

SALES/USE TAX: PUBLIC HOUSING

House Bill 4019 (Substitute H-2)

Sponsor: Rep. James McNutt

House Bill 4949 (Substitute H-1)

Sponsor: Rep. Kirk A. Profit

Committee: Tax Policy

First Analysis (2-17-98)

THE APPARENT PROBLEM:

Currently, while nonprofit organizations can themselves purchase building materials without paying the sales or use tax, building contractors working for them must pay the taxes, except in two special cases. Building contractors who are working on nonprofit hospitals or on certain kinds of nonprofit housing are exempt from paying the sales or use taxes for the materials they purchase. (Legislation to extend this exemption to contractors working on behalf of other kinds of organizations has been proposed. See Background Information.) The exemption for nonprofit housing applies to homes or dwellings constructed by a nonprofit housing entity qualified as exempt pursuant to Section 15a of the State Housing Development Act of 1966. That section refers to "a nonprofit housing corporation, consumer housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association . . . financed with a federally-aided mortgage or authority-aided mortgage or advance or grant from the authority."

Representatives from the city of Midland told the House Tax Policy Committee that because a senior citizen housing project there was built without the federal or state aid cited in the State Housing Development Act, the building contractors working on the project were obligated to pay sales and use taxes. Legislation has been introduced to extend the current exemption to other kinds of publicly owned housing.

THE CONTENT OF THE BILLS:

The bills would provide an exemption for the sale or use of tangible personal property by persons directly engaged in the business of constructing, altering, repairing, or improving real estate for others if the property was affixed to and made a structural part of public nonprofit

housing. The exemption would apply after December 31, 1990.

The term "public nonprofit housing" would refer to a multiple-unit dwelling owned by a city, village, township, or county, the income or property of which does not directly or indirectly inure to the benefit of an individual, private stockholder, or other private person.

A person claiming the exemption (e.g., a contractor) would have to sign an affidavit in a form approved by the Department of Treasury attesting to the appropriate use of the property purchased.

A city, village, township, or county that had paid the tax on such property after December 31, 1990, could file a claim for a refund with the Department of Treasury within 60 days of the effective date of the bills.

House Bill 4019 would amend the General Sales Tax Act (MCL 205.54p). House Bill 4949 would amend the Use Tax Act (MCL 205.94o). The two bills are tied-barred.

BACKGROUND INFORMATION:

The House recently passed House Bills 4163 and 4743, which would exempt building contractors working on churches from the sales and use taxes. Two bills to clarify or expand the exemption for contractors working on hospitals are currently on the House calendar. Several other similar bills dealing with school construction and airport construction have been introduced.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills would result in an indeterminate impact on state and local revenues. (2-13-98)

ARGUMENTS:***For:***

Extending the current sales and use tax exemptions to building contractors working on publicly owned housing regardless of how the housing is financed appears to be a matter of simple fairness. The exemptions now apply to nonprofit housing only when it meets a narrow definition in the State Housing Development Authority Act. There seems little justification for this. Requiring contractors to pay sales and use taxes reduces the amount of funds available for public housing (by six percent, the amount of the tax).

Response:

Reportedly, the sales and use tax exemptions for contractors working on behalf of nonprofits was once quite broad, but was narrowed because of widespread abuses. Given that history, the expansion of these exemptions should be addressed cautiously.

POSITIONS:

Representatives from the City of Midland and the City of Detroit Housing Commission testified in support of the bill. (2-11-98)

The Michigan Municipal League supports the bills. (2-11-98)

The Department of Treasury has no position at present. (2-11-98)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.