



## MEMORANDUM

To: House Local Government and Municipal Finance Committee Members

From: Dan Papineau, Director of Tax Policy and Regulatory Affairs, Michigan Chamber Commerce

Date: June 9, 2021

Subject: Please Oppose HB 4833-4, Tax Treatment of Heavy Equipment Rental Property

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**The Michigan Chamber urges the committee to vote no on HB 4833 and HB 4834 until numerous questions and concerns are addressed by the bill proponents. I apologize for not being able to attend the committee in person but, please accept this written testimony.**

HB 4833 and HB 4834 exempt certain heavy rental equipment from personal property taxes and creates a 2% specific tax on the cost of the rental. The purpose of the new tax is to replace the revenue lost by local governments that will benefit from the personal property tax exemption.

The Michigan Chamber has a long history of being member focused and policy driven. Our policy positions reflect the feedback we receive from members of all industries, all sizes and from all corners of our state. The feedback received on HB 4833-4 was overwhelmingly negative. Several questions and concerns were raised. Until these questions are answered, and concerns resolved, the Michigan Chamber will be in opposition to this legislative proposal.

A summary of the feedback received on HB 4833-4 are as follows:

1. Issues were raised as to whether the HB 4833 violates the Michigan Constitution. Some members raised concerns that the 2% tax levied on the rental price of the equipment could be interpreted to be a sales tax that would exceed Michigan's 6% sales tax limitation. The 2% specific tax is levied on the same base as Michigan's sales tax and functions much like a sales tax.

Additionally, the law allows the lessor to make an election to pay use tax on lease receipts in lieu of paying tax on the property at the time acquired and allows the lessor to pass that on the lessee like this tax. In that scenario, when the lessor makes that election the total tax of 8% it could be viewed as violating the constitution.

2. Questions were raised about tax efficiency. How many businesses will be eligible for the exemption? What value of personal property is being exempted? At \$400,000 in administration costs for the Department, a serious discussion on tax efficiency must be had.
3. If the Michigan Department of Treasury is planning to take \$400,000 in administration costs off the top of the specific tax's collections and 10% of the tax collections go to local governments who do not have rental equipment within its jurisdiction and therefore do not need any reimbursement, how much more revenue does the new tax plan to generate above what is needed to just replace the revenue loss caused by the exemption? How much of a tax increase is this?
4. The proposal appears to allocate the new tax based on the location where the equipment "is kept when not rented" but that does not necessarily represent the location where property tax would have been paid. For example, if equipment is located on a project site at 12/31 that is where the tax would have been paid, but this bill does not allocate replacement revenue to that jurisdiction.
5. The bill raises fairness concerns because it is a tax on rental income but provides no mechanism to allocate income to multiple jurisdictions when equipment is present in more than one jurisdiction throughout the year. While the property tax is tied to a Tax Day concept, a rental tax should be apportioned fairly, arguably based on where the property is used through the year.
6. The tax does not apply to companies that own their own equipment or long-term lease it. This creates an unfair disparity.
7. Concern was raised that smaller, independent rental companies will have a much harder time administering this tax than large complex, multi-state companies.
8. Rental businesses located in states that do not impose a specific tax on the rental price will have a competitive advantage against Michigan businesses.

Chamber members largely recognized the problem trying to be solved with this legislation however, the committee widely disagreed with the mechanism presented as the solution. Many more informal comments were received with general concern with the policy presented. Commonly referred to as overly complicated and overly convoluted, committee members questioned the basis for pursuing the legislation.

Thank you for the opportunity to share the Michigan Chamber's position and accompanying reasoning on HB 4833-4. Please let me know if I can provide any more explanation or assistance.

Sincerely,

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Michigan Chamber of Commerce

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