

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5621**

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 14b (MCL 205.104b), as amended by 2015 PA 252.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 14b. (1) If an exemption from the tax under this act is
2 claimed, the seller shall obtain identifying information of the
3 purchaser and the reason for claiming the exemption at the time of
4 the purchase or at a later date. The seller shall obtain the same
5 information for a claimed exemption regardless of the medium in
6 which the transaction occurred.

7 (2) A seller shall use a standard format for claiming an
8 exemption electronically as adopted by the governing board under
9 the streamlined sales and use tax agreement.

10 (3) A purchaser is not required to provide a signature to

1 claim an exemption under this act unless a paper exemption form is
2 used.

3 (4) A seller shall maintain a proper record of all exempt
4 transactions and shall provide them when requested by the
5 department.

6 (5) A seller who complies with the requirements of this
7 section is not liable for the tax under this act if a purchaser
8 improperly claims an exemption. A purchaser who improperly claims
9 an exemption is liable for the tax due under this act. This
10 subsection does not apply if a seller does any of the following:

11 (a) Fraudulently fails to collect the tax under this act.

12 (b) Solicits a purchaser to make an improper claim for
13 exemption.

14 (c) Accepts an exemption form when the purchaser claims an
15 entity-based exemption if both of the following occur:

16 (i) The subject of the transaction sought to be covered by the
17 exemption form is actually received by the purchaser at a location
18 operated by the seller.

19 (ii) The state in which the location operated by the seller is
20 located provides an exemption form that clearly and affirmatively
21 indicates that the claimed exemption is not available in that
22 state.

23 (6) A seller who obtains a fully completed exemption form or
24 captures the relevant data elements as outlined in this section
25 within 120 days after the date of sale is not liable for the tax
26 under this act.

27 (7) If the seller has not obtained an exemption form or all

1 relevant data elements, the seller may either prove that the
2 transaction was not subject to the tax under this act by other
3 means or obtain a fully completed exemption form from the
4 purchaser, by the later of the following:

5 (a) 120 days after a request by the department.

6 (b) The date an assessment becomes final.

7 (c) The denial of a claim for refund.

8 (d) In the instance of a credit audit, the issuance of an
9 audit determination letter or informal conference decision and
10 order of determination.

11 (e) The date of a final order of the court of claims or the
12 Michigan tax tribunal, as applicable, with respect to an
13 assessment, order, or decision of the department.

14 (8) The department may, in its discretion, allow a seller
15 additional time to comply with subsection (7).

16 (9) A seller is not liable for the tax under this act if the
17 seller obtains a blanket exemption form for a purchaser with which
18 the seller has a recurring business relationship. Renewals of
19 blanket exemption forms or updates of exemption form information or
20 data elements are not required if there is a recurring business
21 relationship between the seller and the purchaser. For purposes of
22 this section, a recurring business relationship exists when a
23 period of not more than 12 months elapses between sales
24 transactions.

25 **(10) A PURCHASER THAT FAILS TO CLAIM AN EXEMPTION AT THE TIME**
26 **OF PURCHASE BY NOTIFYING THE SELLER OF THE EXEMPTION AND PROVIDING**
27 **A COMPLETE AND PROPER CLAIM OF EXEMPTION MAY SUBMIT A CLAIM FOR A**

1 REFUND TO THE DEPARTMENT FOR THE TAX RELATED TO THAT PURCHASE IF
2 ALL OF THE FOLLOWING CONDITIONS ARE MET:

3 (A) THE CLAIM FOR A REFUND IS MADE WITHIN 4 YEARS OF THE DATE
4 OF PURCHASE.

5 (B) THE PURCHASER SUBMITS TO THE DEPARTMENT AN ACCURATE RECORD
6 OF THE PURCHASE, INCLUDING, BUT NOT LIMITED TO, A PAPER,
7 ELECTRONIC, OR DIGITAL RECEIPT, INVOICE, OR PURCHASE ORDER RELATED
8 TO THE SALE, THAT INCLUDES THE DATE OF THE PURCHASE AND THE AMOUNT
9 OF SALES TAX PAID TO THE SELLER FOR WHICH THE PURCHASER IS SEEKING
10 A REFUND UNDER THIS SUBSECTION.

11 (C) THE PURCHASER SUBMITS TO THE DEPARTMENT A FORM SIGNED BY
12 THE SELLER AS PRESCRIBED BY THE DEPARTMENT THAT CONTAINS
13 INFORMATION REQUIRED BY THE DEPARTMENT TO SUBSTANTIATE THE REFUND
14 CLAIM. THE FORM SHALL CONTAIN A STATEMENT THAT THE SELLER REPORTED
15 AND PAID THE TAX ON THE SALE FOR WHICH THE PURCHASER IS SEEKING A
16 REFUND UNDER THIS SUBSECTION AND THAT THE SELLER HAS NOT CLAIMED,
17 AND WILL NOT CLAIM, A REFUND OF THAT TAX.

18 (D) THE PURCHASER SUBMITS TO THE DEPARTMENT A PROPER EXEMPTION
19 CLAIM ON A FORM AS PRESCRIBED BY THE DEPARTMENT UNDER THIS
20 SUBSECTION.

21 (E) THE PURCHASER SHALL SUBMIT TO THE DEPARTMENT ANY
22 ADDITIONAL INFORMATION THAT THE DEPARTMENT MAY REQUIRE RELATED TO
23 THE PURCHASER'S CLAIM FOR REFUND UNDER THIS SUBSECTION.

24 Enacting section 1. This amendatory act takes effect January
25 1, 2019.