



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

GRETCHEN WHITMER
GOVERNOR

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STATE TREASURER

DATE: March 31, 2020

TO: Senate and House General Government Subcommittees, Senate and House Joint Committee on Administrative Rules, and Senate and House Fiscal Agencies.

FROM: Rachel Richards, Director of Legislative Affairs, Department of Treasury

SUBJECT: PA 56, Section 221 Reporting Requirement

Pursuant to PA 56, Section 221, each department and agency shall report no later than April 1 on each specific policy change made to implement a public act affecting the department that took effect during the prior calendar year.

Enclosed is the Department of Treasury's 2019 submission.

If you have any questions, please contact me at Richardsr2@michigan.gov

MICHIGAN DEPARTMENT OF TREASURY

Public Act 56 of 2019, Section 221 – Reporting Requirement

Each department and agency shall report no later than April 1 on each specific policy change made to implement a public act affecting the department that took effect during the prior calendar year to the senate and house of representatives standing committees on appropriations subcommittees of general government, the joint committee on administrative rules, and the senate and house fiscal agencies.

Bureau of Local Government & School Services

Public Act 44 (House Bill 4077)

The act amends MCL 207.846 and 207.848 of the Commercial Rehabilitation Act. It modifies the effective date of a commercial rehabilitation exemption certificate for certificates issued by the State Tax Commission (STC) after January 1, 2018 if the local unit clerk failed to forward an application approved before October 31 of that year to the STC but filed the approved application with the STC before October 31 of the immediately succeeding year and the STC approved that application. The effective date of that certificate is December 31 of the year that the local unit approved the application.

Upon enactment, on August 20, 2019, the STC amended commercial rehabilitation exemption certificate C2018-002 issued to the Flint Ferris Building by changing the effective date from December 31, 2018 to December 31, 2017.

Public Acts 116 and 117 (Senate Bill 47 and House Bill 4069)

PA116 amends MCL 211.27(2) of the General Property Tax Act to exclude “alternative energy systems” on residential real property with a generating capacity of not more than 150 kilowatts from true cash assessment until the property is sold. The act defines “alternative energy system” as provided in MCL 207.822(2) of the Michigan Next Energy Authority Act.

PA 117 amends MCL 211.34d of the General Property Tax Act to modify references consistent with PA 116.

Upon enactment, the STC advised assessing officers of the statutory changes and their impact on 2020 assessments. The STC will publish a bulletin providing guidance on residential property alternative energy systems and update all related forms.

Public Act 118 (House Bill 4465)

The act amends MCL 211.9i of the General Property Tax Act to provide an exemption from ad valorem taxation for Alternative Energy Personal Property that comports with “alternative energy system” as defined in MCL 207.822(2) of the Michigan Next Authority Act. To be eligible for the exemption, the alternative energy system shall have a generating capacity of not more than 150

kilowatts and is used solely to offset all or a portion of the commercial or industrial energy usage of the person upon whose real property the system is located. For all systems installed after November 15, 2019, to receive the exemption the system must also have a true cash value, when combined with the true cash value of all personal property exempt under section 90 as eligible personal property of the person claiming the exemption under this section or a related entity, equals less than \$80,000.

Upon enactment, the STC advised assessing officers of the statutory change and its impact on 2020 assessments. In the future, the STC will publish a bulletin providing guidance on alternative energy systems and the MCL 211.9i exemption.

Public 163 (House Bill 4091)

The act amends MCL 207.778 of the Neighborhood Enterprise Zone Act to require a STC issued Neighborhood Enterprise Zone certificate to include **both** a legal description of the relevant property or facility and a statement that the certificate shall remain in effect for its stated term unless revoked.

This statutory change did not result in any certificate requirement changes.

Tax Policy Bureau

Public Acts 143 and 144 (House Bills 4540 and 4541)

These acts make a “marketplace facilitator” the taxpayer for purposes of the General Sales Tax Act (GSTA) and the Use Tax Act (UTA) for sales it facilitates on its marketplaces on behalf of third-party marketplace sellers. Prior to the acts, a person selling on a marketplace facilitator’s marketplace was the party liable for the tax. Absent a marketplace seller providing the facilitator with incorrect or incomplete information, the facilitator is the taxpayer for all purposes under the Revenue Act, the GSTA, and the UTA. The acts define a “marketplace facilitator” as a person that lists products for sale on its marketplace for others and collects payment from the ultimate customer for remittance to the third-party seller. A facilitator is not the seller for facilitated sales of telecommunications services (a service that is subject to the UTA) and sales of hotel accommodations if the accommodations provider itself is registered for sales or use tax. These acts were effective beginning on January 1, 2020.

No changes were required to implement this act.

Public Acts 145 and 146 (House Bills 4542 and 4543)

These acts codified the Department’s economic nexus policy for sales and use tax announced in Revenue Act Bulletin (RAB) 2018-16. The RAB was issued in response to the 2018 United States Supreme Court’s ruling in *South Dakota v Wayfair* (138 S Ct. 2080). The court in *Wayfair* overruled its prior precedent to hold that a mere economic presence in a state (no physical presence required) could be enough of a presence for a state to require a seller to collect and remit sales or use tax on sales made into the state (i.e. the seller has “nexus” within the state). Specifically, these

acts provide that if a seller has gross receipts into Michigan exceeding \$100,000 or 200 or more specific transactions into Michigan, in the previous calendar year, the seller is required to register with Treasury and begin reporting and remitting tax. Additionally, the acts provide specific information regarding how marketplace facilitators and marketplace sellers must calculate their economic nexus thresholds. These acts were effective October 1, 2018 (which has the same effective date as RAB 2018-16).

No changes were required to implement these acts.

Public Acts 90-92 (House Bills 4189-4191)

These acts amend the Michigan Business Tax (MBT), the Michigan Economic Growth Authority (MEGA) Act, and Part II of the Income Tax Act (governing the Corporate Income Tax (CIT)) to together permit a particularly defined taxpayer, a surviving merger company, for its first tax year ending after October 1, 2018, to elect to file and pay the MBT instead of the CIT in order to claim a certificated MEGA Jobs credit held by another company extinguished through the merger. The amount of the credit is limited to \$12 million. PA 90 amends the MBT Act to permit the surviving taxpayer to elect to file and pay the MBT instead of the CIT to claim the credit, and prohibits any change in the credit's terms and conditions that will increase the total amount of the credit. PA 91 amends the MEGA Act to allow MEGA to modify the MEGA tax credit agreement (limited to that approved by MEGA on November 27, 2018) and assign or transfer that agreement provided the total amount of the credit is reduced and that the value of the credit taken does not exceed \$12 million. PA 92 amends the CIT portion of the Income Tax Act to allow the defined taxpayer, which had previously filed under the CIT, to file and pay under the MBT Act rather than the CIT for its first tax year ending after October 1, 2018, to claim the credit.

No changes were required to implement these acts.

Office of Revenue and Tax Analysis:

Public Act 157 (House Bill 4308)

The act, in part, creates the Fantasy Contest Fund in the Department of Treasury and requires the Department to collect the gaming tax and deposit it into the fund.