AIR POLLUTION

TAX EXEMPTION FOR AIR POLLUTION CONTROL

Act 250, 1965, p. 427; Imd. Eff. July 21.

AN ACT to provide for the exemption of air pollution control facilities from certain taxes.

The People of the State of Michigan enact:

336.1 Air pollution control facility; definition. [M.S.A. 7.793(1)]

Sec. 1. As used in this act "facility" means machinery, equipment, structures, or any part or accessories thereof, installed or acquired for the primary purpose of controlling or disposing of air pollution which if released would render the air harmful or inimical to the public health or to property within this state. It does not include an air conditioner, dust collector, fan or other similar facility for the benefit of personnel or of a business.

336.2 Air pollution control; tax exemption certificate; application, contents; approval; notice, hearing; tax exemption. [M.S.A. 7.793(2)]

Sec. 2. (1) An application for a pollution control tax exemption certificate shall be filed with the state tax commission in such manner and in such form as may be prescribed by the commission. The application shall contain plans and specifications of the facility including all materials incorporated or to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of pollution control together with the proposed operating procedure for the control facility.

(2) Before issuing a certificate the state tax commission shall seek approval of the director of public health and give notice in writing by certified mail to the department of revenue and to the assessor of the taxing unit in which the facility is located or to be located, and shall afford to the applicant and the assessor an opportunity for a hearing. Tax exemption granted under this act shall be reduced to the extent of any commercial or productive value derived from any materials captured or recovered by any air pollution control facility as defined in section 4.

HISTORY: Am. 1967, p. 170, Act 145, Imd. Eff. June 27.

336.3 Findings of director of public health; notice to tax commission; issuance and effective date of certificate. [M.S.A. 7.793(3)]

Sec. 3. If the director of public health finds that the facility is designed and operated primarily for the control, capture and removal of pollutants from the air, and is suitable, reasonably adequate and meets the intent and purposes of the air pollution act, Act No. 348 of the Public Acts of 1965, as amended, being sections 336.11 to 336.36 of the Compiled Laws of 1948, and rules promulgated thereunder, he shall so notify the state tax commission who shall issue a certificate. The effective date of the certificate shall be the date of issue of the certificate.

HISTORY: Am. 1967, p. 170, Act 145, Imd. Eff. June 27.

336.4 Air pollution control facility; tax exemption certificate; effective date; duration; acquisition cost. [M.S.A. 7.793(4)]

Sec. 4. (1) For the period subsequent to the effective date of the certificate and continuing so long as the certificate is in force, a facility covered thereby is exempt from real and personal property taxes imposed under Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948.

(2) For the period subsequent to the effective date of the certificate and continuing so long as the certificate is in force, tangible personal property which becomes affixed and made a structural part of the real estate of such facility shall be exempt from:

(a) Sales taxes imposed under Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948.

(b) Use taxes imposed under Act No. 94 of the Public Acts of 1937, as amended, being sections 205.91 to 205.111 of the Compiled Laws of 1948.

(3) This act shall not be construed to affect the industrial processing exemptions under the act referred to in subdivisions (a) and (b) of subsection (2).

(4) The certificate shall state the total acquisition cost of the facility entitled to exemption.

HISTORY: Am. 1966, p. 384, Act 270, Imd. Eff. July 12.

336.5 Same; issuance; mailing to applicant, local tax assessors and revenue department; filing; notice of refusal of certificate. [M.S.A. 7.793(5)]

Sec. 5. The state tax commission shall send an air pollution control tax exemption certificate, when issued, by certified mail to the applicant, and certified copies by certified mail to the assessor of the taxing unit in which any property to which the same relates is located or to be located and to the department of revenue, which copies shall be filed of record in their offices. Notice of the commission's refusal to issue a certificate shall be sent by certified mail to the applicant, to the department of revenue, and to the assessor.

336.6 Modification or revocation, grounds; notice and hearing; statute of limitations. [M.S.A. 7.793(6)]

Sec. 6. (1) The state tax commission, on notice by certified mail to the applicant and opportunity for a hearing, shall on its own initiative or on complaint of the director of public health, the department of revenue or by the assessor of the taxing unit in which any property to which the certificate relates is located, modify or revoke the certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation.

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation or acquisition of a facility or to operate the facility for the purpose and degree of control specified in the certification, or an amended certificate.

(c) The facility covered by the certificate is no longer used for the primary purpose of pollution control and is being used for a different purpose.

(d) Substantial noncompliance with Act No. 348 of the Public Acts of 1965, as amended, or any rule promulgated thereunder.

(2) On the mailing by certified mail to the certificate holder, the department of revenue, and the local assessor of notice of the action of the state tax commission modifying or revoking a certificate, the certificate shall cease to be in force or shall remain in force only as modified. When a certificate is revoked because obtained by fraud or misrepresentation, all taxes which would have been payable if no certificate had been issued shall be immediately due and payable with the maximum interest and penalties prescribed by applicable law. No statute of limitations shall operate in the event of fraud or misrepresentation.

HISTORY: Am. 1967, p. 170, Act 145, Imd. Eff. June 27.

336.7 Same; appeals. [M.S.A. 7.793(7)]

Sec. 7. A party aggrieved by the issuance or refusal to issue, revocation or modification of a pollution control tax exemption certificate may appeal from the finding and order of the state tax commission in the manner and form and within the time provided by Act No. 197 of the Public Acts of 1952, as amended.

336.8 Rules and regulations. [M.S.A. 7.793(8)]

Sec. 8. The state tax commission may adopt such rules and regulations as it deems necessary for the administration of this act subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. These rules and regulations shall not abridge the authority of the director of public health to determine whether or not air pollution control exists within the meaning of this act.

HISTORY: Am. 1967, p. 171, Act 145, Imd. Eff. June 27.