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

BILL ANALYSIS

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

House Bills 5132 and 5133 (as reported without amendment)
Sponsor: Representative Jeff Farrington (H.B. 5132)
Representative Wendell Byrd (H.B. 5133)
House Committee: Tax Policy
Senate Committee: Finance

CONTENT

House Bill 5132 and House Bill 5133 would repeal a section of the General Sales Tax Act and the Use Tax Act, respectively, regarding the obligation of a seller or purchaser of direct mail to collect, pay, or remit sales or use tax; and would enact new provisions that would do the following:

-- Require a seller to source the sale of advertising and promotional direct mail to the jurisdictions to which the mail was to be delivered to recipients, and pay the applicable tax, if the purchaser provided that information.
-- Require the purchaser to source the sale of advertising and promotional direct mail to the jurisdictions to which it was to be delivered, and pay the applicable tax, if the purchaser provided the seller with a direct payment authorization or exemption form from the Department of Treasury.
-- Require a sale of advertising and promotional direct mail to be sourced as provided in the Acts, if the purchaser did not provide information about the delivery jurisdictions or provide a direct payment authorization or an exemption form.
-- Require the purchaser to source the sale of other direct mail and pay the applicable tax, if the purchaser provided the seller with a direct payment authorization or exemption form.
-- Require a sale of other direct mail to be sourced as provided in the Acts, if the purchaser did not provide a direct payment authorization or exemption form.
-- Relieve the seller of any obligation to collect, pay, or remit the applicable tax in situations in which the purchaser was required to pay the tax and source the sale.
-- Describe the circumstances under which the proposed provisions would apply.

("Sourcing" refers to the identification of the jurisdiction where a sale is considered to take place.)

Each bill would take effect 90 days after its enactment.

Proposed MCL 205.71a (H.B. 5132)
Proposed MCL 205.103a (H.B. 5133)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bills would reduce State and local revenue by an unknown, and negligible, amount. By dividing direct mail into two categories that receive slightly different sourcing treatment, the bills could result in some sales that are currently sourced to Michigan, and thus are taxed under Michigan law, being sourced to a non-Michigan location. The impact of any reduction would depend on the relative magnitude of sales affected under the sales tax and the use tax.

For sales tax revenue, the School Aid Fund receives approximately 73%, while constitutional revenue sharing receives 10%, and the remainder is deposited into the General Fund. For use tax revenue, the School Aid Fund receives one-third, and the remainder is deposited into the General Fund. The bills also could affect tax revenue from the Michigan Business Tax and the Corporate Income Tax by changing whether a firm is taxable in Michigan or by altering the amount of activity apportioned to Michigan.

To the extent that the bills would result in greater conformity with the Streamlined Sales and Use Tax Agreement, and to the extent that other states have adopted or continue to adopt similar legislation, the loss of revenue to Michigan would be mitigated.

Date Completed: 4-21-16 Fiscal Analyst: David Zin