

Legislative Analysis



AGRICULTURAL EXEMPTIONS IN SALES AND USE TAX ACTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4561 (S-2) as passed by the Senate
Sponsor: Rep. Dan Lauwers

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4562 (S-1) as passed by the Senate
Sponsor: Rep. Curtis S. VanderWall

House Bill 4563 (S-2) as passed by the Senate
Sponsor: Rep. Daire Rendon

House Bill 4564 (S-2) as passed by the Senate
Sponsor: Rep. Tom Barrett

House Committee: Agriculture
Senate Committee: Agriculture

Complete to 4-9-18

BRIEF SUMMARY:

House Bill 4561 would amend the General Sales Tax Act (MCL 205.54a), and House Bill 4564 would amend the Use Tax Act (MCL 205.94), to revise the exemption provisions in regard to the sale of tangible personal property to a person engaged in a business enterprise that uses or consumes the property in agricultural production or for agricultural purposes.

House Bill 4563 would make a complementary amendment to Public Act 105 of 1855 (MCL 21.142a), which addresses how surplus funds in the state treasury can be invested. In sections of the act addressing agricultural loan programs, the bill makes reference to new subdivisions created by amendments to the General Sales Tax Act in HB 4561.

Agricultural Disaster Loan Origination Program

House Bill 4562 proposes to create a new act, the Agricultural Disaster Loan Origination Program Act. The new act would be identical to the Agricultural Disaster Loan Origination Program Act of 2012, except for updates and the removal of specific dates that had appeared in that act. The 2012 act was repealed effective February 15, 2018.

This 2012 act established a low-interest loan program within the Department of Treasury to provide financial assistance to growers, producers, processors, and some retail establishments to help alleviate the financial impacts caused by crop damage directly attributable to a natural disaster. The intent was to aid fruit growers and producers who had lost significant amounts of their crop due to fluctuations in the spring temperature in 2012.

House Bills 4562 and 4563 are tie-barred to House Bill 4561, which means that they cannot take effect unless HB 4561 is enacted.

DETAILED SUMMARY:

House Bill 4561 would amend the General Sales Tax Act to revise the exemption for certain tangible personal property used or consumed in the production of agricultural products or for agricultural purposes.

Generally, the bill would retain the current exemptions from the tax. It would also add new exemptions for the sale of the following to a person engaged in a business enterprise that uses or consumes them for agricultural purposes:

- Tangible personal property purchased and installed as a component part of an agricultural structure, including a barn, shop, greenhouse, water supply system, heating and cooling system, lighting system, milking system, or any other structure or appurtenance used in the production of agricultural products, including the maintenance or improvement of existing structures. [The exemption would also include the sale of such property to a person in the business of constructing, altering, repairing, or improving real estate for others, to the extent that it is made a structural part of real estate for others and used in an exempt manner.]
- Equipment and technology used or consumed in the business enterprise.
- Tangible personal property designed for and used in the harvesting of aquatic vegetation from the waters of the state, including parts and materials used for repairs of that property. [This exemption would not include licensed motor vehicles or tangible personal property that becomes a structural part of real estate.]

The above exemptions for tangible personal property installed as a component part of an agricultural system and equipment and technology used in the business enterprise would be retroactive and apply to sales beginning 6 years preceding the effective date of the bill.

The bill would state that beginning on and after January 1, 2019 the exemption for the sale of tangible personal property to a person engaged in a business enterprise that uses or consumes the property for either the tilling, planting, draining, caring for, maintaining, or harvesting of things of the soil or the breeding, raising, or caring for livestock, poultry, or horticultural products would not apply unless the property were used or consumed in the production of agricultural products or for agricultural purposes.

House Bill 4564 would make identical changes in the Use Tax Act.

FISCAL IMPACT:

House Bills 4561 (S-2) and 4564 (S-2) would result in a net reduction in sales and use tax revenues. According to the Department of Treasury, the bills would reduce revenues by \$92.2 million in FY 2017-18, with approximately \$56.7 million of that amount reflecting refunds for prior tax years. FY 2018-19 revenues would be reduced by approximately \$46.8 million. The smaller revenue loss is due to a reduction in prior year refund claims and the elimination of the expanded sales and use tax exemption for tangible personal property used in certain specified activities for nonagricultural purposes on January 1, 2019. Of this amount, approximately \$28.3 million reflects refunds and \$18.5 million reflects ongoing annual costs. Beginning in FY 2019-20, the annual revenue loss would stabilize at \$8.0 million.

The provisions of the bills that intend to clarify that the sales and use tax exemption for tangible personal property used for tilling, planting, draining, caring for, maintaining, or harvesting things of the soil or the breeding, raising, or caring for livestock, poultry, or horticulture would not apply unless the property was used for agricultural purposes would lead to increased revenue from those entities that have received the exemption and are engaged in the listed activities for something other than agricultural purposes. While it is unknown how many entities are engaged in the listed activities for nonagricultural purposes, it is estimated that the magnitude of the revenue increase would be minimal.

On the other hand, the bills would newly authorize entities engaged in the above listed activities for nonagricultural purposes that were not previously claiming the sales and use tax exemption to claim a sales and use tax exemption on that property prior to January 1, 2019. The resulting annual revenue loss coupled with prior year refunds due to the retroactivity of the bills would account for the vast majority of the revenue loss estimated above for FYs 2017-18 and 2018-19.

The bills would also expand the sales and use tax exemptions to property related to aquaculture, to various types of property purchased and installed as a component part of an agricultural structure, to entities that provide such property, and to equipment and technology used or consumed in the business enterprise for agricultural purposes. These provisions would also result in reduced sales and use tax revenues and are accounted for in the above estimates. Due to the 6-year retroactivity provisions, the largest revenue losses would occur in FYs 2017-18 and 2018-19 as entities seek prior-year refunds. The expected annual revenue loss would level off beginning in FY 2019-20 at approximately \$8.0 million.

The distribution of the revenue loss between the sales tax and use tax is unknown. Roughly 73% of total sales tax collections are earmarked to the School Aid Fund, approximately 10% of collections are distributed as constitutional revenue sharing, and the bulk of the remainder accrues to the General Fund. For the use tax, one-third accrues to the School Aid Fund and two-thirds accrue to the General Fund.

House Bill 4562 (S-1) would have no fiscal impact on state or local government. The bill would reinstate the Agricultural Disaster Loan Origination Program that sunsetted on February 15, 2018. However, funding does not currently exist for the program. Operation of the program in the future would require the appropriation of funds by the Legislature.

House Bill 4563 (S-1) would have no fiscal impact on state or local government.

Legislative Analyst: Patrick Morris
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.