession of the owner or a related entity claiming the exemption is less than \$80,000 in the local tax collecting unit

Assessors should review prior year personal property tax information as well as notes from prior year personal property canvass in order to ensure that taxpayers are reporting all locations where they own, lease or are in possession of personal property within that local tax collecting unit.

Taxpayers must also provide any assumed names, a description of the business activity, the date the business began in the local tax collecting unit and the contact information for the person in charge of the personal property records including where the personal property records are located.

Next the individual signing the affidavit must certify the following:

First that they are the owner of the property being claimed as exempt or they are a duly authorized agent.

Second, that the true cash value of all the personal property located within the City or Township that is owned by, leased to or in the possession of the owner or related entity was less than \$80,000 on tax day.

Finally, they must verify the procedures used to determine that the true cash value of the Eligible Personal Property was less than \$80,000 on tax day. This requires the taxpayer to answer two questions:

- a) The determination of True Cash Value was based on the State Tax Commission's recommended valuation procedures as set forth on Form

632, *Personal Property Statement (L-4175)*. Taxpayers must attach an explanation of the method used if the answer is no.

b) The determination of True Cash Value includes all assessable personal property, located within the city or township listed on the Affidavit that is owned by, leased to, or in the possession of the owner or related entity and includes all trade fixtures and may include leasehold improvements not assessed as real property. Taxpayers must attach an explanation if not all personal property is included.

Note: Assessors are reminded that beginning in 2017 all leasehold improvements installed in 2016 or later must be valued as real property improvements.

The form must then be signed, original signature only. The individual signing the form must indicate if they are a sole proprietor, partner, officer, managing member or agent. Agents must attach a letter of authority.

By their signature, the individual signing the form is certifying that the information contained in the affidavit provides a full and true statement of all personal property owned, leased or in the possession of the owner or related entity on tax day.

Taxpayers who file Form 5076 are not required to file a personal property statement in that year. Local units may not require a property owner who files an affidavit (Form 5076) to file a personal property statement.

Assessors are still required to annually send a personal property statement, by January 10th, to any person in their local unit that they believe has assessable personal property in their possession. This is true regardless of if the taxpayer filed and was granted the Small Business Taxpayer exemption in a prior year.

If a property owner files an affidavit (Form 5076) in one year and does not file the affidavit (Form 5076) in the following tax year, the assessor must remove the exemption from the property and ensure that a personal property statement is filed by the owner and an ad valorem personal property assessment is made.

A taxpayer may not file for both the Small Business Taxpayer Exemption (Form 5076) and the Eligible Manufacturing Personal Property Tax Exemption (Form 5278) in the same year for the same personal property. A taxpayer is exempt under one provision or the other but not both.

Determining Eligibility

MCL 211.9o provides that eligible personal property, for which an exemption has been properly claimed is exempt from the collection of taxes under the General Property Tax Act.

As indicated above, eligible personal property is defined in the Act as personal property that meets all of the following conditions:

The personal property must be classified as industrial personal property or commercial personal property as defined in MCL 211.34c or would be classified as industrial personal property or commercial personal property if not exempt **and**

The combined true cash value of all industrial personal property and commercial personal property owned by, leased by or in the possession of the owner or a related entity claiming the exemption is less than \$80,000 in the local tax collecting unit **and**

The property is not leased to or used by a person that previously owned the property or a person that, directly or indirectly controls, is controlled by, or under common control with the person that previously owned the property.

Key in this definition to determining eligibility is the second clause that indicates the combined true cash value of all the personal property owned by, leased by or in the possession of an owner or of a related entity must be less than \$80,000 in that local tax collecting unit.

Determination of eligibility for this exemption is different than determination of tax liability. Determination of eligibility for the exemption includes items, such as leased personal property, which would not be used in the determination of tax liability. It is possible that a taxpayer may have under \$80,000 true cash value for determination of tax liability and not be eligible for the exemption because of items they may lease or have in their possession but do not own.

While the taxpayer, when filing Affidavit Form 5076 is attesting that they meet the requirements for eligibility, we have received several questions from taxpayers and assessors on the issue of the \$80,000 limit.

1. XYZ Leasing owns \$100,000 TCV of taxable personal property in Local Unit A. \$75,000 of this \$100,000 is equipment leased to AAB Co. and \$25,000 is equipment leased to BBB Co. Would XYZ leasing file two separate Form 5076's for the personal property at each lessee location?

No XYZ Leasing is not eligible to claim the exemption. XYZ Leasing or a related entity owns, leases or possesses more than \$80,000 True Cash Value of personal property in Local Unit A, therefore they are not exempt. However AAB Co. and BBB Co. would be eligible for the exemption provided they do not own, possess or lease any other personal property.

2. XYZ Leasing owns \$100,000 TCV of taxable personal property in Local Unit A. \$85,000 of this value is on lease to BBF Co and \$15,000 is on lease to MMN Co. Does \$15,000 of XYZ Leasing's then qualify for exemption?

No XYZ Leasing is not eligible to claim the exemption. XYZ Leasing or a related entity owns, leases or possesses more than \$80,000 True Cash Value of personal property in Local Unit A, therefore they are not exempt. Further, note that BBF Co is not exempt because it is leasing more than \$80,000 of personal property located in Local Unit A, regardless of any other personal property which it, along with any related entity, owns or possesses

3. XYZ Leasing owns \$60,000 TCV of taxable personal property in Local Unit A. \$35,000 of this value is on lease to LMO Co and \$25,000 is on lease to MNO Co. XYZ Leasing doesn't own, possess or lease any other taxable personal property. LMO Co does have \$70,000 of true cash value of taxable personal property from another lessor but doesn't own any other property. Does XYZ Leasing file two Form 5076 for TPP at each lessee location since the true cash value is less than \$80,000? However, note that LMG Co is not exempt because it is leasing more than \$80,000 of personal property located in Local Unit A, regardless of any other personal property which it, along with any related entity, owns or possesses.

Assuming that XYZ Leasing does not lease (as lessee) or possess any other personal property in Local Unit A and assuming that a related entity (to XYZ) does not own, lease or possess any personal property in Local Unit A, then XYZ Leasing is entitled to claim the exemption, using a single form 5076, regardless of the status of the lessees. This is because the personal property which it, or a related entity, owns, leases (as lessee) or possesses in Local Unit A is less than \$80,000 TCV.

4. If a Village is located in Township A and ABC manufacturing has \$50,000 TCV in Township A (outside the village) and \$50,000 TCV in the Village does it qualify for the exemption?

A Village is considered to be a separate local tax collecting unit. Therefore, ABC manufacturing would be eligible for the exemption.

5. ABC Leasing is leasing \$60,000 of personal property to XYZ Co in Local Unit A and has a sister company leasing \$150,000 of personal at another location in Local Unit A.. Does ABC Leasing qualify for an exemption on the \$60,000 TPP on lease to XYZ Co?

Assuming that the Sister company is a related entity, which is probably the case given your wording and the definition of related entity contained in MCL 211.9o, then the \$60,000 TCV of ABC and the \$150,000 TCV of Sister is added together and neither ABC nor Sister qualify for exemption in any amount.

6. John Doe is the sole member of an LLC that owns a car wash in Local Unit A that has \$60,000 of assessable personal property. He also holds a 60% membership interest and 60% control in an LLC that owns a convenience store located in Local

Unit A which has \$50,000 of assessable property. Do either or both of the LLCs qualify for the exemption?

Since Doe has more than a 10% controlling interest in the convenience store (and in fact has majority interest in the LLC that controls the store), the car wash and the convenience store are related entities and neither qualify for the exemption because the total true cash value is \$110,000.

7. Same facts as 6 above, except that the convenience store owns only \$15,000 of assessable personal property. However, the store also has possession of an ice cream freezer worth \$2000 owned by the dairy that makes the ice cream, a soft drink beverage fountain worth \$1,500 owned by the soft drink mix supplier and \$30,000 of gasoline dispensing and brand identification signage owned by the oil jobber that supplies petroleum products to the store. Do either or both of the LLCs qualify for the exemption?

All the personal property supplied by vendors to the store is considered when determining the true cash value for exemption qualification purposes, because the personal property is in the possession of the LLC that owns the store. Since Doe has more than a 10% controlling interest in the convenience store (and in fact has majority interest in the LLC that controls the store), the car wash and the convenience store are related entities and neither qualify for the exemption because the total true cash value is \$108,500. Note that although the possessed personal property is included in determining whether the LLCs qualify for exemption, the possessed personal property will not be assessable to the store, but rather to the vendors that placed the personal property in the store. This assumes that the vendors retained ownership of the personal property.

Denials, Appeals, Misplaced/Missed Forms, Late Filings and the 154 Process

The appeal and denial process for the exemption is detailed in MCL 211.9o:

(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 eligible 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 during that tax year. The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the assessor denies a claim for exemption, the assessor shall remove the exemption of that personal property and, if the tax roll is in the local tax collecting unit's possession, 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 with interest at the rate of 1% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. If the tax roll is in the county treasurer's

possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued.

Let's review in detail each component of the statutory requirement.

First, if an assessor believes that a property does not qualify for the exemption then the assessor may deny that claim for exemption, by notifying the taxpayer in writing. The written denial must include the reason for the denial and information on how to appeal the denial. A sample denial form is included in the appendix.

Next the assessor must remove the exemption and amend the tax roll to reflect the denial. The Treasurer should then issue a corrected tax bill with interest as described above. Assessors file a separate Form 5379 *Assessor Affidavit to Correct Taxable Value After Denial of Eligible Personal Property Exemption Granted Pursuant to MCL 211.9o* for each assessment year for which a denial was entered with the property owner, the Equalization Department, the County Treasurer and Treasurers of all other affected taxing units. (See appendix for Form 5379)

Appeal Rights:

Taxpayers may appeal the denial to the March, July or December Board of Review. The July or December Board of Review cannot hear an appeal of a denial of the exemption from the March Board of Review.

Taxpayers are not required to appeal to the March Board of Review, they may choose to wait and appeal to the July or December Board. However, tax bills should be issued as statutorily required until such time as a change in the denial has been issued by a Board of Review or the Michigan Tax Tribunal. Denials can be issued for the current year and the immediately preceding 3 years (current and 3 prior).

Taxpayers may appeal a denial by the March, July or December Boards to the Michigan Tax Tribunal.

A taxpayer who filed Form 632 and later believes they qualify for the exemption cannot appeal to the March, July or December Board of Review to ask them to grant the exemption. Failure to properly claim the exemption **is not** a qualified error under MCL 211.53b and is not a denial by the assessor

Misplaced or Missing Forms:

If an assessor misplaces or missed a timely filed Form 5076, that **is not** considered a clerical error or mutual mistake and cannot be considered by the July or December Board of Review.

The assessor has no authority following submission of their assessment roll to the March Board of Review to grant the exemption. At the point that the taxpayer timely filed for the exemption and the assessor did not change their assessment roll to reflect that exemption, they are in fact denying the exemption and the taxpayer should appeal to the Board of Review and the Michigan Tax Tribunal.

Late Filed Forms:

Taxpayers claim the exemption by filing Form 5076 *Affidavit to Claim Small Business Tax Exemption under MCL 211.9o* with the local unit where the personal property is located no later than February 10th. The February 10th date will move to the preceding business day when February 10th falls on a weekend or a holiday.

The State Tax Commission has determined **annually filed by February 10**, means **postmarked by February 10**. Forms that are postmarked after the due date should not be accepted.

The March, July or December Boards of Review cannot grant an Eligible Personal Property Exemption (a Small Business Taxpayer Exemption under MCL 211.9o) if Form 5076 is not filed by the due date for the form. A refusal of the Assessor to grant the eligible personal property exemption due to untimely filing is not a denial but, rather, is a failure to qualify for the exemption. Forms that are received after the due date should not be accepted. The assessor should date stamp the form and indicate in writing to the taxpayer indicating the statutory requirement to file no later than February 10th.

MCL 211.154 Petitions:

The State Tax Commission has determined that due to the statutory authorities contained in MCL 211.9o and by reference those contained in MCL 211.30 and MCL 211.53b, there are no circumstances under which a MCL 211.154 petition can or should be used related to the Small Business Taxpayer exemption.

Because the March, July and Decembers Boards of Review have extensive authority over the Small Business Taxpayer exemption, there is no need for an assessor or taxpayer to use the MCL 211.154 petition regarding the exemption.

Recordkeeping:

Taxpayers are required to maintain books and records for four years after filing an affidavit claiming the exemption. At a minimum those records shall include the date of purchase, lease or acquisition, purchase price, lease amount or value of all industrial personal property and commercial personal property owned by, leased by or in the possession of that personal or a related entity. They shall provide access to those books and records if requested by the local unit assessing officer, County Equalization Department or Department of Treasury for the four years immediately after filing the exemption.

Assessors should ensure a copy of the affidavit is kept on file by the local unit for not less than four years after the completion of the assessment roll for which the affidavits are filed. The State Tax Commission recommends that assessors review this requirement and determine if it may be necessary to retain the affidavits for a longer period of time.

Contact Information:

Questions regarding the Small Business Taxpayer Exemption can be directed to the State Tax Commission:

Email: statetaxcommission@michigan.gov

Phone: 517-335-3429

Appendix:

MCL 211.9o

MCL 211.53b

Form 5076 Affidavit to Claim Small Business Tax Exemption Under MCL 211.9o

Sample Assessor Denial Form

Form 5379 Assessor Affidavit to Correct Taxable Value After Denial of Eligible Personal Property Exemption Granted Pursuant to MCL 211.9o

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

211.9o Eligible personal property; exemption; affidavit; statement; books and records; denial of claim for exemption; actions by assessor; fraudulent claim; penalties; failure to timely file affidavit; appeal; definitions.

Sec. 9o. (1) Beginning December 31, 2013, eligible personal property for which an exemption has been properly claimed under this section is exempt from the collection of taxes under this act.

(2) An owner of eligible personal property shall claim the exemption under this section by annually filing an affidavit with the local tax collecting unit in which the eligible personal property is located not later than February 10 in each tax year. The affidavit shall be in a form prescribed by the state tax commission and shall include any address where any property owned by, leased to, or in the possession of that owner or a related entity is located within that local tax collecting unit. The affidavit shall require the owner to attest that the combined true cash value of all industrial personal property and commercial personal property in that local tax collecting unit owned by, leased to, or in the possession of that owner or a related entity on December 31 of the immediately preceding year is less than \$80,000.00.

(3) If an affidavit claiming the exemption under this section is filed as provided in subsection (2), the owner of that eligible personal property is not required to also file a statement under section 19 in that tax year.

(4) A person who claims an exemption for eligible personal property under this section shall maintain books and records and shall provide access to those books and records as provided in section 22.

(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 eligible 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 during that tax year. The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the assessor denies a claim for exemption, the assessor shall remove the exemption of that personal property and, if the tax roll is in the local tax collecting unit's possession, 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 with interest at the rate of 1% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued.

(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) For 2014 only, if an owner of eligible personal property did not timely file an affidavit to claim the exemption under this section, that owner may file an appeal with the March 2014 board of review to claim the exemption.

(8) As used in this section:

(a) "Commercial personal property" means personal property that is classified as commercial personal property under section 34c or would be classified as commercial personal property under section 34c if not exempt from the collection of taxes under this act under this section or section 9m or 9n.

(b) "Control", "controlled by", and "under common control with" mean the possession of the power to direct or cause the direction of the management and policies of a related entity, directly or indirectly, whether derived from a management position, official office, or corporate office held by an individual; by an ownership interest, beneficial interest, or equitable interest; or by contractual agreement or other similar arrangement. There is a rebuttable presumption that control exists if any person, directly or indirectly, owns, controls, or holds the power to vote, directly or by proxy, 10% or more of the ownership interest of any other person or has contributed more than 10% of the capital of the other person. Indirect ownership includes ownership through attribution or through 1 or more intermediary entities.

(c) "Eligible personal property" means property that meets all of the following conditions:

(i) Is industrial personal property or commercial personal property.

(ii) The combined true cash value of all industrial personal property and commercial personal property in that local tax collecting unit owned by, leased to, or in the possession of the person claiming an exemption under this section or a related entity on December 31 of the immediately preceding year is less than \$80,000.00.

(iii) Is not leased to or used by a person that previously owned the property or a person that, directly or indirectly, controls, is controlled by, or is under common control with the person that previously owned the property.

(d) "Industrial personal property" means personal property that is classified as industrial personal property under section 34c or would be classified as industrial personal property under section 34c if not exempt from the collection of taxes under this act under this section or section 9m or 9n.

(e) "Person" means an individual, partnership, corporation, association, limited liability company, or any other legal entity.

(f) "Related entity" means a person that, directly or indirectly, controls, is controlled by, or is under common control with the person claiming an exemption under this section.

History: Add. 2012, Act 402, Eff. Mar. 28, 2013;—Am. 2013, Act 153, Imd. Eff. Nov. 5, 2013.

Compiler's note: Enacting section 1 of Act 402 of 2012 provides:

"Enacting section 1. Section 9o of the general property tax act, 1893 PA 206, MCL 211.9o, as added by this amendatory act, is repealed if House Bill No. 6026 of the 96th Legislature is not approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

Enacting section 1 of Act 90 of 2014 provides:

"Enacting section 1. Section 9o of the general property tax act, 1893 PA 206, MCL 211.9o, as added by this amendatory act, is repealed if either House Bill No. 6026 of the 96th Legislature, 2012 PA 408, or Senate Bill No. 822 of the 97th Legislature is presented to the qualified electors of this state at an election to be held on the August regular election date in 2014 and the bill presented is not approved by a majority of the qualified electors of this state voting on the question."

Compiler's note: Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows:

"APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS

The amendatory act adopted by the Legislature would:

1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan.
2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services.
3. Increase portion of state use tax dedicated for aid to local school districts.
4. Prohibit Authority from increasing taxes.
5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation.

Should this law be approved?

YES []

NO []".

Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

Popular name: Act 206

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

211.53b Qualified error; verification, approval, and affidavit; correction of records; rebate; notice and payment; initiation of action; actions of board of review; exemption; appeal; approval; alternative meeting dates; "qualified error" defined.

Sec. 53b. (1) If there has been a qualified error, the qualified error shall be verified by the local assessing officer and approved by the board of review. Except as otherwise provided in subsection (9), the board of review shall meet for the purposes of this section on Tuesday following the second Monday in December and on Tuesday following the third Monday in July. If approved, the board of review shall file an affidavit within 30 days relative to the qualified error with the proper officials and all affected official records shall be corrected. If the qualified error results in an overpayment or underpayment, the rebate, including any interest paid, shall be made to the taxpayer or the taxpayer shall be notified and payment made within 30 days of the notice. A rebate shall be without interest. The treasurer in possession of the appropriate tax roll may deduct the rebate from the appropriate tax collecting unit's subsequent distribution of taxes. The treasurer in possession of the appropriate tax roll shall bill to the appropriate tax collecting unit the tax collecting unit's share of taxes rebated. Except as otherwise provided in subsections (6) and (8) and section 27a(4), a correction under this subsection may be made for the current year and the immediately preceding year only.

(2) Action pursuant to subsection (1) may be initiated by the taxpayer or the assessing officer.

(3) The board of review meeting in July and December shall meet only for the purpose described in subsection (1) and to hear appeals provided for in sections 7u, 7cc, 7ee, 7jj, and 9o. If an exemption under section 7u is approved, the board of review shall file an affidavit with the proper officials involved in the assessment and collection of taxes and all affected official records shall be corrected. If an appeal under section 7cc, 7ee, 7jj, or 9o results in a determination that an overpayment has been made, the board of review shall file an affidavit and a rebate shall be made at the times and in the manner provided in subsection (1). Except as otherwise provided in sections 7cc, 7ee, 7jj, and 9o, a correction under this subsection shall be made for the year in which the appeal is made only. If the board of review approves an exemption or provides a rebate for property under section 7cc, 7ee, or 7jj as provided in this subsection, the board of review shall require the owner to execute the affidavit provided for in section 7cc, 7ee, or 7jj and shall forward a copy of any section 7cc affidavits to the department of treasury.

(4) If an exemption under section 7cc is approved by the board of review under this section, the provisions of section 7cc apply. If an exemption under section 7cc is not approved by the board of review under this section, the owner may appeal that decision in writing to the department of treasury within 35 days of the board of review's denial and the appeal shall be conducted as provided in section 7cc(8).

(5) An owner or assessor may appeal a decision of the board of review under this section regarding an exemption under section 7ee or 7jj to the residential and small claims division of the Michigan tax tribunal. An owner is not required to pay the amount of tax in dispute in order to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest and penalties, if any, shall accrue and be computed based on interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption.

(6) A correction under this section that approves a principal residence exemption pursuant to section 7cc may be made for the year in which the appeal was filed and the 3 immediately preceding tax years.

(7) For the appeal of a denial of a claim of exemption for personal property under section 9o, if an exemption is approved, the board of review shall remove the personal property from the assessment roll.

(8) If an exemption for personal property under section 9o is approved, the board of review shall file an affidavit with the proper officials involved in the assessment and collection of taxes and all affected official records shall be corrected. If the board of review does not approve an exemption under section 9o, the person claiming the exemption for that personal property may appeal that decision in writing to the Michigan tax tribunal. A correction under this subsection that approves an exemption under section 9o may be made for the year in which the appeal was filed and the immediately preceding 3 tax years.

(9) The governing body of the city or township may authorize, by adoption of an ordinance or resolution, 1 or more of the following alternative meeting dates for the purposes of this section:

(a) An alternative meeting date during the week of the second Monday in December.

(b) An alternative meeting date during the week of the third Monday in July.

(10) As used in this section, "qualified error" means 1 or more of the following:

(a) A clerical error relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes.

(b) A mutual mistake of fact.

- (c) An adjustment under section 27a(4) or an exemption under section 7hh(3)(b).
- (d) An error of measurement or calculation of the physical dimensions or components of the real property being assessed.
- (e) An error of omission or inclusion of a part of the real property being assessed.
- (f) An error regarding the correct taxable status of the real property being assessed.
- (g) An error made by the taxpayer in preparing the statement of assessable personal property under section 19.
- (h) An error made in the denial of a claim of exemption for personal property under section 9o.

History: Add. 1967, Act 142, Eff. Nov. 2, 1967;—Am. 1974, Act 379, Imd. Eff. Dec. 23, 1974;—Am. 1982, Act 539, Eff. Mar. 30, 1983;—Am. 1985, Act 14, Imd. Eff. May 3, 1985;—Am. 1994, Act 237, Imd. Eff. June 30, 1994;—Am. 1995, Act 74, Eff. Dec. 31, 1994;—Am. 2000, Act 284, Imd. Eff. July 10, 2000;—Am. 2002, Act 624, Imd. Eff. Dec. 23, 2002;—Am. 2003, Act 105, Imd. Eff. July 24, 2003;—Am. 2006, Act 13, Imd. Eff. Feb. 3, 2006;—Am. 2006, Act 378, Imd. Eff. Sept. 27, 2006;—Am. 2008, Act 122, Imd. Eff. May 9, 2008;—Am. 2010, Act 24, Imd. Eff. Mar. 26, 2010;—Am. 2013, Act 153, Imd. Eff. Nov. 5, 2013;—Am. 2016, Act 108, Imd. Eff. May 6, 2016.

Compiler's note: Section 2 of Act 74 of 1995 provides:
“This amendatory act is retroactive and shall take effect December 31, 1994.”

Popular name: Act 206

Affidavit to Claim Small Business Tax Exemption Under MCL 211.9o

Notice: Questions regarding this form should be directed to the assessor of the city or township where the personal property is located. This form was issued under the authority of Public Act 206 of 1893. **This form must be filed annually by the owner or the owner's authorized agent.**

Name and Address of Owner

To claim an exemption, this Affidavit must be received by the Assessor of the local unit where the personal property is located no later than February 10, 2017 (postmarked is acceptable).

IMPORTANT INFORMATION: This affidavit will exempt property owned only by the entity filing the affidavit. If personal property is leased to or used by an entity other than the property's owner, the owner of that personal property must file the affidavit for that property, not the lessee or the user. The owner may file the affidavit and claim the exemption only if the True Cash Value of all of the commercial or industrial personal property located within the city or township that is owned by, leased to, or in the possession of the owner or a related entity was less than \$80,000 on December 31, 2016.

Name of Local Unit of Government		
City _____	Township _____	
List all addresses where Personal Property is located within the City or Township. (may attach additional sheets)	Names of Owners or Partners (If sole Proprietorship or Partnership)	
County	Owner Telephone Number	Legal Name of Owner, if different from above
Assumed Names Used by Legal Entity, if any		Description of Owner's Business Activity
Check only one: <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Limited Liability Co. MI ID# _____ <input type="checkbox"/> Corporation MI ID# _____ <input type="checkbox"/> Partnership		
Name and Telephone Number of Person in Charge of Personal Property Records		Address where Personal Property Records are Kept
Names of all other businesses having personal property, including any leasehold improvements assessed as personal property at the locations included in this affidavit. (attach additional sheets as necessary)		Date Business Began in Local Tax Collecting Unit

The undersigned certifies that:

1. I am the owner of the commercial personal property and industrial personal property being claimed as exempt or I am the duly authorized agent.
2. The True Cash Value of all the Personal Property, as defined by MCL 211.9o located within the city or township indicated above, that is owned by, leased to, or in the possession of the owner or related entity was less than \$80,000 on December 31, 2016.
3. Below are the procedures used to determine that the True Cash Value of the Eligible Personal Property was less than \$80,000 on December 31, 2016:
 - a) The determination of True Cash Value was based on the State Tax Commission's recommended valuation procedures as set forth on Form 632, *Personal Property Statement (L-4175)*. Attach an explanation of the method used if your answer is NO Yes No
 - b) The determination of True Cash Value includes all assessable personal property, located within the city or township listed on this Affidavit that is owned by, leased to, or in the possession of the owner or related entity. This shall include all trade fixtures and may include leasehold improvements not assessed as real property. Attach an explanation if not all personal property is included Yes No N/A

I hereby certify that the information contained within, and attached to, this Affidavit provides a full and true statement of all personal property owned, leased, or in the possession of the owner or related entity on December 31, 2016.

Printed Name	Signature	Date
Indicate which: <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partner <input type="checkbox"/> Officer <input type="checkbox"/> Managing Member <input type="checkbox"/> Agent (attach letter of authority)		

Trade Fixtures: Items of property that have been attached to real estate by a tenant to facilitate the tenant's use of the property for business purposes and which are both capable of being removed and are removable by the tenant under the terms of the lease. Examples of trade fixtures are certain costs related to telephone and security systems and most signs.

Leasehold Improvements: Land improvements, such as paving and landscaping, and improvements made by a tenant to structures owned by the landlord. Leasehold improvements are characterized by the fact that they cannot be removed for use elsewhere because they will be destroyed by removal. Leasehold improvements may be assessed as real property to the owner of the real property or may be assessed as personal property to the tenant. The State Tax Commission has directed that commencing in 2017 all Leasehold improvement installations in 2016, or later, must be valued as improvements made to the leased real property.

Additional information can be located in MCL 211.9o and State Tax Commission Bulletin 11 of 2013.

Parcel No.

Assessor Denial of Request for Exemption as Eligible Personal Property (Small Business Taxpayer Exemption) MCL 211.9o

Issued under the authority of the General Property Tax Act, Public Act 206 of 1893, as amended.

The Assessor is required to deny the Eligible Personal Property (Small Business Taxpayer) Exemption for personal property that is determined not to meet the eligibility requirements of MCL 211.9o. The assessor may deny a claim for exemption for the current year and/or any of the immediately preceding 3 years. A denial may only be issued by the assessor when a fully complete and timely filed Form 5076 is received by the local unit of government where the personal property is located. Forms that are not timely filed or fully completed are not considered a denial but rather a failure to properly claim the exemption.

Part 1: Local Unit of Government Information (Provide information where the personal property is located.)

Name of Local Unit of Government where the Personal Property is Located			
City	Township	Village	County
Street Address	City	State	Zip Code
List the Physical Address(es) Where Personal Property is Located within the City or Township (attach additional pages as necessary)			

Part 2: Taxpayer Information (Provide information for the taxpayer who filed Form 5076.)

Taxpayer Name	Name of Company Owner
Name of Contact Person	Phone Number
Street Number	City, State, ZIP Code
FEIN Number	Year(s) for which the Form 5076 was Filed with Local Unit

Part 3: Reason for Denial of Eligible Personal Property Exemption (The assessor must notify the taxpayer of the denial and their right of appeal and request that Form 632, *Personal Property Statement* be filed. In the absence of a completed Form 632, assessors are advised to use the best information available to estimate the assessment. A separate Form 5379, *Assessor Affidavit to Correct Taxable Value After a Denial of EPP Granted Pursuant to MCL 211.9o* must be filed with the taxpayer each assessment year a denial is entered.)

The Small Business Taxpayer Exemption is being denied for the following reason(s):

The personal property for which the Eligible Personal Property (Small Business Taxpayer) Exemption was claimed was not classified, or would not have been classified, as commercial personal property or industrial personal property, as defined in MCL 211.34c, for the assessment year in question. This denial reason applies to the following assessment year(s): _____

The true cash value of the personal property owned, leased or possessed by the taxpayer within the local tax collecting unit was \$80,000 or more. This denial reason applies to the following assessment year(s): _____

The true cash value of the personal property owned, leased or possessed by a related entity to the taxpayer, when combined with the true cash value of the personal property which is owned, leased or possessed by the taxpayer, within the local tax collecting unit was \$80,000 or more. This denial reason applies to the following assessment year(s): _____

It has been determined that the personal property in question is leased to or used by a person that previously owned the property or a person that, directly or indirectly, controls, is controlled by, or is under common control with the person that previously owned the property. This denial reason applies to the following assessment year(s): _____

Taxpayer's Right of Appeal

A taxpayer who timely and properly filed Form 5076 may appeal an assessor's denial of the Eligible Personal Property (Small Business Taxpayer) Exemption for the current assessment year to the March Board of Review under MCL 211.30 or MCL 211.53b during that tax year. In the case of a qualified error as defined in MCL 211.53b, an appeal may be made to the July or December Board of Review. The July or December Board of Review may not hear an appeal of a denial of the exemption from the March Board of Review. A further appeal of a denial may be made to the Michigan Tax Tribunal within 35 days of the date of the denial. Michigan Tax Tribunal forms are available at www.michigan.gov/taxtrib.

Assessor Printed Name	Assessor Signature	Date
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Assessor Affidavit to Correct Taxable Value After Denial of Eligible Personal Property Exemption Granted pursuant to MCL 211.9o (Small Business Taxpayer Exemption)

The changes in Taxable Value recorded on this affidavit are the result of the Denial of an Eligible Personal Property Exemption claimed by the taxpayer on Michigan Department of Treasury Form 5076 "Affidavit of Owner of Eligible Personal Property Claiming Exemption from Collection of Taxes."

County

In accordance with the authority contained in Section 9o(5) of the General Property Tax Act (P.A. 206 of 1893, as amended), a correction has been made to the Taxable Value of the following described Personal Property:

_____ located in the City of/Township of/Village of _____
(Parcel Number)

This is a correction to the _____ Assessment/Tax Roll.
(Tax Year)

Correction of Taxable Value Resulting from a Denied "Affidavit of Owner of Eligible Personal Property Claiming Exemption from Collection of Taxes"							
School Code	COMMERCIAL PERSONAL PROPERTY			INDUSTRIAL PERSONAL PROPERTY			
	Before Correction	Amount of Increase	Corrected	Before Correction	Amount of Increase	Corrected	
State Equalized Valuation							
Taxable Valuation	0			0			
Correction of Taxing Unit Levy							
Taxing Unit	Millage Rate	COMMERCIAL PERSONAL PROPERTY			INDUSTRIAL PERSONAL PROPERTY		
		Before Correction	Amount of Increase	Corrected	Before Correction	Amount of Increase	Corrected
County		0			0		
Intermediate School District		0			0		
Community College		0			0		
State Education Tax		0			0		
Local School		0			0		
Local School Debt		0			0		
City/Township/Village		0			0		
		0			0		
		0			0		
		0			0		
		0			0		
		0			0		
		0			0		
Total		0			0		

NOTE: The levy section of this affidavit does not include collections fees, penalties and interest. These must be added to the bill, when applicable, by the treasurer.

I, _____ being the certified assessor for the City/Township of _____, do hereby swear or affirm that the above information is true, to the best of my knowledge.

Signature of Certified Assessor	Date	Certification Number
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The Assessor may deny a claim of exemption for the current year and the 3 immediately preceding calendar years. A separate form is completed for each year.
Copies to: Property Owner, Equalization Department, County Treasurer and Treasurers of all other affected Taxing Units.