

Michigan Office of Administrative Hearings and Rules

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**AGENCY REPORT TO THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)**

1. Agency Information

Agency name:

Treasury

Division/Bureau/Office:

Bureau of Tax and Economic Policy

Name of person completing this form:

David Matelski

Phone number of person completing this form:

517-335-7424

E-mail of person completing this form:

MatelskiD@michigan.gov

Name of Department Regulatory Affairs Officer reviewing this form:

Margaret Patterson

2. Rule Set Information

MOAHR assigned rule set number:

2020-19 TY

Title of proposed rule set:

Specific Sales and Use Tax Rules

3. Purpose for the proposed rules and background:

Michigan is a member of the Streamlined Sales and Use Tax Agreement (SSUTA). Under the terms of the SSUTA, if a member state's sales/use tax acts or rules use a word or phrase that is defined in the SSUTA's Library of Definitions that state must also define that word or phrase using the SSUTA definition in its statute or rules in "substantially the same language." See SSUTA Article III, Section 327. Michigan uses the phrase "bottled water" in the General Sales Tax Act (GSTA), the Use Tax Act (UTA), and the Specific Sales and Use Tax Rules without providing any definition of the phrase in either act or the Specific Sales and Use Tax Rules. See MCL 205.54d(d), MCL 205.94(1)(q), and Mich Admin Code R 205.127, respectively. Therefore, Michigan is likely out of compliance with the SSUTA on this issue, and absent a correction, Treasury will be required to self-report this potential compliance issue when it files its annual Certificate of Compliance in August 2020. Michigan can correct this issue by adopting the SSUTA's definition of "bottled water" in its statute or rules. Once properly promulgated, this rule will prevent Michigan from being found out of compliance and facing sanctions.

4. Summary of proposed rules:

Michigan is a member of the Streamlined Sales and Use Tax Agreement (SSUTA). Under the terms of the SSUTA, if a member state’s sales/use tax rules use a word or phrase that is defined in the SSUTA’s Library of Definitions that state must also define that word or phrase using the SSUTA definition in its rules. See SSUTA Article III, Section 327. Michigan uses the phrase “bottled water” in R 205.127, MCL 205.54d, and MCL 205.94 without providing a definition of the phrase. Michigan can correct this possible noncompliance with SSUTA by adding the SSUTA definition of “bottled water” to R 205.127. The amendment to the rule will also provide clarity to businesses and persons regarding what constitutes non-taxable bottled water.

5. List names of newspapers in which the notice of public hearing was published and publication dates:

The Mining Journal, The Grand Rapids Press, The Oakland Press. The Notice of Public Hearing was published in all 3 newspapers on June 22, 2020.

6. Date of publication of rules and notice of public hearing in Michigan Register:

7/1/2020

7. Date, time, and location of public hearing:

7/8/2020 01:00 PM at State Treasurer's Board Room , Richard H. Austin Building, 430 West Allegan Street, Lansing, Michigan 48922

8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:

<https://ARS.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=147>

9. List of the name and title of agency representative(s) attending public hearing:

David Matelski, Administrative Law Specialist, Bureau of Tax Policy, Tax Policy Division.

10. Persons submitting comments of support:

No persons participated in the public hearing held virtually via Microsoft Teams. No persons submitted written comments by mail, facsimile or electronically.

11. Persons submitting comments of opposition:

No persons participated in the public hearing held virtually via Microsoft Teams. No persons submitted written comments by mail, facsimile, or electronically.

12. Identify any changes made to the proposed rules based on comments received during the public comment period:

	Name & Organization	Comments made at public hearing	Written Comments	Agency Rationale for change	Rule number & citation changed
1	No persons attended.	None		No changes made.	None

13. Date report completed:

7/16/2020