

**Michigan Office of Administrative Hearings and Rules**

**Administrative Rules Division (ARD)**

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**REGULATORY IMPACT STATEMENT  
and COST-BENEFIT ANALYSIS (RIS)**

**Agency Information:**

**Department name:**

Treasury

**Bureau name:**

Bureau of Tax and Economic Policy

**Name of person filling out RIS:**

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**Rule Set Information:**

**ARD assigned rule set number:**

2022-9 TY

**Title of proposed rule set:**

Sales and Use Tax Rules

**Comparison of Rule(s) to Federal/State/Association Standard**

**1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.**

No parallel federal rules exist.

**A. Are these rules required by state law or federal mandate?**

Yes, MCL 205.59(2) and MCL 205.100(2) require rules to be promulgated.

**B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.**

There are no federal rules or applicable industry standards.

**2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.**

Ohio, Indiana, Wisconsin, and Minnesota are all members of the Streamlined Sales and Use tax Agreement with Michigan. Therefore, these rules are substantially similar to those states and only vary due to minor statutory differences.

**A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.**

The rules do not exceed standards in these neighboring states.

**3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.**

The proposed rules do not duplicate or conflict with any laws, rules, or other legal requirements. The proposed rules clarify and incorporate changes in law resulting from statutory amendments to the sales and use tax acts, MCL 205.51-205.78 and MCL 205.91-205.51.111, respectively, and case law interpreting such acts, and the enactment of streamlined sales and use tax revenue equalization act, MCL 205.171-205.191.

**A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.**

The rules have not been coordinated with other federal, state, and local laws because there are no other federal, state, or local laws applicable to the same activity or subject matter of these proposed rules.

**4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.**

There are no federal rules or applicable industry standards.

**5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.**

There are no federal rules or applicable industry standards.

## **Purpose and Objectives of the Rule(s)**

**6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.**

Amending the rules will provide express guidance to taxpayers, trades, and industries on the various sales and purchase transactions parties may enter into regularly each day in order to facilitate compliance with applicable statutes. These rules are not designed to alter such parties' behavior or the frequency of such behavior, except where such behavior is not in compliance with the applicable statutes.

**A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.**

There is no estimated change in the frequency of sales and purchase transactions expected from the proposed and amended rules. Taxpayers and affected industries and trades are expected to benefit from the clarifications.

**B. Describe the difference between current behavior/practice and desired behavior/practice.**

There is no difference between current behavior/practice and desired behavior/practice, other than providing greater clarity to taxpayers, trades, and industries in the taxability of their sales and purchase transactions and thus facilitating greater compliance with the sales and use tax statutes.

**C. What is the desired outcome?**

The desired outcome is to provide greater clarity to taxpayers, trades, and industries on the taxability of their sales and purchase transactions, facilitating greater compliance with the sales and use tax statutes.

**7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.**

There is no harm that results from the behavior that the proposed rules are designed to alter, and no harm will occur in the absence of the rules.

**A. What is the rationale for changing the rules instead of leaving them as currently written?**

The rationale for changing the rules instead of leaving them as currently written is to clarify and incorporate changes in law resulting from statutory amendments to the sales and use tax acts, MCL 205.51-205.78 and 205.91-205.111, respectively, case law interpreting such acts, and the enactment of the streamlined sales and use tax revenue equalization act, MCL 205.171-205.191.

**8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.**

The proposed rules provide greater clarity on the taxability of sales and purchase transactions under the sales and use tax statutes, facilitating compliance with the statutes, securing the collection of appropriate tax revenues under the law, and reducing potential deficiencies of tax and imposition of penalty.

**9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.**

R 205.8, R 205.52, R 205.56, R 205.57, R 205.58, R 205.60, R 205.63, R 205.64, R 205.66, R 205.72, R 205.73, R 205.75, R 205.78, R 205.81, R 205.83, R 205.84, R 205.89, R 205.90, R 205.91, R 205.92, R 205.97, R 205.99, R 205.100, R 205.101, R 205.102, R 205.106, R 205.107, R 205.110, R 205.113, R 205.114, R 205.115, R 205.116, R 205.117, R 205.118, R 205.119, R 205.124, R 205.126, R 205.130, R 205.131, R 205.133, R 205.134, R 205.135, and R 205.139 are rescinded.

## **Fiscal Impact on the Agency**

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

### **10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).**

There is no anticipated fiscal impact other than educating Department staff who review taxpayers' compliance with the rules in the filing and remittance of their sales/use tax returns and taxes.

### **11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.**

No appropriation has been made or is necessary. No funding source has been provided.

### **12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.**

The proposed rules are necessary to provide greater clarity on the taxability of sales transactions. No fiscal or administrative burdens, or duplicative acts are anticipated.

### **A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.**

There are no anticipated costs or burdens resulting from these proposed rules as they intended to provide greater clarity and guidance on the application of the sales and use tax statutes to sales and use tax transactions.

## **Impact on Other State or Local Governmental Units**

### **13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.**

There are no anticipated increases or decreases in revenues to other state or local units of government as a result of these rules.

### **14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.**

There are no programs, services, duties, or responsibilities imposed on any city, county, town, village, or school district as a result of these rules.

### **A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.**

There are no actions that governmental units must take to comply with these rules.

### **15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.**

No appropriations have been made or funding sources provided to any governmental units as a result of these rules. No additional expenditures are anticipated or intended as a result of the proposed rules.

## **Rural Impact**

### **16. In general, what impact will the rules have on rural areas?**

The proposed rules will have no impact on rural areas.

### **A. Describe the types of public or private interests in rural areas that will be affected by the rules.**

The proposed rules will have no impact on rural areas.

## Environmental Impact

### 17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules will have no impact on the environment.

## Small Business Impact Statement

### 18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

In making the proposed rule changes, the Department did not consider exempting small businesses since the sales and use tax statutes and the streamlined sales and use tax revenues act which the proposed rules support are applied uniformly regardless of business size.

### 19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

Small businesses are not exempt because exempting or setting a different standard for small businesses might result in claims of undue discrimination in the application and enforcement of the sales and use tax acts, and may cause the state to be out of compliance with the Streamlined Sales and Use Tax Agreement potentially subjecting the state to sanctions under from the Streamlined Sales and Use Tax Agreement.

#### A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

Any small business engaged in sales of tangible personal property or which purchases tangible personal property for use in the provision of non-taxable services are affected by these proposed rules to the extent they are subject to the state's sales and use tax statutes. There is no anticipated particular effect on small businesses resulting from these proposed rules.

#### B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

Exempting or setting a different standard for small businesses may cause the state to be out of compliance with the Streamlined Sales and Use Tax Agreement potentially subjecting the state to sanctions under from the Streamlined Sales and Use Tax Agreement. No differing compliance or reporting requirements or timetables for small businesses were developed.

#### C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The Department did not establish differing compliance or reporting requirements or timetables for small businesses.

#### D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

There are no anticipated design or operation standards required by these rules.

### 20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

There is no disproportionate impact on small businesses based on size or geographic location.

### 21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no anticipated compliance costs requiring reports by persons affected by these rules.

### 22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

There are no anticipated compliance costs resulting from these rules.

### 23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no anticipated significant legal, consulting, or accounting service costs that small business would incur in complying with these rules.

**24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.**

No anticipated compliance costs are expected to be absorbed by small businesses affected by these rules.

**25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.**

The rules do not exempt or set lesser standards for compliance for small businesses.

**26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.**

The rules cannot exempt or set lesser standards for compliance for small businesses. Lesser standards for small businesses are not an option. Exempting or setting a lesser standard for small businesses might result in claims of undue discrimination in the application and enforcement of the sales and use tax acts, and may cause the state to be out of compliance with the Streamlined Sales and Use Tax Agreement potentially subjecting the state to sanctions under from the Streamlined Sales and Use Tax Agreement.

**27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.**

Tax practitioners, industry and trade associations, and other stakeholders were provided a draft of the proposed rules and their input was solicited and considered in the development of these rules.

**A. If small businesses were involved in the development of the rules, please identify the business(es).**

No particular small business(es) were involved in the development of these rules. However, tax practitioners, industry and trade associations, and other stakeholders, whose constituency includes small businesses, were provided a draft of the proposed rules and their input was solicited and considered in developing these rules.

**Cost-Benefit Analysis of Rules (independent of statutory impact)**

**28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.**

These rules clarify and incorporate existing statutory and case law regarding sales and use tax, so no additional compliance costs are anticipated.

**A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.**

Any business engaged in the sale of tangible personal property or which purchases tangible personal property in the provision of services will be affected by the proposed rules. There is no anticipated cost associated with the proposed rules beyond that resulting from the tax statutes which these rules support. Parties to sales transactions will benefit directly through guidance these rules provide.

**B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.**

There are no anticipated significant compliance costs associated with these rules.

**29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.**

No additional significant compliance costs are anticipated as a result of these rules.

**A. How many and what category of individuals will be affected by the rules?**

Since these rules address the taxability of transactions involving tangible personal property, all persons engaged in such sales transactions will be affected by these proposed rules.

**B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?**

No particular impact is anticipated as a result of the proposed rules.

**30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.**

No cost reductions are anticipated as a result of the proposed rules.

**31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.**

The proposed rules are intended to provide guidance to taxpayers and industry on the taxability of tangible personal property involved in sales transactions. This guidance will provide greater clarity to and facilitate compliance with the state's sales and use taxation statutes.

**32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.**

There is no anticipated impact on business growth or job creation or elimination in Michigan associated with these rules.

**33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.**

The proposed rules will not disproportionately affect any individuals or businesses as a result of any factors.

**34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.**

Department divisions and staff involved in tax policy and administration were involved in compiling the regulatory impact statement.

**A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.**

No estimates were capable of being made.

### **Alternative to Regulation**

**35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.**

There are no alternatives that would achieve the same or similar goals of the proposed rules.

**A. Please include any statutory amendments that may be necessary to achieve such alternatives.**

No statutory amendments are necessary to achieve the goals of the proposed rules as the rules clarify and support changes to the state and use tax statutes, case law interpreting these statutes, and the enactment of the streamlined sales tax revenue act.

**36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.**

These rules do not establish a regulatory program, but are designed to provide guidance and facilitate compliance with the sales and use tax statutes. No private market-based mechanism would be applicable and no other state uses such a system.

**37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.**

Discussions with stakeholders and advisory groups led to the Department proposing to rescind existing rules, to amend existing rules and to consider using other forms of guidance.

### **Additional Information**

**38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.**

No instructions to the General Sales and Use Tax Rules are necessary.