

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Treasury

2. Bureau:

Bureau of Tax and Economic Policy

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Sales and Use Tax Rules

5. Rule numbers or rule set range of numbers:

R 205.1 - R 205.149

6. Estimated time frame:

12 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The general purpose of the amendments to the rules is to revise, update, rename, rescind and create certain Sales and Use Tax Rules.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

MCL 205.59(2) in the General Sales Tax Act (GSTA) provides that "The department [of treasury] shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328," and MCL 205.100(2) in the Use Tax Act (UTA) provides that "Rules shall be promulgated to implement this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328." MCL 205.3(b) in the Revenue Act provides further authority for Treasury to promulgate rules, stating that "the department may promulgate rules consistent with this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, necessary to the enforcement of the provisions of tax and other revenue measures that are administered by the department."

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL 205.59(2), MCL 205.100(2) and MCL 205.3(b).

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

MCL 205.59(2) in the GSTA and MCL 205.100(2) in the UTA direct that Treasury “shall” promulgate rules to implement those acts. The use of the term “shall” in a statute infers a mandate.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The proposed Sales and Use Tax Rules do not conflict with or duplicate similar rules.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The general subject matter of the Sales and Use Tax Rules are discussed in various documents published by Treasury.

11. Are the rules listed on the department’s annual regulatory plan as rules to be processed for the current year?

At the time of the submission of Treasury’s Annual Regulatory Plan, the review by interested stakeholders of the Sales and Use Tax Rules was not completed. The expectation in the Annual Regulatory Plan at the time was to begin to process the rules in the current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

No federal or regional compliance requirements or other standards exist concerning the administration of the Michigan general sales tax and use tax, which is the subject matter of these rules.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

The rules were presented to several external stakeholders representing affected parties for review and comment. The rules incorporate responses to comments and recommendations received from these external stakeholders.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The last general evaluation of the rules occurred in 2013, during which a few of the rules in the existing rule set were revised. The regulatory activity covered by the rules has not been impacted recently by technology or economic conditions.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No, the need for the Sales and Use Tax Rules is ongoing. However, rules that were deemed to be outdated or in need of revision as a result of changes in the statutes or judicial decisions are reflected in the proposed rules.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No