



Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

LEASED PERSONAL PROPERTY: EASE REPORTING REQUIREMENTS

House Bill 5704 (Substitute H-2) First Analysis (5-26-98)

Sponsor: Rep. Kirk A. Profit
Committee: Tax Policy

THE APPARENT PROBLEM:

Public Act 96 of 1994 addressed the issue of who should report and pay taxes on certain kinds of personal property being used by one business and acquired under a lease or installment purchase arrangement with another business. (Reportedly, there had been litigation on the issue.) Small leasing/brokerage firms had complained about the burden of reporting and paying taxes on property that other businesses were using all over the state. They said that they were forced to deal with numerous taxing units and did not always know where the property in question was being used. These companies described themselves as operating like mortgage brokers or finance companies, making financing available so that other small businesses could acquire the equipment they needed. The companies using the equipment were essentially purchasing the equipment over time, while the leasing/brokerage firm was providing the financing. All kinds of equipment is said to be financed this way, from dump trucks to copiers to kitchen equipment. The leasing/brokerage companies may never see the equipment; instead they serve as "paper shufflers."

Public Act 96 dealt with the issue by allowing, in certain specified cases, the business making property available for use by another business (referred to as a "qualified business") and the business using the property to enter into a written agreement making the user of the personal property responsible for paying the taxes and reporting on property to the appropriate local assessor by the standard February 20 reporting date. The qualified business, however, also has to file a report on personal property to the local assessor, with a due date of February 1, and must provide a copy of the statement to each user of property, along with a notice that the user is responsible for the taxes. These provisions carry a 2000 sunset date. They only apply to leasing/financing firms with 30 or fewer employees and only for certain kind of agreements. The agreements covered are those in which 1) a for-profit company is obtaining the right to use or possess personal property in return for making periodic

payments for a noncancellable term of 12 months or more; and 2) the party making the payments is able to obtain legal title to property by making all of the payments or all of the payments plus a final payment.

Representatives of small leasing/financing firms continue to complain about the burdensome paperwork involved in personal property tax reporting and legislation has been introduced to revisit this issue and to remove the sunset date so that equipment leasing companies can continue indefinitely to enter into personal property tax agreements with their customers.

THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act to address the issue of who is responsible for reporting and paying taxes on personal property that is subject to certain leasing or installment sale arrangements (referred to as "qualified personal property"). The current provisions apply to personal property tax assessments made after 1994 and before 2000. The bill would eliminate the 2000 sunset date. The act currently requires that a business making property available (known as a "qualified business") provide a copy of its statement to each user of property responsible for paying the tax, along with a statement that the user is responsible for paying the tax. The bill would eliminate this requirement.

A qualified business would still have to file a personal property statement with assessors by February 1, and the business or person paying the taxes would have to file the personal property tax statement (which would include "qualified personal property") by February 20. The act lists what a qualified business must include in its statement. Currently, it says the statement must include certain information "separately for each user." The bill would change this to "itemized for each user."

(The information that must be reported by the qualified business includes: the user responsible for payment of the tax; the type of property; the location of the

property, as indicated in the records of the qualified business; the purchase price, including sales tax, freight, and installation; the year the property was purchased; the original selling price, if the qualified business was the manufacturer of the property, or the original cost; and the amount and frequency of the periodic payments required of the user.)

Equipment Leasing and Financing Association, the Michigan Municipal League, the Michigan Townships Association, and the Michigan Assessors Association. (5-20-98)

MCL 211.8a

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that the bill does not affect the tax base of local units but only certain reporting requirements. (5-22-98)

ARGUMENTS:

For:

The bill represents a compromise between representatives of small business interests and representatives of local taxing units over the reporting of certain personal property. The bill would ease somewhat the reporting burdens of companies that finance equipment purchases by other businesses through certain specified leasing or installment sales arrangements. Currently, these companies, which say they are similar to banks or finance companies, not only must report all the equipment on which customers are making payments to local assessors customer by customer, but also must send a copy of each statement to each customer, even though it is the customer who is responsible for paying the personal property taxes. While the leasing/financing companies would prefer that the users of the property be solely responsible for reporting the whereabouts of personal property, this bill at least reduces the paperwork. Meanwhile, local taxing units still get the information they believe they need for tracking personal property. The bill would also eliminate the sunset on the special provisions governing these lease/financing arrangements, so that they would continue indefinitely. It should be noted that the banking competitors of the lease/financing companies do not face the same reporting requirements (thanks to federal banking laws), and it is important for small businesses that the lease/financing companies exist to provide competition.

POSITIONS:

Among those who have indicated support for the substitute version of the bill are the Small Business Association of Michigan (SBAM), the National Federation of Independent Business (NFIB), the

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.