

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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House Bill 4163 (Substitute S-2 as reported)
House Bill 4743 (Substitute H-1 as reported without amendment)
Sponsor: Representative Jessie Dalman (H.B. 4163)
Representative Kirk Profit (H.B. 4743)
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 6-15-98

RATIONALE

Under the General Sales Tax Act and the Use Tax Act, there is a tax exemption for sales of tangible personal property, not for resale, to a regularly organized church or house of religious worship (except sales of certain vehicles and sales in activities that are mainly commercial enterprises). This exemption includes materials purchased by a church for construction; however, not all materials purchased for the construction or repair of a church building are automatically exempt from taxation. For instance, if church members buy construction materials and a volunteer work crew undertakes a construction project, no sales or use tax is due on those materials, but if a church hires a contractor to carry out a project at church property, the contractor is obligated to pay the sales or use tax on materials used or consumed in the undertaking. It has been pointed out, however, that the Acts do exempt from taxation sales of materials to contractors for work on nonprofit hospitals and nonprofit housing. Some people believe that the current sales and use tax exemptions for construction materials should be extended to those cases when contractors purchase materials for work on a house of religious worship.

CONTENT

House Bill 4163 (S-2) would amend the General Sales Tax Act to exempt from the sales tax sales of tangible personal property purchased by a person engaged in the business of constructing, altering, repairing, or improving real estate for others, if the property were to be affixed to or made a "sanctuary". "Sanctuary" would mean only that portion of a building that was owned and occupied by a "regularly organized church or house of religious worship" that was used, or would be used,

predominantly and regularly for public worship. A "regularly organized church or house of religious worship" would mean a religious organization qualified as exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. (Section 501(c)(3) exempts from taxation a corporation, community chest, fund, or foundation organized and operated exclusively for religious purposes, or other purposes as provided under the Code.)

House Bill 4743 (H-1) would amend the Use Tax Act to exempt from the use tax tangible personal property purchased by a person engaged in the business of constructing, altering, repairing, or improving real estate for others, if the property were to be affixed to or made a structural part of real estate owned or occupied by a regularly organized church or house of religious worship. At the time of the transfer of property for which an exemption was claimed, the transferee would have to sign an affidavit, in a form approved by the Department of Treasury, attesting to the fact that the property was to be affixed to or made a structural part of real estate owned or occupied by a church or house of religious worship.

The bills are tie-barred to each other.

Proposed MCL 205.54p (H.B. 4163)
Proposed MCL 205.94m (H.B. 4743)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Under the Acts, sales to construction companies of materials for the construction of nonprofit hospitals

and nonprofit housing are tax exempt. Sales of such materials to regularly organized churches or houses of religious worship also are exempt from the taxes, unless a hired contractor purchases the materials. While health and shelter meet important human needs and are worthy of encouragement through tax breaks, churches and other houses of worship often do important work in addressing community problems and material needs, in addition to their valuable work concerning spiritual needs, and thus deserve the same tax considerations. The bills would provide tax relief to churches, synagogues, mosques, etc. for purchases of construction materials, regardless of whether the materials were purchased by the house of worship, or the contractor hired by it.

Legislative Analyst: G. Towne

FISCAL IMPACT

Based on data from the U.S. Bureau of the Census, the estimated loss in sales tax collections would be on average \$4 million per year, and the estimated loss in use tax collections would be on average \$1 million per year.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.