



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 118 (as enacted)
Sponsor: Senator Mike Green
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 71 of 2011

Date Completed: 8-16-11

RATIONALE

The General Sales Tax Act typically requires taxpayers to file a sales tax return and remit the amount due each month, based on the amount of all sales and gross proceeds of the taxpayer's business for the preceding month. Taxpayers who remitted \$720,000 or more in the previous year are subject to an accelerated payment schedule, which requires two monthly payments. Enacted in 1998, this schedule eased the accelerated payment requirement that had been in place in since 1993. Later in 1998, an additional change was made to allow a materialperson to file quarterly returns for sales made on a credit basis, since payments for credit sales are usually received several months after the sales take place. Under the definition of "materialperson", only a person who sells lumber and building material-related products is eligible for quarterly filing. Evidently, at least one business involved in the sale of precast concrete products filed quarterly sales tax returns until 2004, when the Department of Treasury determined that the taxpayer did not qualify as a materialperson because it did not sell lumber. Since businesses that sell precast concrete products also make most of their sales on a credit basis, they can experience cash-flow problems due to the monthly and accelerated filing requirements. Therefore, it was suggested that a precast concrete product dealer also should be considered a materialperson.

CONTENT

The bill amended the General Sales Tax Act to include in the definition of "materialperson" a person who sells

precast concrete products or certain conduit or fitting products.

Under the Act, instead of filing on a monthly or twice-monthly basis, a taxpayer who is a materialperson has the option of filing quarterly returns for a credit sale (an extension of credit for the sale of taxable goods by a seller, other than a credit card sale). A materialperson may include the amount of all taxable sales and gross proceeds from materials furnished on a credit sale basis for the purpose of making an improvement to real property, in his or her first quarterly return due after the materialperson made the credit sale.

A "materialperson" is a person who provides materials for the improvement of real property, who has registered with the Department of Treasury and demonstrated to the Department that he or she is primarily engaged in the sale of lumber and building material-related products to owners, contractors, subcontractors, repairpersons, or consumers, and who is authorized to file a construction lien upon real property and improvements under the Construction Lien Act.

Under the bill, the definition also includes a person who is primarily engaged in the sale of precast concrete products, or conduit or fitting products used in the collection, conveyance, or distribution of water or sewage, and meets the other criteria.

The bill took effect on June 28, 2011.

MCL 205.56

BACKGROUND

In order to help address State budgetary problems in the early 1990s, Public Act 18 of 1993 amended the General Sales Tax Act to require large taxpayers to remit the tax on an accelerated basis. Specifically, a seller who had a sales tax liability of \$480,000 or more in the previous year had to remit, by the 18th of each month, an amount equal to 95% of the seller's liability for the same month in the prior year. Subsequent amendments increased the accelerated payment threshold to the current \$720,000.

After the economy improved during the decade, it was suggested that the accelerated payment requirement be eased. Public Act 265 of 1998 amended the General Sales Tax Act to require a large taxpayer, by the 15th day of the month and by the last day of the month, to remit an amount equal to 50% of the taxpayer's liability for the same month in the prior year or 50% of the actual liability for the month being reported. Also, by the 15th of the month, the taxpayer must make a reconciliation payment equal to the difference between the tax liability determined for the preceding month and the amount of tax previously paid for that month. These requirements remain current law. (In both 1993 and 1998, parallel amendments were made to the Use Tax Act.)

When the sales tax legislation was taken up in 1998, representatives of the lumber and building materials industry apparently pointed out that many of their sales are carried out on a credit basis. Although payments for supplies often are not received until three or four months after a sale, the dealers were required to remit taxes at the time the sale was made, and on the accelerated payment basis in the case of large businesses. To address this industry's cash-flow problems, Public Act 453 of 1998 added the quarterly filing option for a materialperson.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Like businesses that sell lumber and other building materials, those that sell precast

concrete products, or water or sewage conduit or fitting products, supply goods that are used for the improvement of real property. Precast concrete products include, for example, basement foundations, culverts, sanitary and stormwater sewer pipes, septic tanks, and above-grade walls. Water and sewage conduit products serve some of the same functions but may be made of various materials other than precast concrete. Like others in the building industry, these dealers make most of their sales on a credit basis, which means that they do not receive payment until several months after the transaction. As a result, the dealers have experienced the same cash-flow problems under the General Sales Tax Act that were addressed in 1998 for businesses that sell lumber and other building materials. The problems were exacerbated, of course, for a business that was subject to the accelerated filing requirement.

By extending the materialperson exception to taxpayers that sell precast concrete products, or water or sewage conduit products, the bill gives them the same relief that was extended to others in the building industry. It also restores the quarterly filing option that precast concrete product dealers thought was available to them until 2004, when the Department of Treasury determined that such a taxpayer did not qualify as a materialperson.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.