

Legislative Analysis



PREPAYMENT OF SALES TAX ON MOTOR FUEL

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<http://www.house.mi.gov/hfa>

House Bill 4685 as introduced

Sponsor: Rep. Earl Poleski

Committee: Transportation and Infrastructure

Complete to 9-21-15

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

The General Sales Tax Act requires a purchaser or receiver of gasoline or diesel fuel to prepay a portion of the sales tax to the refiner, pipeline terminal operator, or marine terminal operator at the time of purchase or shipment. The rates of prepayment are determined monthly by the Department of Treasury.

House Bill 4685 would amend the act to provide exceptions to this requirement, so that the prepayment of sales tax would not be required if:

- The purchase or receipt of fuel is made within a bulk transfer/terminal system.
- The purchase or receipt of fuel is made within this state for shipment and subsequent sale within this state and both the seller and purchaser or receiver are refiners, pipeline terminal operators, or marine terminal operators.
- The purchase or receipt of fuel is made within this state for shipment and subsequent sale outside this state.

The bill provides definitions. A key definition is for the term "bulk transfer/terminal system," which is defined as a motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals. Motor fuel in a refinery, pipeline, or terminal, or in a marine vessel and that is being transported to a refinery or terminal is in a bulk transfer/terminal system.

Motor fuel is not in a bulk transfer/terminal system if:

- It is in a fuel storage facility, including but not limited to a bulk plant that is not part of a refinery or terminal.
- Is in the fuel supply tank of any engine or motor vehicle.
- Is in a marine vessel transporting motor fuel to a fuel storage facility that is not in a bulk transfer/terminal system.
- Is in any tank car, rail car, trailer, truck, or other equipment suitable for ground transportation.

The bill also provides related definitions of "bulk plant," "bulk transfer," and "terminal."

MCL 205.56a

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 requires a pre-payment of the estimated sales tax liability applicable to the sale of *fuel*, meaning *gasoline* and *diesel fuel* subject to tax under the act.

Section 6a was added to the Sales Tax Act by amendment in 1983, (Public Act 244 of 1983). It is our understanding that prepayment provisions were established to help prevent tax evasion by some retail service stations.

Section 6a has been amended twice in recent years: Public Act 1 of 2013 (House Bill 4153 of the 2013-2014 Legislative Session), Public Act 509 of 2012 (House Bill 5817 of the 2011-2012 Legislative Session)

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 IMPACT:

As written, the bill could potentially alter the amount of pre-paid sales tax collected on the distribution of motor fuel. However, because the full amount due would eventually be remitted, it would only affect the timing of sales tax collections.

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