

Legislative Analysis



REDUCE SALES/USE TAX RATE & EXTEND TAXES TO SERVICES; AND ELIMINATE MBT SURCHARGE

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House Joint Resolution KK
House Bills 5527-5529
Sponsor: Rep. Mark Meadows
Committee: Tax Policy

Complete to 11-19-09

A SUMMARY OF HOUSE JOINT RESOLUTION KK AND HOUSE BILLS 5527-5529 AS INTRODUCED 10-20-09

Under this legislative package:

** The maximum sales tax and use tax rates would be reduced from six percent to five percent, and the taxes would be levied on both tangible personal property and services. (Generally, the taxes now apply to tangible personal property but not services.)

** However, the sales and use taxes would not apply to services to a business entity, educational services, services provided by a nonprofit organization, and services provided by a physician.

** The sales and use taxes would be imposed on carbonated beverages and bottled water in units of less than one gallon. (This would be a new exception to the prohibition on taxes on food for human consumption.)

** 75 percent of sales tax revenue would be dedicated to the State School Aid Fund, and 20 percent of sales tax revenue would be used exclusively for assistance to townships, cities, and villages, on a population basis. (This assistance is commonly referred to as revenue sharing.)

** The surcharge levied on firms under Section 281 of the Michigan Business Tax Act would be repealed. That section imposes an annual surcharge of 21.99 percent on top of the tax liability of most MBT taxpayers "to meet deficiencies in state funds." The amount of the surcharge is limited to \$6 million per taxpayer per tax year. An alternative surcharge of 23.4 percent is levied on financial institutions and the cap does not apply. There is no surcharge on insurance companies.

The following are the interrelated components of the package.

House Joint Resolution KK

HJR KK, which requires voter approval, would amend Sections 8, 10, and 11 of Article IX of the State Constitution to make the following changes beginning January 1, 2010.

** The maximum sales tax and use tax rates would be reduced from six percent to five percent, and the taxes would be levied on both tangible personal property and services. (Generally speaking, the taxes now apply to tangible personal property and not to services.)

** The sales and use taxes would be imposed on carbonated beverages and bottled water in units of less than one gallon. (This would be a new exception to the prohibition on taxes on food for human consumption.)

** 75 percent of sales tax revenue would be dedicated to the State School Aid Fund, and 20 percent of sales tax revenue would be used exclusively for assistance to townships, cities, and villages, on a population basis. (This assistance is commonly referred to as revenue sharing.)

The proposed constitutional amendment would be put before the voters at the next general election.

House Bill 5527

The bill would amend the General Sales Tax Act (MCL205.51 et al.) to make the following changes.

** The sales tax would be extended to the sale, lease, or rental of services.

** However, services to a business entity, educational services, services provided by a nonprofit organization, and services provided by a physician, would be excluded. (The sales tax would not apply to these services.)

** 75 percent of sales tax revenue would be dedicated to the State School Aid Fund, and 20 percent of sales tax revenue would be distributed to cities, villages, and townships, under the Glenn Steil State Revenue Sharing Act.

** Distributions would also be made to the Comprehensive Transportation Fund and General Fund after the allocations and distributions to schools and revenue sharing are made. Out of 25 percent of the sales tax imposed at a rate of five percent on motor vehicle related sales, at least 27.9 percent would be deposited in the Comprehensive Transportation Fund, with the balance to the General Fund. This applies to the tax imposed directly or indirectly on fuels sold for motor vehicles operated on highways, the sale of motor vehicles by new and used car dealers, used car businesses, accessory dealer businesses and gasoline station businesses. (This is an existing earmark.)

** Also after the allocations and distributions to schools and revenue sharing, an amount equal to the tax on retail sales of computer software would be deposited in the Health Initiative Fund. The funds deposited would have to equal not less than \$9 million or more than \$12 million annually. (This is an existing earmark.)

The bill is tie-barred to House Joint Resolution KK and to House Bill 5529. This means it could not take effect unless those two also take effect.

House Bill 5528

The bill would amend the Use Tax Act (MCL 205.94 et al.) to make the following changes.

** The use tax would be extended to the use or consumption of services.

** However, services to a business entity, educational services, services provided by a nonprofit organization, and services provided by a physician would be excluded. (The use tax would not apply to these services.)

The bill is tie-barred to House Joint Resolution KK and to House Bill 5529. This means it could not take effect unless those two also take effect.

House Bill 5529

The bill would amend the Michigan Business Tax Act (MCL 208.1281) to repeal the surcharge levied on firms under Section 281. That section imposes an annual surcharge of 21.99 percent on top of the tax liability of most MBT taxpayers "to meet deficiencies in state funds." The amount of the surcharge is limited to \$6 million per taxpayer per tax year. An alternative surcharge of 23.4 percent is levied on financial institutions and the cap does not apply. There is no surcharge on insurance companies.

The bill is tie-barred to House Bills 5528 and 5529, meaning it cannot take effect unless those bills are also enacted.

FISCAL IMPACT:

See the preliminary revenue estimates for fiscal years 2009-10 and 2010-11 in the chart on the following page.

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■ 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.

Preliminary Revenue Estimates for FY 2009-10 and FY 2010-11

FY 2009-10

<i>Existing Taxes</i>	Revenue Sharing						Total
	SAF	GF/GP	Const.	Statutory	Counties	Other	
Current MBT surcharge	\$0.0	\$543.7	\$0.0	\$0.0	\$0.0	\$0.0	\$543.7
Current sales tax	\$4,408.7	\$587.0	\$622.1	\$314.2	\$55.3	\$80.0	\$6,067.3
Current use tax	\$398.0	\$796.0	\$0.0	\$0.0	\$0.0	\$0.0	\$1,194.0
Subtotal of existing taxes	\$4,806.7	\$1,926.7	\$622.1	\$314.2	\$55.3	\$80.0	\$7,805.0
<i>New Taxes</i>	Revenue Sharing						Total
	SAF	GF/GP	Const.	Statutory	Counties	Other	
Existing Sales Tax base at 5.0%	\$4,148.0	\$355.4	\$986.5	\$0.0	\$55.3	\$80.0	\$5,625.2
Existing Use Tax base at 5.0%	\$199.0	\$895.5	\$0.0	\$0.0	\$0.0	\$0.0	\$1,094.5
Expand sales tax to services at 5.0%	\$742.1	\$49.5	\$197.9	\$0.0	\$0.0	\$0.0	\$989.5
Sales tax on pop & bottled water at 5.0%	\$41.1	\$2.7	\$10.9	\$0.0	\$0.0	\$0.0	\$54.7
Repeal surcharge	\$0.0	\$190.3	\$0.0	\$0.0	\$0.0	\$0.0	\$190.3
Subtotal of new taxes	\$5,130.2	\$1,493.4	\$1,195.3	\$0.0	\$55.3	\$80.0	\$7,954.2
Net Impact	\$323.5	(\$433.3)	\$573.2	(\$314.2)	\$0.0	\$0.0	\$149.2

FY 2010-11

<i>Existing Taxes</i>	Revenue Sharing						Total
	SAF	GF/GP	Const.	Statutory	Counties	Other	
Current MBT surcharge	\$0.0	\$554.6	\$0.0	\$0.0	\$0.0	\$0.0	\$554.6
Current sales tax	\$4,453.2	\$534.6	\$627.5	\$310.8	\$116.5	\$90.0	\$6,132.6
Current use tax	\$407.2	\$814.3	\$0.0	\$0.0	\$0.0	\$0.0	\$1,221.5
Subtotal of existing taxes	\$4,860.3	\$1,903.5	\$627.5	\$310.8	\$116.5	\$90.0	\$7,908.6
<i>New Taxes</i>	Revenue Sharing						Total
	SAF	GF/GP	Const.	Statutory	Counties	Other	
Existing Sales Tax base at 5.0%	\$3,931.3	\$55.6	\$1,048.3	\$0.0	\$116.5	\$90.0	\$5,241.7
Existing Use Tax base at 5.0%	\$0.0	\$1,017.9	\$0.0	\$0.0	\$0.0	\$0.0	\$1,017.9
Expand sales tax to services at 5.0%	\$1,521.3	\$101.4	\$405.7	\$0.0	\$0.0	\$0.0	\$2,028.4
Sales tax on pop & bottled water at 5.0%	\$83.7	\$5.6	\$22.3	\$0.0	\$0.0	\$0.0	\$111.7
Repeal surcharge	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Subtotal of new taxes	\$5,536.3	\$1,180.5	\$1,476.4	\$0.0	\$116.5	\$90.0	\$8,399.6
Net Impact	\$676.0	(\$723.0)	\$848.9	(\$310.8)	\$0.0	\$0.0	\$491.0

Notes:

1. FY 2009-10 revenues are based on the May 2009 consensus estimates. FY 2010-11 estimates are HFA projections.
2. Revenue sharing projections for FY 2009-10 are based on the May 2009 consensus estimates and on SB245 as enacted. FY 2010-11 estimates are HFA projections.
3. Assumes sales tax earmarks with expanded base are effective April 1, 2010. Assumes surcharge repeal is effective for tax year 2010.
4. The revenue estimate for taxing services includes health care services purchased with employer-provided insurance. This may differ from the legislation's exemption for services provided to a business entity.
5. Assumes existing sales tax earmarks to the Comprehensive Transportation Fund (\$71 million in FY 2009-10 and \$81 million in FY 2010-11) and Michigan Health Initiative (\$9 million each year) will continue even though they are not expressly provided for in the legislation.
6. Assumes existing sales tax earmark for county revenue sharing will continue even though it is not provided for in the legislation.
7. Sales tax on pop & bottled water is from House Fiscal Agency. Remaining estimates developed in conjunction with the Michigan Department of Treasury.