

# Legislative Analysis

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## **ALLOW CLAIM FOR REFUND OF SALES OR USE TAX AFTER EXEMPT PURCHASE**

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5620 (proposed substitute H-1)**  
**Sponsor: Rep. Pamela Hornberger**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 5621 (proposed substitute H-1)**  
**Sponsor: Rep. Sue Allor**

**Committee: Tax Policy**  
**Complete to 3-13-18**

### **SUMMARY:**

House Bills 5620 and 5621 would amend the General Sales Tax Act and the Use Tax Act, respectively, to allow an individual to apply for sales and use tax refunds from the Michigan Department of Treasury when the purchaser fails to claim a tax exemption at the time of purchase.

Both the General Sales Tax Act and the Use Tax Act contain lists of sales and transactions that are exempt from the respective taxes. Currently under both acts, if an exemption from the tax is claimed, the seller must obtain identifying information of the purchaser and the reason for claiming the exemption either at time of purchase or at a later date. If the seller obtains a fully completed exemption form or captures the relevant data within 120 days after the date of the sale, the seller is not liable for the tax.<sup>1</sup> The seller can also prove that the transaction was not subject to the tax by other means within an extended period of time. Additionally, the seller can obtain a blanket exemption from a purchaser with which the seller has a recurring business relationship.

Under each bill, if a purchaser failed to claim an exemption at the time of purchase by notifying the seller and providing a complete and valid certificate of exemption, the purchaser could submit a claim for a refund to the Department of Treasury for the tax related to the purchase if all of the following were met:

- The claim for a refund was made within 4 years of the date of purchase.
- The purchaser submitted to the department an accurate record of the purchase, including, but not limited to, a paper, electronic, or digital receipt, invoice, or purchase order related to the sale that includes the amount of sales or use tax paid for which the purchaser is seeking a refund.
- The purchaser submitted to the department a form prescribed by the department and signed by the seller that contains information required to substantiate the refund claim. The form would have to include a statement that the seller reported and paid

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<sup>1</sup> See "Michigan Sales and Use Tax Certificate of Exemption," Michigan Department of Treasury Form 3372 (Rev. 03-16). [https://www.michigan.gov/documents/taxes/3372\\_216612\\_7.pdf](https://www.michigan.gov/documents/taxes/3372_216612_7.pdf)

the tax on the sale in question and that the seller had not claimed, and would not claim, a refund of that tax.

- The purchaser submitted to the department a proper exemption claim form as prescribed by the department.
- The purchaser submitted any additional information required by the department related to the claim for refund.

The bills would take effect 90 days after being enacted into law.

MCL 205.62 (HB 5620: General Sales Tax Act)

MCL 205.104b (HB 5621: Use Tax Act)

### **FISCAL IMPACT:**

As written, the bills would be expected to have an unknown, but presumed minor, impact on state sales and use tax revenue. While the number of purchasers that would avail themselves of this mechanism to receive a refund cannot be determined in advance, it is likely to be small.

The bills would have an indeterminate fiscal impact on the Department of Treasury. Any fiscal impact would relate to increased administration costs associated with processing the requirements under the provisions of the bill. It is likely that the Department of Treasury will be able to cover any costs under current appropriation levels.

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