

Legislative Analysis



PREPAYMENT OF SALES TAX APPLICABLE TO SALES OF GASOLINE AND DIESEL FUEL

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

House Bill 4153

(Enacted as Public Act 1 of 2013)

Sponsor: Rep. Mike Shirkey

Committee: Transportation

Complete to 2-4-13

A SUMMARY OF HOUSE BILL 4153 AS INTRODUCED 1-31-13

Section 6a of the General Sales Tax Act (1933 PA 167) had provided for the prepayment of the sales tax applicable to sales of *gasoline* using a cents-per-gallon rate determined quarterly by the Michigan Department of Treasury based on 6% of the statewide average retail price of a gallon of unleaded regular gasoline, rounded up to the nearest 1/10 of one cent. House Bill 5817 of the 2011-2012 Legislative Session, enacted as 2012 PA 509 amended Section 6a to also require prepayment of the sales tax applicable to *diesel fuel*.

In addition, Public Act 509 required the Department of Treasury to determine the prepayment rate for both gasoline and diesel fuel every month; the law had required a quarterly determination for gasoline-related sales tax.

The effective date of 2012 PA 509 is March 28, 2013.

House Bill 4153 would appear to simply adjust the implementation date; the inclusion of *diesel* fuel, and the *monthly* determination of the prepayment rate would be effective starting April 1, 2013.

BACKGROUND INFORMATION:

Generally, sales taxes applicable to retail sales of tangible personal property are not due until after the completion of the retail sales transaction. Under provisions of Section 6 of the General Sales Tax Act, taxpayers are required to file a monthly return, and remit sales tax due, by the 20th of each month for taxable sales made in the preceding month. However, Section 6a of the General Sales Tax Act had required a pre-payment of the estimated sales tax liability applicable to the sale of *gasoline*.

It is our understanding that prepayment provisions were established to help prevent tax evasion by some retail service stations. It is also our understanding that representatives of petroleum wholesalers and retail service stations would like more frequent adjustments of the prepayment gasoline sales tax rate to better reflect actual fuel prices in a period of volatile fuel prices.

When actual fuel prices are lower than the prices used to compute the cent-per-gallon prepayment rate, then taxpayers will have, at least temporarily, overpaid taxes, losing the

use of money over the float period. When actual fuel prices are higher than the prices used to compute the cent-per-gallon prepayment rate, there is increased risk of tax evasion or uncollectable taxes.

FISCAL IMPACT:

The bill does not appear to have a direct fiscal impact.

For additional information on the taxing of motor fuels, see:

Motor Fuel Taxes, Sales Tax on Motor Fuels, and Tax Collection on the House Fiscal Agency website at:
<http://www.house.mi.gov/hfa/PDFs/tax%20rates%20and%20collection%202012%20update.pdf>

Fiscal Analyst: William E. Hamilton

■ 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.