

Legislative Analysis



DEFINITION OF "MATERIALPERSON" IN SALES TAX: INCLUDE A PERSON SELLING PRECAST CONCRETE

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

House Bill 5770 as introduced
Sponsor: Rep. Jeff Mayes
Committee: Tax Policy

First Analysis (4-18-06)

BRIEF SUMMARY: The bill would amend the General Sales Tax Act to include a person selling precast concrete products as a "materialperson" eligible to remit sales tax payments on a quarterly basis.

FISCAL IMPACT: The bill would have a minimal fiscal impact on the state and local units of government.

THE APPARENT PROBLEM:

Generally speaking, the General Sales Tax Act requires businesses to remit sales taxes collected on the 20th of each month. However, the act allows a firm that sells lumber and building-related products used in construction on credit (a "materialperson") to file on a quarterly basis, due on the April 20, July 20, October 20, and January 20 for the calendar quarter ending the previous month.

When sales of materials used for construction are made on a credit basis, the seller typically receives the payment three or four months after the sale. Requiring these firms to file returns on a monthly basis creates considerable cash flow problems. Public Act 453 of 1998 amended the General Sales Tax Act to alleviate this problem by permitting materialpersons to file returns on a quarterly basis.

Sellers of precast concrete products also make most sales on a credit basis and face the same financial constraints when required to make monthly returns. Following enactment of Public Act 453 at least one seller of precast concrete products began submitting quarterly sales tax returns. However, the Department of Treasury, in the course of its regular audits, discovered that the firm, by not also selling lumber products, did not meet the definition of "materialperson" under the General Sales Tax Act and wasn't eligible to make quarterly payments. Legislation permitting sellers of precast concrete products to file quarterly sales tax returns has been introduced.

THE CONTENT OF THE BILL:

Under the General Sales Tax Act, a "materialperson" who sells materials to an owner, contractor, subcontractor, repairperson, or consumer on a credit-sale basis for the purpose of making an improvement to real property can include the amount of all taxable sales

and gross proceeds from those transactions in the first quarterly return due following the date of the sale.

A materialperson is currently defined in the act as a person who is primarily engaged in the sale of lumber and building materials used for the improvement of real property to owners, contractors, subcontractors, repairpersons, and consumers and who is authorized to file a construction lien under the Construction Lien Act. House Bill 5770 would add that a materialperson would also include **a person who sells precast concrete products**.

MCL 205.56

BACKGROUND INFORMATION:

While not defined in the bill, precast concrete products are used in the construction of commercial and residential buildings and improve the appearance or usefulness of the physical site around a building, and include such products as steps, basement and above-grade walls, foundation systems, basement entries, floor and roof slabs, architectural wall panels, furniture, landscape retaining walls, modular paving products, modular housing units, air conditioning pads, ornamental products, parking bumpers and curbs, signs, storms shelters, safe rooms, bank vaults, and automated teller machine vaults.

According to the bills' sponsor, the following Michigan businesses sell precast concrete products:

- ADL Systems, Inc. – Portland
- Advance Concrete Products Co. – Highland
- Aggregate Industries/Central Region – Kalamazoo
- American Concrete Products, Inc. – Howell
- Bush Concrete Products, Inc. – Muskegon
- Grand Valley Concrete Products, Inc. – Grand Rapids
- Hollowcore Midwest LLC – Detroit
- Kerkstra/Spancrete Great Lakes – Jenison
- LC Redi Mix, Inc. – Lake City
- Mack Industries of Michigan – White Lake
- Milan Vault, Inc. – Milan
- Northern Concrete Pipe, Inc. – Bay City
- Stress-Con Industries – Detroit
- Upper Peninsula Concrete Pipe Co. – Escanaba

ARGUMENTS:

For:

The General Sales Tax Act permits firms selling lumber and building-related materials to file a quarterly return for sales made on a credit basis. This provision was added in 1998 to alleviate some of the financial difficulties many in the industry faced when filing monthly returns. Businesses selling precast concrete products also make sales based on

credit but are unable to file quarterly returns because of the act's requirement that a "materialperson" sell both lumber and building-related materials. Permitting these businesses to also file quarterly returns would offer them relief from the burden of monthly filings.

POSITIONS:

The Michigan Infrastructure and Transportation Association supports the bill. (3-29-06)

Northern Concrete Pipe Co. of Bay City supports the bill. (3-29-06)

The Department of Treasury is neutral on the bill. (3-29-06)

Legislative Analyst: Mark Wolf
Fiscal Analyst: Rebecca Ross

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.