Legislative Analysis

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**AGRICULTURAL EXEMPTIONS
IN SALES AND USE TAX ACTS**

House Bill 4561 as enacted
Public Act 113 of 2018
Sponsor: Rep. Dan Lauwers

House Bill 4562 as enacted
Public Act 111 of 2018
Sponsor: Rep. Curtis S. VanderWall

House Bill 4563 as enacted
Public Act 112 of 2018
Sponsor: Rep. Daire Rendon

House Bill 4564 as enacted
Public Act 114 of 2018
Sponsor: Rep. Tom Barret

House Committee: Agriculture
Senate Committee: Agriculture
Complete to 7-18-18

BRIEF SUMMARY:

House Bill 4561 amends the General Sales Tax Act, and House Bill 4564 amends the Use Tax Act, to revise provisions regarding the exemption from the tax of the sale of tangible personal property to a person engaged in a business enterprise that uses or consumes the property in agricultural production or for agricultural purposes.

House Bill 4563 makes a complementary amendment to 1855 PA 105 (MCL 21.142a), which addresses how surplus funds in the state treasury can be invested. In sections of the act addressing agricultural loan programs, the bill makes reference to new subdivisions created in the General Sales Tax Act by HB 4561.

Agricultural Disaster Loan Origination Program

House Bill 4562 creates a new act, the Agricultural Disaster Loan Origination Program Act. The new act is identical to the Agricultural Disaster Loan Origination Program Act of 2012, except for updates and the removal of specific dates that had appeared in that act. The 2012 act was repealed effective February 15, 2018.

This 2012 act established a low-interest loan program within the Department of Treasury to provide financial assistance to growers, producers, processors, and some retail establishments to help alleviate the financial impacts caused by crop damage directly attributable to a natural disaster. The intent was to aid fruit growers and producers who had lost significant amounts of their crop due to fluctuations in the spring temperature in 2012.

DETAILED SUMMARY:

House Bill 4561 amends the General Sales Tax Act to revise the exemption for certain tangible personal property used or consumed in the production of agricultural products or for agricultural purposes. Under the bill, the exemption applies to tangible personal property sold to a person engaged in a business enterprise that used or consumed the property "directly or indirectly, for either the tilling, planting, draining, caring for, maintaining, or harvesting of things of the soil or the breeding, raising, or caring for livestock, poultry, or horticultural products, including the transfers of livestock, poultry, or horticultural products for further growth."

Generally, the bill rephrases and retains additional, specific existing exemptions from the tax. It also adds new exemptions for the sale of certain items or property to a person engaged in a business enterprise that uses or consumes them for the purposes quoted above. These include:

- Tangible personal property purchased and installed as a component part of a structure such as a barn or shop, including a water supply system, heating and cooling system, lighting system, milking system, or any other structure or appurtenance used for designated purposes, including the maintenance or improvement of existing structures, to the extent that it is not permanently affixed to and does not become a structural part of real estate. ["Not permanently affixed to and not a structural part of real estate" means that the property is assembled and installed in such a way that it can be disassembled without affecting the structural functionality of the original structure and reassembled and reused for any of the exempt purposes.]
- Greenhouses, defined as structures covered with transparent or translucent material for admitting natural light and controlling the atmosphere for growing horticultural products (but not marihuana). [As above, a greenhouse is not permanently affixed to or a structural part of real state if it is assembled and installed so that it can be disassembled and reassembled without affecting functionality.]

The above exemptions, and the rephrasing of the current exemptions, are intended to be retroactive, and apply to all periods open under the Revenue Act [the Revenue Act includes a general four-year statute of limitations for a taxpayer to claim a refund for an amount paid to the Department of Treasury]. The exemptions do not apply, however, to any refund claims filed prior to April 9, 2018.

House Bill 4564 makes identical changes in the Use Tax Act.

HB 4561: MCL 205.54a
HB 4564: MCL 205.94

All four bills in this package took effect April 25, 2018.

FISCAL IMPACT:

House Bills 4561 and 4564 would result in a net reduction in sales and use tax revenues through the exemption of tangible personal property used directly or indirectly in agriculture; tangible personal property affixed to or to be affixed to greenhouses and used in the operation of a greenhouse; and tangible personal property designed for, and directly used in harvesting, aquatic vegetation. According to the Department of Treasury, the bills would reduce revenues by approximately $0.4 million to $1.0 million annually.

The distribution of the revenue loss between the sales tax and use tax is unknown. Roughly 73% of total sales tax collections are earmarked to the School Aid Fund, approximately 10% of collections are distributed as constitutional revenue sharing, and the bulk of the remainder accrues to the General Fund. For the use tax, one-third accrues to the School Aid Fund and two-thirds accrue to the General Fund.

House Bill 4562 would have no fiscal impact on state or local government. The bill would reinstate the Agricultural Disaster Loan Origination Program that sunsetted on February 15, 2018. However, funding does not currently exist for the program. Operation of the program in the future would require the appropriation of funds by the legislature.

House Bill 4563 would have no fiscal impact on state or local government.

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