

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

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House Bill 5620 as introduced
Sponsor: Rep. Pamela Hornberger

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

House Bill 5621 as introduced
Sponsor: Rep. Sue Allor

Committee: Tax Policy
Complete to 2-26-18

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 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.¹ 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, he or she 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 sale occurred within the time period specified in the statute of limitations in Public Act 122 of 1941. (Section 27a of that act specifies a general 4-year statute of limitations for taxpayers claiming refunds.)
- The purchaser has 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 tax for which the purchaser is seeking a refund.
- The purchaser has received a signed statement from the seller that the seller reported and paid the tax on the sale in question and did not claim an exemption at a later date.

¹ 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

- The purchaser has completed an exemption certificate to establish a valid exemption claim related to the sale in question.

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.

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