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BILL ANALYSIS

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House Bill 5913 (Substitute H-1 as passed by the House)
Sponsor: Representative John Bizon, M.D.
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 12-11-18

CONTENT

The bill would amend the General Sales Tax Act to exempt from the sales tax an organization not operated for profit and exempt from Federal income tax under Section 501(c)(19) of the Internal Revenue Code, and modify the allowable exemption for property purchased for fund-raising.

The bill would take effect 90 days after its enactment.

Veterans' Organization Exemption

The Act imposes a tax of 6% on the purchase prices of nonexempt personal property.

A sale of tangible personal property not for resale to certain entities, such as a health, welfare, educational, cultural arts, charitable, or benevolent organization not operated for profit that has been issued a signed exemption ruling letter to purchase items exempt from tax before July 17, 1998, is exempt from the tax. Under the bill, a sale of tangible personal property not for resale to an organization not operated for profit and exempt from Federal income tax under Section 501(c)(19) of the Internal Revenue Code would be exempt from the tax.

(Section 501(c)(19) exempts from taxation under the Code a post or organization of past or present members of the United States Armed Forces, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization that is organized in the United States or any of its possessions, at least 75% of the members of which are past or present members of the United States Armed Forces and substantially all of the other members of which are individuals who are cadets or are spouses, widows, widowers, ancestors, or lineal descendants of past or present members of the United States Armed Forces or of cadets, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.)

Fund-Raising & Obtaining Resources Cap Increase

The Act specifies that the exemptions provided for certain entities do not apply to the sale of tangible personal property or vehicles used for purposes of raising funds or obtaining resources where the sales price exceeds $5,000.

At the time of the transfer of the tangible personal property exempt under the Act, the transferee must either present the exemption ruling letter signed by the administrator of the Sales, Use, and Withholding Taxes Division of the Department of Treasury certifying that the property is to be used or consumed in connection with the operation of the organization; or present a signed statement, on a form approved by the Department, stating that the property is to be used or consumed in connection with the operation of the organization, to carry out the purpose or purposes of the organization, or to raise funds or obtain resources necessary for the operation of the organization, that the organization qualifies as an exempt organization, and that the sales price of any single item of tangible personal property or vehicle purchased for purposes of raising funds or obtaining resources does not exceed $5,000.

The exemption for any single item of tangible personal property or vehicle used to raise funds or obtain resources is limited to a sales price that does not exceed $5,000.

The bill would delete the $5,000 cap in the provisions above, and subject those provisions to the applicable cap established in Section 4o of the Act.

(Section 4o of the Act lists the tangible personal property sales limits for fund-raising purposes by certain schools, churches, hospitals, parent cooperative preschools, nonprofit organizations, or veterans' organizations under which the sales are exempt from the sales tax. Currently, the sale of tangible personal property by a veterans' organization that is exempt from Federal income tax under Section 501(c)(19) of the Code, for the purpose of raising funds for the benefit of an active duty service member or a veteran is limited to $25,000 in aggregate sales of tangible personal property for each individual fund-raising event.)

MCL 205.54q   Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would reduce sales tax revenue to the School Aid Fund, General Fund and constitutional revenue sharing to local units of government by an unknown, and likely minimal, amount that would depend on the number of taxpayers affected and the total amount of each firm's sales affected by the bill. The Internal Revenue Service reports approximately 654 Michigan 501(c)(19) firms filing a return ending in 2017, and 258 of the returns reported income on their 990 form, with an average income of approximately $232,000.

Because these firms could derive income from sources other than sales, it is unknown how many would have sales in excess of either $5,000 (the exemption those firms currently face), or $25,000 (the exemption amount proposed under the bill). The maximum impact of the bill could be estimated by assuming all of the firms were able to claim the full exemption increase allowed under the bill. Under that assumption, the maximum impact of the bill would be approximately $310,000. If the estimated maximum impact were expanded to include all 501(c)(19) firms, regardless of whether or not they reported income, the maximum revenue reduction would be approximately $800,000.

Approximately 73% of sales tax revenue is distributed to the School Aid Fund, while another 10% is directed to constitutional revenue sharing received by local units of government. Almost all of the remaining revenue is received by the General Fund.

Fiscal Analyst: David Zin