

**State Tax Commission Bulletin No. 4 of 2001**  
**January 9, 2001**  
**HEAVY EARTH MOVING EQUIPMENT**

TO: Assessors  
Equalization Directors

FROM: State Tax Commission (STC)

RE: **CERTAIN HEAVY EARTH MOVING EQUIPMENT IS EXEMPT AS INVENTORY**

Enclosed is a copy of Public Act (PA) 317 of 2000 which was signed by Governor Engler on October 24, 2000 with an effective date of October 24, 2000. The new language added by this act is underlined on the enclosed copy of the act.

PA 317 of 2000 expands the definition of exempt inventory to include **certain heavy earth moving equipment**. The purpose of this bulletin is to instruct assessors regarding the provisions of PA 317 of 2000.

**Starting with the 2001 assessments**, PA 317 of 2000 expands the exemption for inventory to include **heavy earth moving equipment** provided that it meets, ALL THREE of the following requirements:

1. It meets the definition of **heavy earth moving equipment** provided in PA 317 of 2000.
2. It is subject to 1 or more lease agreements with the same person totaling not more than one year.
3. It is primarily intended for sale rather than lease.

Each of these requirements will be discussed separately in this bulletin.

**1. The Equipment Must Meet the Definition of Heavy Earth Moving Equipment.**

In order for equipment to meet the definition of **heavy earth moving equipment**, it must meet ALL of the following 3 requirements:

- a. It must be **self-propelled**. This means that equipment which is pushed or pulled by another separate vehicle is NOT eligible for the exemption provided by PA 317 of 2000.
- b. It must **weigh 10,000 pounds or more**. This means that equipment which weighs less than 10,000 pounds is NOT eligible for the exemption provided by PA 317 of 2000.
- c. It must be designed and primarily **intended to move, transport, or configure dirt, earth, soil, or other construction material at a construction site**.

**0. Heavy Earth Moving Equipment Must be Subject to 1 or More Leases With the Same Person Totaling Not More Than 1 Year.**

PA 317 of 2000 states that, in order to qualify for exemption as inventory, a piece of **heavy earth moving equipment** must be subject to 1 or more lease agreements with the same person totaling not more than 1 year. If there is more than 1 lease agreement, the lessee (user) must be

the same person for each agreement AND the terms of the agreements cannot total more than 1 year.

Based on the language of PA 317 of 2000, it is the position of the STC that the following 2 situations DO NOT qualify for the exemption for inventory:

- a. If **heavy earth moving equipment** has been subject to more than 1 lease AND the lessees (users) in the various leases are not the same person from one lease to the other, the equipment does NOT qualify to be exempt, even if the leases total 1 year or less.
  - b) If **heavy earth moving equipment** is leased to **the same person** (subject to 1 or more leases) for a combined period of **more than 1 year**, it does NOT qualify to be exempt as inventory.

A lease agreement can be either written or oral and can either be closed-end or open-end. A closed-end lease is one that contains a specific ending day, while an open-end lease is one that allows continuation of the lease until termination by either party. Open-end oral leases may sometimes be referred to as "rentals". All leases, whether written or oral and whether open-end or closed-end, are considered in calculating time periods for determining qualification of a particular piece of equipment for the exemption pursuant to PA 317 of 2000.

#### 0. **Heavy Earth Moving Equipment Must be Principally Intended For Sale Rather Than For Lease.**

PA 317 of 2000 states that, in order to qualify for exemption as inventory, **heavy earth moving equipment** must be principally intended for sale rather than lease.

While PA 317 of 2000 does not define "*principally intended for sale rather than lease*" it is the position of the STC that **heavy earth moving equipment** which meets BOTH of the following requirements is principally intended for sale rather than lease.

- a. All lease arrangements to which the equipment has been subject since the date it was first placed in service are written, closed-end agreements and all such written agreements provide the user with the option to purchase the property within 1 year or less of the date the equipment was originally placed in service.
- b. The lease provides that all or part of the lease payments will be deducted from the purchase price of the equipment.

#### 0. **The Burden is on the Taxpayer to Prove Entitlement to the Exemption.**

As is the case with all claims of exemption, the burden is on the taxpayer to prove entitlement. The State Tax Commission advises that a taxpayer claiming exemption as inventory for **heavy earth moving equipment** should maintain the necessary business records to:

- a. establish the date that the equipment was first placed in service (the first date it was put to use), AND

- b. establish the identity of all persons that have used the equipment since the date it was first placed in service AND
- c. allow the assessor to distinguish between equipment that qualifies as exempt inventory and equipment that does not qualify for exemption because of the manner in which it is rented or leased.

Typically, a taxpayer claiming exemption must be able to trace all lease (and rental) revenue to the particular piece of equipment to which it relates. A taxpayer claiming exemption as inventory for **heavy earth moving equipment** must also preserve all written lease agreements relating to a piece of equipment that has been claimed as exempt inventory.

The STC recommends that the assessor request that a taxpayer that claims an exemption as inventory for **heavy earth moving equipment** complete and file form 3711 (copy attached) to support the claim for exemption. Form 3711 should be filed on or before the date that a form L-4175 would have been due from the taxpayer, if the equipment were not exempt.

#### **0. Method of Reporting the Acquisition Cost and Year of Acquisition of Heavy Earth Moving Equipment Previously Exempted as Inventory pursuant to PA 317 of 2000.**

**Heavy earth moving equipment** that has previously been exempted from assessment as inventory, pursuant to PA 317 of 2000, shall, at such time as it no longer qualifies for exemption, be reported by the owner on Section B of form L-4175 in the assessment jurisdiction where it is located on the relevant tax day, **using the acquisition cost and year that would have been used for reporting the equipment if it had never qualified as exempt inventory**. Typically, the correct acquisition cost will be the usual selling price new of the equipment as it existed in the end-user market in the year that the equipment was first placed in service. Typically, the correct acquisition year will be the year that the equipment was first placed in service as new equipment.

**Important Note:** PA 317 of 2000 provides that a lease used to support an exemption as inventory for **heavy earth moving equipment** shall be made available to the assessor on request. It is the position of the STC that this language requires that all lease agreements to which a particular piece of equipment has been subject shall be made available to the assessor on request. All leases made available pursuant to this provision shall be considered confidential information to be used for assessment purposes only. The language of PA 317 of 2000 does not limit the separate authority of an assessor or equalization director to inspect the equipment or to examine cost records relating to the equipment, as authorized by MCL 211.22a.