



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 5164 (as passed by the House)
House Bill 5173 (as passed by the House)
Sponsor: Representative Bronna Kahle (H.B. 5164)
Representative Julie Alexander (H.B. 5173)
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 11-28-17

CONTENT

House Bills 5164 and 5173 would amend the Use Tax Act and General Sales Tax Act, respectively, to exempt from taxation under those Acts the sale of dental prostheses.

The Acts impose a tax of 6% on the purchase price or sales price of nonexempt personal property and services. The Acts exempt from taxation certain items, property, and vehicles. The bills would include the sale of a dental prosthesis among the items exempt from taxation under those Acts.

Each bill would be retroactive and effective beginning July 1, 2017.

(Senate Bill 566 (H-1) and Senate Bill 567 (H-1) would amend the Use Tax Act and General Sales Tax Act, respectively, to define "dental prosthesis" as a bridge, crown, denture, or other similar artificial device used to repair or replace intraoral defects such as missing teeth, missing parts of teeth, and missing soft or hard structures of the jaw or palate. Senate Bill 566 (H-1) is tie-barred to House Bill 5164, and Senate Bill 567 (H-1) is tie-barred to House Bill 5173. Both Senate bills would be retroactive and effective beginning July 1, 2017.)

MCL 205.94 (H.B. 5164)
205.54a (H.B. 5173)

BACKGROUND

According to the Department of Treasury, Michigan law has exempted various prosthetic devices from sales and use taxes since 1955. In 1985, the Department issued a Letter Ruling addressing sales of a specific type of dental prosthetic. (A Letter Ruling is a formal document issued by the Department to a taxpayer on one or more specific tax matters.)

Specifically, according to a June 2017 Department publication, Letter Ruling 1985-20 found that, "when a dental lab manufacturers a device in accordance with specifications provided by a dentist it provides a non-taxable service rather than making a [taxable] sale to the ultimate consumer." Therefore, dental prosthetics were exempt from sales and use tax. As of

July 1, 2017, however, the Department revoked the Letter Ruling, citing the definition of "prosthetic device" enacted by Public Acts 172 and 173 of 2004, which excluded dental prosthetics. (Public Acts 172 and 173 made a number of changes to the Use Tax Act and the General Sales Tax Act, respectively, as part of a package of legislation implementing Michigan's participation in the multistate Streamlined Sales Tax Project.)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bills would reduce State General Fund and School Aid Fund revenue, and local unit revenue from constitutional revenue sharing, by approximately \$8.1 million per year. Under current law, labs may claim an industrial processing exemption for property used in manufacturing dental prosthetics and the sales tax is paid on the transaction from the labs to the dentists. Based on national data, the value of shipments from dental labs increased 2.8% between 2007 and 2012. Applying the same growth rate to the 2012 data, the most recent data available, suggests that sales and use tax revenue would decline by approximately \$8.1 million if the bills were effective for all of 2017.

The distribution of the impact between the General Fund, School Aid Fund, and constitutional revenue sharing would depend on the amounts exempted under the sales tax relative to the amounts exempted under the use tax. The School Aid Fund receives approximately 73.3% of sales tax revenue, while constitutional revenue sharing receives 10%, and the remainder is directed to the General Fund. However, the School Aid Fund receives one-third of use tax revenue, and the remainder of any reduction lowers General Fund revenue. (Use tax collections providing revenue to the Local Community Stabilization Authority would be unaffected by the bills.) The bills' potential impact is expected to affect mostly sales tax revenue. If 100% of the bills' impact were under the sales tax, the bills would reduce School Aid Fund revenue by approximately \$6.0 million per year, constitutional revenue sharing to local units by approximately \$0.8 million per year, and General Fund revenue by approximately \$1.4 million per year.

Fiscal Analyst: David Zin

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