

HOUSE BILL No. 5620

February 21, 2018, Introduced by Rep. Hornberger and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 12 (MCL 205.62), as amended by 2015 PA 251.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12. (1) If an exemption from the tax under this act is
2 claimed, the seller shall obtain identifying information of the
3 purchaser and the reason for claiming the exemption at the time of
4 the purchase or at a later date. The seller shall obtain the same
5 information for a claimed exemption regardless of the medium in
6 which the transaction occurred.

7 (2) A seller shall use a standard format for claiming an
8 exemption electronically as adopted by the governing board under
9 the streamlined sales and use tax agreement.

1 (3) A purchaser is not required to provide a signature to
2 claim an exemption under this act unless a paper exemption form is
3 used.

4 (4) A seller shall maintain a proper record of all exempt
5 transactions and shall provide the record if requested by the
6 department.

7 (5) A seller who complies with the requirements of this
8 section is not liable for the tax if a purchaser improperly claims
9 an exemption. A purchaser who improperly claims an exemption is
10 liable for the tax due under this act. This subsection does not
11 apply if a seller fraudulently fails to collect the tax, solicits a
12 purchaser to make an improper claim for exemption, or accepts an
13 exemption form when the purchaser claims an entity-based exemption
14 if both of the following circumstances occur:

15 (a) The subject of the transaction sought to be covered by the
16 exemption form is actually received by the purchaser at a location
17 operated by the seller.

18 (b) The state in which that location operated by the seller is
19 located provides an exemption form that clearly and affirmatively
20 indicates that the claimed exemption is not available in that
21 state.

22 (6) A seller who obtains a fully completed exemption form or
23 captures the relevant data elements as outlined in this section
24 within 120 days after the date of sale is not liable for the tax.

25 (7) If the seller has not obtained an exemption form or all
26 relevant data elements, the seller may either prove that the
27 transaction was not subject to tax by other means or obtain a fully

1 completed exemption form from the purchaser, by the later of the
2 following:

3 (a) 120 days after a request by the department.

4 (b) The date an assessment becomes final.

5 (c) The denial of a claim for refund.

6 (d) In the instance of a credit audit, the issuance of an
7 audit determination letter or informal conference decision and
8 order of determination.

9 (e) The date of a final order of the court of claims or the
10 Michigan tax tribunal, as applicable, with respect to an
11 assessment, order, or decision of the department.

12 (8) The department may, in its discretion, allow a seller
13 additional time to comply with subsection (7).

14 (9) A seller is not liable for the tax under this act if the
15 seller obtains a blanket exemption form for a purchaser with which
16 the seller has a recurring business relationship. Renewals of
17 blanket exemption forms or updates of exemption form information or
18 data elements are not required if there is a recurring business
19 relationship between the seller and the purchaser. For purposes of
20 this section, a recurring business relationship exists when a
21 period of not more than 12 months elapses between sales
22 transactions.

23 (10) A certified service provider shall be considered a seller
24 under this section. As used in this section, "certified service
25 provider" means that term as defined in section 25 of the
26 streamlined sales and use tax administration act, 2004 PA 174, MCL
27 205.825.

1 (11) A PURCHASER THAT FAILS TO CLAIM AN EXEMPTION AT THE TIME
2 OF PURCHASE BY NOTIFYING THE SELLER OF THE EXEMPTION AND PROVIDING
3 A COMPLETE AND VALID CERTIFICATE OF EXEMPTION MAY SUBMIT A CLAIM
4 FOR A REFUND TO THE DEPARTMENT FOR THE TAX RELATED TO THAT PURCHASE
5 IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

6 (A) THE SALE OCCURRED WITHIN THE TIME PERIOD SPECIFIED AS THE
7 STATUTE OF LIMITATIONS IN SECTION 27A OF 1941 PA 122, MCL 205.27A.

8 (B) THE PURCHASER HAS AN ACCURATE RECORD OF THE PURCHASE,
9 INCLUDING, BUT NOT LIMITED TO, A PAPER, ELECTRONIC, OR DIGITAL
10 RECEIPT, INVOICE, OR PURCHASE ORDER RELATED TO THE SALE THAT
11 INCLUDES THE AMOUNT OF SALES TAX PAID FOR WHICH THE PURCHASER IS
12 SEEKING A REFUND UNDER THIS SUBSECTION.

13 (C) THE PURCHASER RECEIVED A SIGNED STATEMENT FROM THE SELLER
14 THAT THE SELLER REPORTED AND PAID THE TAX ON THE SALE FOR WHICH THE
15 PURCHASER IS SEEKING A REFUND UNDER THIS SUBSECTION AND DID NOT
16 CLAIM AN EXEMPTION AT A LATER DATE UNDER SUBSECTION (7).

17 (D) THE PURCHASER HAS COMPLETED AN EXEMPTION CERTIFICATE TO
18 ESTABLISH A VALID EXEMPTION CLAIM RELATED TO THE SALE FOR WHICH THE
19 PURCHASER IS SEEKING A REFUND UNDER THIS SUBSECTION.