

HB 4540, As Passed Senate, July 11, 2001

March 28, 2001, Introduced by Reps. Kowall, Patterson, Basham, Minore, Richardville, O'Neil, Sanborn, Meyer, Bishop, Vear, Woronchak, Ehardt, Faunce, Scranton, Vander Veen, Gilbert, Richner, Stewart and Daniels and referred to the Committee on Regulatory Reform.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 17 (MCL 205.67), as amended by 2000 PA 242.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17. (1) A person liable for any tax imposed under this
2 act shall keep accurate and complete beginning and annual inven-
3 tory and purchase records of additions to inventory, complete
4 daily sales records, receipts, invoices, bills of lading, and all
5 pertinent documents in a form the department requires. If an
6 exemption from sales tax is claimed because the sale is for
7 resale or for any of the other exemptions or deductions granted
8 under this act, a record shall be kept of the name and address of
9 the person to whom the sale is made, the date of the sale, the
10 article purchased, the type of exemption claimed, the amount of
11 the sale, and, if that person has a sales tax license, the sales

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1 tax license number. If a taxpayer maintains the records required
2 under this section, and accepts an exemption certificate from the
3 buyer in good faith on a form prescribed by the department, the
4 taxpayer is not liable for collection of the unpaid tax after a
5 finding that the sale did not qualify for exemption under this
6 act. As used in this section, "good faith" means that the tax-
7 payer received a completed and signed exemption certificate from
8 the buyer. A person knowingly making a sale of tangible personal
9 property for the purpose of resale at retail to another person
10 not licensed under this act is liable for the tax imposed under
11 this act unless the transaction is exempt under the provisions of
12 section 4k. These records must be retained for a period of 4
13 years after the tax imposed under this act to which the records
14 apply is due or as otherwise provided by law. If the department
15 considers it necessary, the department may require a person, by
16 notice served upon that person, to make a return, render under
17 oath certain statements, or keep certain records the department
18 considers sufficient to show whether or not that person is liable
19 for tax under this act. If the taxpayer fails to file a return
20 or to maintain or preserve proper records as prescribed in this
21 section, or the department has reason to believe that any records
22 maintained or returns filed are inaccurate or incomplete and that
23 additional taxes are due, the department may assess the amount of
24 the tax due from the taxpayer based on information that is avail-
25 able or that may become available to the department. That
26 assessment is considered prima facie correct for the purpose of
27 this act and the burden of proof of refuting the assessment is

1 upon the taxpayer. For purposes of this section, exemption
2 certificate includes a blanket exemption certificate on a form
3 prescribed by the department that covers all exempt transfers
4 between the taxpayer and the buyer for a period of 4 years or for
5 a period of less than 4 years as stated on the blanket exemption
6 certificate if that period is agreed to by the buyer and
7 taxpayer.

8 (2) For a period of not less than 30 days or more than 60
9 days that ends before September 1, 2000, as designated by the
10 department, a person liable for any tax imposed under this act is
11 exempt from the good faith requirement described in subsection
12 (1) if that person submits to the department copies of all sales
13 tax exemption certificates from buyers described in subsection
14 (1).

15 (3) A buyer eligible to claim any of the exemptions or
16 deductions granted under this act shall register on a form pre-
17 scribed by the department. If a buyer fails to satisfy the reg-
18 istration requirement 6 months after either notice to register
19 from the department or becoming eligible to claim an exemption or
20 deduction under this act, whichever is later, the buyer is not
21 entitled to submit an exemption certificate claiming an exemption
22 or deduction otherwise granted by this act until the buyer
23 registers. After the department has issued notice to register, a
24 nonregistered buyer shall be allowed to claim exemption in a
25 refund claim that is filed with the department within the time
26 permitted under section 27a of 1941 PA 122, MCL 205.27a.

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1 (4) IF ALL INFORMATION DESCRIBED IN SUBSECTION (1) IS OTHERWISE
MAINTAINED IN ROUTINE BUSINESS RECORDS. THE GOOD FAITH EXEMPTION
CERTIFICATE REQUIREMENT IN SUBSECTION (1) DOES NOT APPLY TO THE
FOLLOWING:

2 (A) A PERSON LICENSED BY THE MICHIGAN LIQUOR CONTROL
3 COMMISSION AS A WHOLESALER FOR PURPOSES OF SALES OF ALCOHOLIC
4 LIQUOR TO ANOTHER PERSON LICENSED BY THE MICHIGAN LIQUOR CONTROL
5 COMMISSION. AS USED IN THIS SUBSECTION, "ALCOHOLIC LIQUOR",
6 "AUTHORIZED DISTRIBUTION AGENT", AND "WHOLESALER" MEAN THOSE
7 TERMS AS DEFINED IN THE MICHIGAN LIQUOR CONTROL CODE OF 1998,
8 1998 PA 58, MCL 436.1101 TO 436.2303.

9 (B) THE MICHIGAN LIQUOR CONTROL COMMISSION OR A PERSON CER-
10 TIFIED BY THE COMMISSION AS AN AUTHORIZED DISTRIBUTION AGENT FOR
11 PURPOSES OF THE SALE AND DISTRIBUTION OF ALCOHOLIC LIQUOR TO A
12 PERSON LICENSED BY THE MICHIGAN LIQUOR CONTROL COMMISSION.