

SALES AND USE TAX EXEMPTIONS FOR CERTAIN PERSONAL PROTECTIVE EQUIPMENT AND SUPPLIES

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<http://www.house.mi.gov/hfa>

House Bill 4224 (H-1) as reported from committee
Sponsor: Rep. Jim Lilly

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

House Bill 4225 (H-2) as reported from committee
Sponsor: Rep. Sarah Anthony

Committee: Rules and Competitiveness
Revised 6-29-21

SUMMARY:

House Bills 4224 and 4225 would amend the General Sales Tax Act and the Use Tax Act to exempt from sales and use tax, respectively, the sale of personal protective equipment (PPE) and supplies to, or the use, storage, or consumption of PPE by, a person engaged in a business enterprise that has implemented a COVID-19 safety protocol plan. The bills state that this tangible personal property would be exempt only to the extent that it is used for the exempt purpose stated in the bills. The exemptions would be limited to the percentage of total use that is exempt use, as determined by a reasonable formula or method approved by the Department of Treasury. The exemptions would be retroactive and apply beginning March 10, 2020, through December 31, 2021.

Under both bills, a person engaged in a business enterprise that adopts a *COVID-19 safety protocol plan* could request a refund from the Department of Treasury for any tax paid under the respective acts for the purchase of *personal protective equipment and supplies*, including tax paid on transactions before the plan was implemented. To be eligible, the person requesting a refund would have to submit all of the following to the Department of Treasury:

- A copy of the COVID-19 safety protocol plan.
- An accurate record of the purchase that includes its date and the amount of the applicable tax paid to the seller, such as a paper, electronic, or digital receipt, invoice, or purchase order related to the sale.
- Any other information required by the Department of Treasury to substantiate the refund claim. The department could only request information necessary to implement these provisions and not sought primarily for another purpose.

COVID-19 safety protocol plan would mean a COVID-19 exposure prevention, preparedness, and response plan that meets all of the following requirements:

- It complies with any applicable law, including applicable executive or epidemic orders regarding safeguards to protect Michigan workers from COVID-19.
- It is consistent with best practices for infection prevention and industrial hygiene.
- It promotes remote work to the fullest extent possible, including increasing the number of telework-eligible employees.
- It implements enhanced cleaning, screening, testing, and contact tracing procedures and any additional infection-control measures that are reasonable in light of the work performed at the worksite and the rate of infection in the surrounding community.

Personal protective equipment and supplies would mean all of the following:

- Protective equipment for human wear that is designed to protect the wearer against exposure to COVID-19 but is not suitable for general use, such as breathing masks, face shields, respirators, protective gloves, or safety glasses and goggles.
- Disinfecting products designed to disinfect or sanitize an individual, workplace, or protective equipment and used or consumed to prevent the spread of COVID-19, such as antibacterial soap, disinfecting spray, disinfecting wipes, or hand sanitizer.
- Plexiglass or similar property used as a barrier to reduce or prevent exposure to COVID-19, including when affixed to or made a structural part of real estate.

Each bill provides that it is retroactive and applies retroactively beginning March 10, 2020.

Proposed MCL 205.54gg (HB 4224) and proposed MCL 205.94gg (HB 4225)

FISCAL IMPACT:

As written, the bills would reduce sales and use tax revenues, although almost all of the reduction is assumed to be sales tax. Based on national data scaled to Michigan, the bills would reduce sales and use tax revenue by an estimated \$4 million to \$5 million in FY 2019-20, \$8 million to \$10 million in FY 2020-21, and \$3 million to \$4 million in FY 2021-22.

Approximately 73% of sales tax revenue is constitutionally earmarked to the School Aid Fund, with an additional 10% earmarked for constitutional revenue sharing. The remainder accrues to the general fund.

POSITIONS:

A representative of the Detroit Regional Chamber testified in support of the bills. (2-18-21)

The following organizations indicated support for the bills (2-18-21):

- Bay Area Chamber of Commerce
- Grand Rapids Chamber of Commerce
- Lansing Chamber of Commerce
- Michigan Chamber of Commerce
- Michigan Manufacturers Association
- Michigan Retailers Association
- Midland Business Alliance
- Northern Michigan Chamber Alliance
- Small Business Association of Michigan

Representatives of the Department of Treasury testified with no position on the bills. (2-18-21)

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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.