



Senate Fiscal Agency
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**BILL ANALYSIS**

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House Bill 5817 (Substitute H-2 as passed by the House)
Sponsor: Representative Paul Opsommer
House Committee: Transportation
Senate Committee: Energy and Technology

Date Completed: 12-10-12

CONTENT

The bill would amend the General Sales Tax Act to extend to diesel fuel a requirement for prepayment of a portion of the sales tax on gasoline; require the Department of Treasury to determine the prepayment rate on a monthly basis, rather than every three months as required currently; and allow a prepayment credit for a person making a prepayment for diesel fuel, as allowed for gasoline prepayment.

Prepayment Requirement

Under the Act, at the time of purchase or shipment from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of gasoline must prepay to the refiner or terminal operator a portion of the sales tax for the purchase or receipt. If the purchase or receipt is made outside the State for shipment into and sale within Michigan, the purchaser or receiver must make the prepayment directly to the Department of Treasury. A refiner or pipeline or marine terminal operator must account for and remit to the Department the prepayments received in accordance with a schedule prescribed in the Act.

The bill would refer to "fuel" rather than "gasoline" in these provisions.

("Fuel" would mean gasoline and diesel fuel subject to tax under the Act, collectively, except when diesel fuel was referred to separately.)

The gasoline prepayment is at a cents-per-gallon rate determined by the Department, and is based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline as determined and certified by the Department rounded up to the nearest 1/10 of one cent.

The bill would establish a prepayment rate applicable to diesel fuel based on 6% of the statewide average retail price of a gallon of undyed no. 2 ultra-low sulfur diesel fuel.

Currently, the Department of Treasury must determine the gasoline prepayment rate every three months, unless the Department certifies that the change in the statewide average retail price for a gallon of self-serve unleaded regular gasoline has been less than 10% since the establishment of the effective prepayment rate. The bill would delete this requirement. Instead, the Department would have to determine the prepayment rates applicable to

gasoline and diesel fuel every month, and publish notice of the rates by the 10th day of the month preceding the month in which the rate would take effect.

Prepayment Credit

The Act requires each taxpayer to make out a return for the preceding month showing the entire amount of all sales and gross proceeds of the business, the allowable deductions, and the amount of tax for which the taxpayer is liable. The taxpayer must transmit the return and remit the amount of the tax to the Department of Treasury.

A person who makes the required gasoline prepayment may claim an estimated prepayment credit on its regular monthly return. The credit is for prepayments made during the month for which the return is required, and is based upon the difference between prepayments made in the preceding month and collections of prepaid tax received from sales or transfers. The bill would refer to sales or transfers "during the month for which the required return was made".

A sale or transfer for which collection of prepaid tax is due the taxpayer is subject to a bad debt deduction, whether or not the sale or transfer is a sale at retail. The credit may not be reduced because of actual shrinkage. A taxpayer who does not, in the ordinary course of business, sell gasoline in each month of the year may, with the Department's approval, base the initial prepayment deduction in each tax year on prepayments made in a month other than the preceding month. The difference in actual prepayments must be reconciled on the annual return according to procedures prescribed by the Department.

The bill would establish similar provisions applicable to diesel fuel. Estimated prepayment credits claimed with the return due in January 2013 would have to be based on the taxpayer's retail sales of diesel fuel in December 2012. Repayment of the credit claimed on the return due in January 2013 would have to be made by the earlier of the date that the taxpayer stopped selling diesel fuel or July 15, 2013.

MCL 205.56a

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

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

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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.