

PREPAYMENT OF SALES TAX ON MOTOR FUEL

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House Bill 4685 (reported as H-4)
Sponsor: Rep. Earl Poleski
Committee: Transportation and Infrastructure
Complete to 10-6-15

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

(Enacted as Public Act 264 of 2016)

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, beginning April 1, 2016.

As of that date, under the bill, at the time of purchase or shipment in this state from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of fuel, other than an exporter or supplier for immediate export, would have to prepay a portion of the sales tax to the refiner, pipeline terminal operator, or marine terminal operator for the purchase or receipt of fuel. (The underlined words are new in the bill and represent changes from current law.)

If the purchase or receipt of fuel is made outside the state for shipment into and subsequent sale within the state, the purchaser or receiver, other than a refiner, pipeline terminal operator, or marine terminal operator as part of a bulk transfer, would make the required prepayment to the department. (The underlined words are new in the bill and represent a change from current law.)

The bill provides definitions. A key definition is for the term "bulk transfer," which is defined as a transfer of fuel from, or purchase for resale by, a refiner, pipeline terminal operator, or marine terminal operator to or from another such entity through pipeline tender or marine delivery, including pipeline movements of fuel or marine vessel movements of fuel. The term also includes a transaction involving the transfer by any transportation means to, or purchase for resale by, a refiner, pipeline terminal operator, or marine terminal operator of alcohol to be used exclusively for blending with gasoline.

Notwithstanding anything to the contrary in the definition, fuel transferred to, or purchased for resale by, a refiner, pipeline terminal operator, or marine terminal operator must be delivered to, or otherwise remain within, the bulk transfer terminal system prior to removal across the rack in order to constitute a bulk transfer. (The term "rack" refers to a mechanism for delivering fuel from a refiner, a pipeline terminal operator, or a marine terminal operator into a railroad tank car, a transport truck, a tank wagon, or the fuel supply tank of a marine vessel.)

There is also a definition of "bulk transfer/terminal system," which is defined as the fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals, and includes fuel storage tanks and fuel storage facilities that are part of a refinery boat terminal transfer, or terminal owned, operated, or controlled by a refiner, marine terminal operator, or pipeline terminal operator. 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.

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.