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Release Date: June 18, 2002

State Tax Commission Bulletin No. 18 of 2002

DATE: December 10, 2002
TO: Assessors Personal Property, Equalization Directors
FROM: State Tax Commission (STC)

RE: ALTERNATIVE ENERGY PERSONAL PROPERTY

Enclosed is a copy of Public Act (PA) 549 of 2002 which was signed by Governor Engler on July 25, 2002 with an effective date of July 26, 2002.

PA 549 of 2002 provides that, **FOR ASSESSMENT YEARS 2003 through 2012, Alternative Energy Personal Property** is exempt from the collection of taxes. There are provisions in the law for local school districts and local tax collecting units to adopt resolutions to **NOT exempt Alternative Energy Personal Property** from certain millages. This will be discussed later in this bulletin.

A. Alternative Energy Personal Property

Alternative Energy Personal Property is personal property which has been certified to the assessor by the **Michigan Next Energy Authority** as qualifying for this exemption.

The **Michigan Next Energy Authority** was created by PA 593 of 2002 which was signed by Governor Engler on October 17, 2002 with an effective date of October 17, 2002. A copy of PA 593 of 2002 is also enclosed with this bulletin.

The **Michigan Next Energy Authority** is located within the Department of Management and Budget.

The following are the types of personal property which may be certified to the assessor by the **Michigan Next Energy Authority** and are then exempt from taxation:

1. **Alternative energy systems**
2. **Alternative energy vehicles**
3. Tangible personal property of a business that is an **alternative energy technology business**. In order to become an **alternative energy technology business**, a business must be certified as such by the Michigan Next Energy Authority. Proof of certification must be sent to the local assessor.
4. Tangible personal property of a business that is **NOT an alternative energy technology business** that is used solely for the purpose of researching, developing, or manufacturing an **alternative energy technology**.

NOTE: The terms shown in bold print in items 1 through 4 above are defined by PA 593 of 2002 (copy enclosed).

If the **Michigan Next Energy Authority** certifies that personal property qualifies for exemption as **Alternative Energy Personal Property** AND if the **Michigan Next Energy Authority** provides proof of certification to the assessor, the assessor shall exempt the property from taxation up to and including the 2012 assessment. The **Michigan Next Energy Authority** shall forward copies of the certification to the secretary of the local school district and the treasurer of the local tax collecting unit.

NOTE: The **Alternative Energy Personal Property** Exemption does NOT exempt property from the collection of specific taxes. The **Alternative Energy Personal**

Property Exemption does NOT exempt property from the collection of special assessments since special assessments are levied upon real property only.

B. Opting Out of the Alternative Energy Personal Property Exemption

PA 549 of 2002 contains provisions for local school districts and local tax collecting units to adopt Resolutions to NOT Exempt **Alternative Energy Personal Property** from certain taxes. This is sometimes referred to in this bulletin as **opting out** of the exemption. The following are the provisions for **opting out** of the exemption:

1. The school board of a LOCAL SCHOOL DISTRICT may adopt a Resolution to NOT Exempt **Alternative Energy Personal Property** from the following taxes:
 - a. Tax authorized by MCL 380.1212 for the purpose of creating a **sinking fund**.
 - b. Tax authorized by MCL 380.1 to 380.1852 to retire **outstanding bonded indebtedness**.

The **Resolution to NOT Exempt** must be adopted by the local school district within 60 days after receiving the certification of exemption from the **Michigan Next Energy Authority**. ALSO, the resolution must have the written concurrence of the superintendent of the local school district.

If the **Resolution to NOT Exempt** is adopted by the local school district, a copy of the resolution shall be forwarded to the **Michigan Next Energy Authority**, the treasurer of the local tax collecting unit, and the State Treasurer.

If the **Resolution to NOT Exempt** fails, the **alternative energy personal property** is exempt from these taxes.

2. The governing body of a LOCAL TAX COLLECTING UNIT may adopt a Resolution to NOT Exempt **Alternative Energy Personal Property** from certain taxes collected in that local tax collecting unit. Townships and cities are generally considered to be local tax collecting units. The following are examples of taxes collected in local tax collecting units which local tax collecting units can **opt out** of:
 - a. County Taxes
 - b. Intermediate School District taxes
 - c. Community College taxes
 - d. Taxes levied by authorities such as DDA's, district libraries, transit authorities, etc.
 - e. City taxes
 - f. Township taxes

A LOCAL TAX COLLECTING UNIT CANNOT **opt out** of the following taxes:

- a. taxes collected under the authority of MCL 380.1211 (**local school operating millage**)
- b. taxes collected under the authority of MCL 380.1212 (**local school sinking fund**)
- c. taxes collected under the authority of MCL 380.1 to 380.1852 (**for the retirement of local school bonded indebtedness**)
- d. the State Education Tax (SET)

The **Resolution to NOT Exempt** must be adopted by the local tax

collecting unit within 60 days after receiving the certification of exemption from the **Michigan Next Energy Authority**; otherwise, the alternative energy personal property is exempt from the taxes which the local tax collecting unit could have **opted out** of.

The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit in which the **Alternative Energy Personal Property** is located and the legislative body of each taxing unit that levies ad valorem property taxes in the local tax collecting unit in which the **Alternative Energy Personal Property** is located. Notice of the meeting at which the resolution will be considered shall be provided as required under the Open Meetings Act. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing.

If the **Resolution to NOT Exempt** is adopted by the local tax collecting unit, a copy of the resolution shall be forwarded to the **Michigan Next Energy Authority** and to the State Treasurer.

Note: Even if the local school district and the local tax collecting unit **opt out** of all of the taxes possible, the alternative energy personal property will still be exempt from the SET and local school district operating millages.

C. **The Alternative Energy Exemption is Sometimes a Millage Rate Exemption Only**

Since LOCAL SCHOOLS and LOCAL TAX COLLECTING UNITS can **opt out** of the **Alternative Energy Exemption** for certain millages, this exemption will sometimes be a millage rate exemption only, rather than a full assessed value and taxable value exemption. This is true because, when a local school district or a local tax collecting unit **opts out**, it is necessary to have a taxable value against which to levy the millage. The State Tax Commission therefore recommends that the assessor assess **Alternative Energy Personal Property** under a separate parcel ID number and at a separate place on the assessment roll when a local school district or a local tax collecting unit has **opted out** of the exemption. In this situation, **Alternative Energy Personal Property** is subject to the assessment and equalization process.

D. **Real and Personal Property Owned by the Michigan Next Energy Authority**

Under Section 6 of PA 593 of 2002, real and personal property belonging to the **Michigan Next Energy Authority** is also exempt from taxation if it is used for a public purpose. This act states that property of the **Michigan Next Energy Authority** is public property devoted to an essential public and governmental function and purpose.

Note: This exemption is a standard exemption of taxable and assessed values. It is not a millage rate exemption. Local school districts and local tax collecting units cannot opt out of this exemption.

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

211.9i Alternative energy personal property; exemption from tax.

Sec. 9i. (1) Alternative energy personal property is exempt from the collection of taxes under this act as provided in this section.

(2) If the Michigan next energy authority certifies alternative energy personal property as eligible for the exemption under this section as provided in the Michigan next energy authority act, the Michigan next energy authority shall forward a copy of that certification to all of the following:

(a) The secretary of the local school district in which the alternative energy personal property is located.

(b) The treasurer of the local tax collecting unit in which the alternative energy personal property is located.

(3) Within 60 days after receipt of the certification of alternative energy personal property under subsection (2), the school board for the local school district in which the alternative energy personal property is located, with the written concurrence of the superintendent of the local school district, may adopt a resolution to not exempt that alternative energy personal property from a tax levied in that local school district under section 1212 of the revised school code, 1976 PA 451, MCL 380.1212, or a tax levied under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, to retire outstanding bonded indebtedness. If a resolution is adopted under this subsection, a copy of the resolution shall be forwarded to the Michigan next energy authority, to the treasurer of the local tax collecting unit, and to the state treasurer. If a resolution is not adopted under this subsection, that alternative energy personal property is exempt from a tax levied in that local school district under section 1212 of the revised school code, 1976 PA 451, MCL 380.1212, or a tax levied under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, to retire outstanding bonded indebtedness, for the period provided in subsection (5).

(4) Within 60 days after receipt of the certification of alternative energy personal property under subsection (2), the governing body of the local tax collecting unit in which the alternative energy personal property is located may adopt a resolution to not exempt that alternative energy personal property from the taxes collected in that local tax collecting unit, except taxes collected under sections 1211 and 1212 of the revised school code, 1976 PA 451, MCL 380.1211 and 380.1212, a tax levied under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, to retire outstanding bonded indebtedness, or the tax levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit in which the alternative energy personal property is located and the legislative body of each taxing unit that levies ad valorem property taxes in that local tax collecting unit in which the alternative energy personal property is located. Notice of the meeting at which the resolution will be considered shall be provided as required under the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. If a resolution is adopted under this subsection, a copy of the resolution shall be forwarded to the Michigan next energy authority and to the state treasurer. If a resolution is not adopted under this subsection, that alternative energy personal property is exempt from the taxes collected in that local tax collecting unit for the period provided in subsection (5), except as otherwise provided in this section.

(5) The exemption under this section applies to taxes levied after December 31, 2002 and before January 1, 2013.

(6) As used in this section:

(a) "Alternative energy personal property" means all of the following:

(i) An alternative energy system.

(ii) An alternative energy vehicle.

(iii) All personal property of an alternative energy technology business.

(iv) The personal property of a business that is not an alternative energy technology business that is used solely for the purpose of researching, developing, or manufacturing an alternative energy technology.

(b) "Alternative energy system", "alternative energy vehicle", "alternative energy technology", and "alternative energy technology business" mean those terms as defined in the Michigan next energy authority act.

History: Add. 2002, Act 549, Imd. Eff. July 26, 2002.

Popular name: Act 206