

Legislative Analysis



SALES AND USE TAX EXEMPTION

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

House Bill 5080 (proposed substitute H-1)
Sponsor: Rep. Pat Outman

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

House Bill 5081 (proposed substitute H-1)
Sponsor: Rep. Kevin Coleman

Committee: Tax Policy
Complete to 9-8-21

SUMMARY:

House Bills 5080 and 5081 would amend the General Sales Tax Act and the Use Tax Act, respectively, to exempt certain delivery and installation costs from the *sales price* (in the Sales Tax Act) and *purchase price* (in the Use Tax Act). Specifically, sales and use taxes could not be imposed on delivery, installation, or similar charges if those charges were separately stated on the invoice, bill of sale, or similar document provided to the purchaser and the seller maintained its books and records to show separately the transactions used to determine the tax levied by the applicable act.

Sales price is defined in the Sales Tax Act as the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, and applies to the measure subject to sales tax.

Purchase price is defined in the Use Tax Act as the total amount of consideration paid by the consumer to the seller, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, and applies to the measure subject to use tax.

Both definitions also list several categories that are *included* in the term and several categories that are *excluded*.

Under current law, in the list of *included* costs and charges, the definitions include the following:

- Delivery charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property subject to the tax levied under this act from the seller to the purchaser.
- Installation charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

Under the bill, delivery, installation, and similar charges would be *excluded* as long as those charges were separately stated on the invoice, bill of sale, or similar document

provided to the purchaser and the seller maintained its books and records to show separately the transactions used to determine the tax levied by the applicable act.

The enacting language in the two bills states that the exclusion of delivery, installation, and similar charges from the sales and use taxes is intended only to clarify the current status of Michigan law, is remedial in nature, and, therefore, applies to a civil action pending on the effective date of the bill. However, as described above, sales and use taxes are currently collected on delivery and installation charges.

(Enacting sections are not part of the body of a bill and are therefore not compiled. They are usually used to repeal a law, tie-bar a bill to another bill, or establish an effective date for a bill.)

The bills would hold the State School Aid Fund harmless from any reduction, by requiring the person who excludes delivery, installation, or similar charges from the sales price or purchase price of tangible personal property under the bill to report the amount of the delivery, installation, or similar charges and other applicable information to the Department of Treasury and requiring Treasury to reimburse the School Aid Fund for the revenue lost.

HB 5080: MCL 205.51 and 205.75

HB 5081: MCL 205.92 and 205.111

FISCAL IMPACT:

Although the enacting language seems to suggest that the bills are codifying current law, shipping and installation charges necessary to complete a transaction are currently taxable. Thus, by providing an exemption against shipping and installation charges, sales and use tax revenues would decline by an indeterminate amount.

Purely as an order of magnitude, combined sales and use tax revenues in FY 2021-22 are expected to total about \$11.5 billion. If shipping and installation costs comprise 0.5% of total collections, the revenue reduction would approach \$60.0 million. Given the hold harmless language, the School Aid Fund would be protected from the revenue reduction, although general fund revenue and sales tax revenue constitutionally earmarked to local revenue sharing would decline.

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Jim Stansell

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