QUALIFIED FOREST PROPERTY RECAPTURE TAX ACT
Act 379 of 2006

AN ACT to impose a state recapture tax on the change in use of certain qualified forest property; to provide for the administration of the recapture tax; to prescribe the powers and duties of certain state and local officers; to provide for the collection and distribution of the recapture tax; and to prescribe penalties and provide remedies.

History: 2006, Act 379, Imd. Eff. Sept. 27, 2006.

The People of the State of Michigan enact:

211.1031 Short title.

Sec. 1. This act shall be known and may be cited as the "qualified forest property recapture tax act".

History: 2006, Act 379, Imd. Eff. Sept. 27, 2006.

211.1032 Definitions.

Sec. 2. As used in this act:

(a) "Benefit period" means the period in years between the date of the first exempt transfer and the conversion by a change in use, not to exceed the 10 years immediately preceding the year in which the qualified forest property is converted by a change in use.

(b) "Benefit received on that property" means the sum of the number of mills levied in the local tax collecting unit on the qualified forest property in each year of the benefit period, multiplied by the difference in each year of the benefit period between the true cash taxable value of the property and the property's taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Converted by a change in use" means that due to a change in use the property is no longer eligible for an exemption as qualified forest property under section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(d) "Exempt transfer" means a conveyance of property that is not a transfer of ownership pursuant to section 27a(7)(o) of the general property tax act, 1893 PA 206, MCL 211.27a.

(e) "Forest products" means that term as defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(f) "Person" means an individual, partnership, corporation, limited liability company, association, governmental entity, or other legal entity.

(g) "Qualified forest property" means that term as defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(h) "Recapture tax" means the qualified forest property recapture tax imposed under this act.

(i) "Treasurer" means the state treasurer.

(j) "True cash taxable value" means the taxable value the property would have had if section 27a(7)(o) of the general property tax act, 1893 PA 206, MCL 211.27a, were not in effect.

History: 2006, Act 379, Imd. Eff. Sept. 27, 2006;—Am. 2013, Act 49, Imd. Eff. June 6, 2013.

211.1033 Qualified forest property recapture tax; imposition.

Sec. 3. (1) Beginning January 1, 2007, the qualified forest property recapture tax provided under section 4 is imposed as provided in this section if the property is converted by a change in use after December 31, 2006.

(2) The recapture tax is the obligation of the person who owned the property at the time the property was converted by a change in use. If a recapture tax is imposed on the owner of the property under this subsection, the recapture tax is a lien on the property subject to the recapture tax until paid. If the recapture tax is not paid within 90 days of the date the property was converted by a change in use, the treasurer may bring a civil action against the owner of the property as of the date the property was converted by a change in use. If the recapture tax remains unpaid on the March 1 in the year immediately succeeding the year in which the property is converted by a change in use, the property on which the recapture tax is due shall be returned as delinquent to the county treasurer of the county in which the property is located. Property returned as delinquent under this section, and upon which the recapture tax, interest, penalties, and fees remain unpaid after the property is returned as delinquent to the county treasurer, is subject to forfeiture, foreclosure, and sale for the enforcement and collection of the delinquent taxes as provided in sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a.

History: 2006, Act 379, Imd. Eff. Sept. 27, 2006.

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211.1034 Recapture tax; rate.

Sec. 4. The recapture tax under this act shall be imposed at the following rate:

(a) Except as otherwise provided in subdivision (c), if the property is converted by a change in use and there have not been 1 or more harvests of forest products on that property consistent with the approved forest management plan, the recapture tax shall be calculated in the following manner:

(*i*) Multiply the property's taxable value at the time the property is converted by a change in use by the number of operating mills levied by the local school district in which the property is located under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, reduced by the number of mills collected as a fee for qualified forest property under section 7jj(9) of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(*ii*) Multiply the product of the calculation under subparagraph (*i*) by the number of years the property had been exempt as qualified forest property under section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1], before the property was converted by a change in use not to exceed the 7 years immediately preceding the year in which the qualified forest property was converted by a change in use.

(*iii*) Multiply the product of the calculation under subparagraph (*ii*) by 2.

(b) Except as otherwise provided in subdivision (c), if the property is converted by a change in use and there have been 1 or more harvests of forest products on that property consistent with the approved forest management plan, the recapture tax shall be calculated in the following manner:

(*i*) Multiply the property's taxable value at the time the property is converted by a change in use by the number of operating mills levied by the local school district in which the property is located under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, reduced by the number of mills collected as a fee for qualified forest property under section 7jj(9) of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(*ii*) Multiply the product of the calculation under subparagraph (*i*) by the number of years the property had been exempt as qualified forest property under section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1], before the property was converted by a change in use not to exceed the 7 years immediately preceding the year in which the qualified forest property was converted by a change in use.

(c) If the property was eligible for exemption under section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1], as a result of the withdrawal of that property from the operation of part 511 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51101 to 324.51120, as provided in section 51108(5) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51108, and the property is converted by a change in use within 7 years after the withdrawal of that property from the operation of part 511 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51101 to 324.51120, the recapture tax is an amount equal to the application fee and penalty that would have been assessed under section 51108 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51108, to withdraw that property from the operation of part 511 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51101 to 324.51120, in the year in which the property is converted by a change of use, calculated as if the property had not been withdrawn from the operation of part 511 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51101 to 324.51120. If the property is converted by a change in use more than 7 years after the withdrawal of that property from the operation of part 511 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51101 to 324.51120, the recapture tax shall be calculated under subdivision (a) or (b), as applicable.

(d) In addition to the recapture tax calculated under subdivision (a), (b), or (c), if property is converted by a change in use and the taxable value of the property was not adjusted under section 27a(3) of the general property tax act, 1893 PA 206, MCL 211.27a, after a transfer of ownership of the property due to the provisions of section 27a(7)(o) of the general property tax act, 1893 PA 206, MCL 211.27a, the recapture tax shall include the benefit received on that property.

History: 2006, Act 379, Imd. Eff. Sept. 27, 2006;—Am. 2013, Act 49, Imd. Eff. June 6, 2013.

211.1035 Recapture tax; collection; notification; credit of tax proceeds.

Sec. 5. (1) The recapture tax shall be collected by the treasurer.

(2) The assessor of the local tax collecting unit shall notify the treasurer of the date the property is converted by a change in use.

(3) The treasurer shall credit the proceeds of the recapture tax collected under this act as follows:

(a) Before January 1, 2014, to the general fund of this state.

(b) After December 31, 2013, to the private forestland enhancement fund created in section 51305 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51305.

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History: 2006, Act 379, Imd. Eff. Sept. 27, 2006;—Am. 2013, Act 43, Imd. Eff. June 6, 2013.

211.1036 Administration of act.

Sec. 6. This act shall be administered by the department of treasury under 1941 PA 122, MCL 205.1 to 205.31.

History: 2006, Act 379, Imd. Eff. Sept. 27, 2006.

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