

Act No. 167  
Public Acts of 2018  
Approved by the Governor  
June 3, 2018  
Filed with the Secretary of State  
June 4, 2018  
EFFECTIVE DATE: January 1, 2019

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

Introduced by Rep. Hornberger

# **ENROLLED HOUSE BILL No. 5620**

AN ACT to amend 1933 PA 167, entitled “An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act,” by amending section 12 (MCL 205.62), as amended by 2015 PA 251.

*The People of the State of Michigan enact:*

Sec. 12. (1) If an exemption from the tax under this act is claimed, the seller shall obtain identifying information of the purchaser and the reason for claiming the exemption at the time of the purchase or at a later date. The seller shall obtain the same information for a claimed exemption regardless of the medium in which the transaction occurred.

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

(3) A purchaser is not required to provide a signature to claim an exemption under this act unless a paper exemption form is used.

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

(5) A seller who complies with the requirements of this section is not liable for the tax if a purchaser improperly claims an exemption. A purchaser who improperly claims an exemption is liable for the tax due under this act. This subsection does not apply if a seller fraudulently fails to collect the tax, solicits a purchaser to make an improper claim for exemption, or accepts an exemption form when the purchaser claims an entity-based exemption if both of the following circumstances occur:

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

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

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

(7) If the seller has not obtained an exemption form or all relevant data elements, the seller may either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption form from the purchaser, by the later of the following:

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

(b) The date an assessment becomes final.

(c) The denial of a claim for refund.

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

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

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

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

(10) A certified service provider shall be considered a seller under this section. As used in this section, "certified service provider" means that term as defined in section 25 of the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.825.

(11) A purchaser that fails to claim an exemption at the time of purchase by notifying the seller of the exemption and providing a complete and proper claim of exemption may submit a claim for a refund to the department for the tax related to that purchase if all of the following conditions are met:

(a) The claim for a refund is made within 4 years of the date of purchase.

(b) The purchaser submits 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 date of the purchase and the amount of sales tax paid to the seller for which the purchaser is seeking a refund under this subsection.

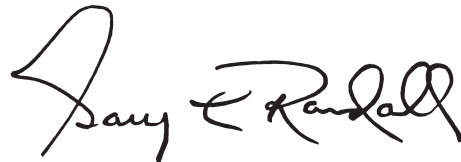
(c) The purchaser submits to the department a form signed by the seller as prescribed by the department that contains information required by the department to substantiate the refund claim. The form shall contain a statement that the seller reported and paid the tax on the sale for which the purchaser is seeking a refund under this subsection and that the seller has not claimed, and will not claim, a refund of that tax.

(d) The purchaser submits to the department a proper exemption claim on a form as prescribed by the department under this subsection.

(e) The purchaser shall submit to the department any additional information that the department may require related to the purchaser's claim for refund under this subsection.

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor