

# HOUSE BILL No. 5621

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

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending section 14b (MCL 205.104b), as amended by 2015 PA 252.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 14b. (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.

10           (3) A purchaser is not required to provide a signature to

1 claim an exemption under this act unless a paper exemption form is  
2 used.

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

6 (5) A seller who complies with the requirements of this  
7 section is not liable for the tax under this act if a purchaser  
8 improperly claims an exemption. A purchaser who improperly claims  
9 an exemption is liable for the tax due under this act. This  
10 subsection does not apply if a seller does any of the following:

11 (a) Fraudulently fails to collect the tax under this act.

12 (b) Solicits a purchaser to make an improper claim for  
13 exemption.

14 (c) Accepts an exemption form when the purchaser claims an  
15 entity-based exemption if both of the following occur:

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

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

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

27 (7) If the seller has not obtained an exemption form or all

1 relevant data elements, the seller may either prove that the  
2 transaction was not subject to the tax under this act by other  
3 means or obtain a fully completed exemption form from the  
4 purchaser, by the later of the following:

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

6 (b) The date an assessment becomes final.

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

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

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

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

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

25 **(10) A PURCHASER THAT FAILS TO CLAIM AN EXEMPTION AT THE TIME**  
26 **OF PURCHASE BY NOTIFYING THE SELLER OF THE EXEMPTION AND PROVIDING**  
27 **A COMPLETE AND VALID CERTIFICATE OF EXEMPTION MAY SUBMIT A CLAIM**

1 FOR A REFUND TO THE DEPARTMENT FOR THE TAX RELATED TO THAT PURCHASE  
2 IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

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

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

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

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