



**House
Legislative
Analysis
Section**

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TAX ENFORCEMENT: TECHNICAL AMENDMENTS

House Bills 4335 and 4336 as enrolled
Second Analysis (1-11-89)

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Sponsor: Rep. Bill Browne
House Committee: Taxation
Senate Committee: Finance

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H.B. 4335 & 4336 (1-11-89)

THE APPARENT PROBLEM:

One aim of House Bill 4706 of the 1985-1986 legislative session (best known for creating a temporary tax amnesty program) was to place tax collection enforcement and penalty provisions in one act, the revenue act, rather than having them scattered throughout the various individual tax acts. To accomplish this purpose, however, technical amendments still need to be made to the sales and use tax acts to bring them into conformity with the revenue act.

THE CONTENT OF THE BILL:

The bills would delete sections of both the sales and use tax acts and instead add references to similar provisions found in the revenue act. (The provisions deal with the statute of limitations for assessing penalties and claiming refunds.) House Bill 4335 would amend the General Sales Tax Act (MCL 205.59). House Bill 4336 would amend the Use Tax Act (MCL 205.100).

House Bill 4336 also contains a provision pertaining to refunds available to construction contractors as a result of changes made to the Use Tax by Senate Bill 996. That bill aimed at resolving a dispute between the treasury department and the construction industry over the way in which the use tax is to be assessed against personal property affixed to real estate by contractors (e.g., thermostats). The bill, generally speaking, adopted the treasury department's view for contracts written after 1988 and the construction industry's view for contracts from years 1982 to 1988. House Bill 4336 would require claims for refunds (which would be paid without interest) to be filed not later than March 31, 1989. The treasury department would not pay refunds totaling more than \$1 million in any one fiscal year unless the Single Business Tax is amended to impose a one-percent surcharge on the business activity of contract construction to recover the cost of the refunds.

FISCAL IMPLICATIONS:

The bill contains a cap on use tax refunds for construction contractors of \$1 million. According to the House Taxation Committee staff, the refunds actually due are expected to be below that figure in any case. (1-11-89)

ARGUMENTS:

For:

The bills make technical changes to two tax acts so that they would be administered pursuant to the revenue act, which was amended in the last session with the intention of creating a uniform set of enforcement penalty provisions to apply to individual tax acts. Further, provisions have been added dealing with refunds due to construction contractors as a result of amendments to the Use Tax Act made by Senate Bill 996.

H.B. 4335 & 4336 (1-11-89)