

HOUSE BILL NO. 5583

March 05, 2020, Introduced by Reps. Hernandez and O'Malley and referred to the Committee on Appropriations.

A bill to amend 1937 PA 94, entitled "Use tax act," by amending sections 6c and 21 (MCL 205.96c and 205.111), section 6c as added by 2015 PA 263 and section 21 as amended by 2020 PA 30, and by adding sections 4gg and 4ii.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 4gg. (1) Notwithstanding section 4k(1) and (2), the**
2 **storage, use, or consumption of aviation fuel is exempt from the**
3 **tax under this act as follows:**

4 **(a) Beginning October 1, 2020 through September 30, 2021, the**



1 storage, use, or consumption of aviation fuel is exempt from 100%
2 of the tax imposed at the additional rate of 2% approved by the
3 electors on March 15, 1994.

4 (b) Beginning October 1, 2021 through September 30, 2022, the
5 storage, use, or consumption of aviation fuel is exempt from 50% of
6 the tax imposed at a rate of 4% and 100% of the tax imposed at the
7 additional rate of 2% approved by the electors on March 15, 1994.

8 (c) Beginning October 1, 2022, the storage, use, or
9 consumption of aviation fuel is exempt from 100% of the tax levied
10 under this act.

11 (2) As used in this section, "aviation fuel" means fuel as
12 that term is defined in section 4 of the aeronautics code of the
13 state of Michigan, 1945 PA 327, MCL 259.4.

14 Sec. 4ii. (1) The storage, use, or consumption of eligible
15 fuel is exempt from the tax under this act as follows:

16 (a) Beginning October 1, 2020 through September 30, 2021, the
17 storage, use, or consumption of eligible fuel is exempt from 100%
18 of the tax imposed at the additional rate of 2% approved by the
19 electors on March 15, 1994.

20 (b) Beginning October 1, 2021 through September 30, 2022, the
21 storage, use, or consumption of eligible fuel is exempt from 50% of
22 the tax imposed at a rate of 4% and 100% of the tax imposed at the
23 additional rate of 2% approved by the electors on March 15, 1994.

24 (c) Beginning October 1, 2022, the storage, use, or
25 consumption of eligible fuel is exempt from 100% of the tax levied
26 under this act.

27 (2) As used in this section, "eligible fuel" means any fuel
28 subject to the tax levied under the motor fuel tax act, 2000 PA
29 403, MCL 207.1001 to 207.1170.



1 Sec. 6c. (1) Beginning April 1, 2016 and each calendar quarter
 2 thereafter **through September 30, 2020**, every person storing, using,
 3 or consuming aviation fuel, the storage, use, or consumption of
 4 which is subject to the tax imposed by this act when the tax was
 5 not paid to a seller, and every seller collecting the tax from the
 6 purchaser from sales of aviation fuel shall, on or before the last
 7 day of the month in the month that immediately follows the end of a
 8 calendar quarter, file an informational report with the department
 9 on a form prescribed by the department showing all of the following
 10 for the immediately preceding calendar quarter:

11 (a) The entire amount of taxable aviation fuel sold or
 12 purchased by the person, as applicable.

13 (b) The amount of tax for which the person is liable from the
 14 purchase or sale of aviation fuel.

15 (c) The number of taxable gallons of aviation fuel sold or
 16 purchased by the person, as applicable, at each airport and the
 17 gross proceeds from the sales or purchase of those gallons of
 18 aviation fuel, as applicable.

19 (d) Any other information the department considers necessary
 20 for the proper administration of this act.

21 (2) The report required under this section ~~shall~~**must** not
 22 include any remittance for tax and does not constitute a return or
 23 otherwise alleviate the person's obligations under section 6.

24 (3) A person required to file the informational report under
 25 this section that fails or refuses to file the informational report
 26 within the time and in the manner specified in this section ~~shall~~
 27 ~~be~~**is** liable for a penalty of \$10.00 per day for each day for each
 28 separate failure or refusal up to, but not exceeding, a maximum
 29 penalty of \$500.00 for each separate violation. The department may



1 waive the penalty if the taxpayer demonstrates to the satisfaction
2 of the department that the failure to file was due to reasonable
3 cause.

4 (4) As used in this section, "aviation fuel" means fuel as
5 that term is defined in section 4 of the aeronautics code of the
6 state of Michigan, 1945 PA 327, MCL 259.4.

7 Sec. 21. (1) Except as **otherwise** provided in ~~subsections (2),~~
8 ~~(3), (4), and (5),~~ **this section**, all money received and collected
9 under this act must be deposited by the department ~~of treasury~~ in
10 the state treasury to the credit of the general fund, to be
11 disbursed only by appropriations by the legislature.

12 (2) The collections from the use tax imposed at the additional
13 rate of 2% approved by the electors on March 15, 1994 must be
14 deposited in the state school aid fund established in section 11 of
15 article IX of the state constitution of 1963.

16 (3) From the money received and collected under this act for
17 the state share, an amount equal to all revenue lost under the
18 state education tax act, 1993 PA 331, MCL 211.901 to 211.906, all
19 revenue lost from basic school operating mills as a result of the
20 exemption of personal property under sections 9m, 9n, and 9o of the
21 general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and
22 211.9o, and all revenue lost to the school aid fund as a result of
23 the exemption under section 4cc, as determined by the department,
24 must be deposited into the state school aid fund established by
25 section 11 of article IX of the state constitution of 1963. Funds
26 deposited into the state school aid fund under this subsection must
27 not include the portion of the state share of the use tax imposed
28 at the additional rate of 2% approved by the electors of this state
29 on March 15, 1994 and dedicated for aid to schools under subsection



1 (2). A person that claims an exemption under section 4cc shall
 2 report the purchase price of the data center equipment as defined
 3 in section 4cc and any other information necessary to determine the
 4 amount of revenue lost to the school aid fund as a result of the
 5 exemption under section 4cc annually on a form at the time and in a
 6 manner prescribed by the department. The report required under this
 7 subsection shall not include any remittance for tax and does not
 8 constitute a return or otherwise alleviate the person's obligations
 9 under section 6.

10 (4) Money received and collected under this act for the local
 11 community stabilization share is not state funds, must not be
 12 credited to the state treasury, and must be transmitted to the
 13 authority for deposit in the treasury of the authority, to be
 14 disbursed by the authority only as authorized under the local
 15 community stabilization authority act, 2014 PA 86, MCL 123.1341 to
 16 123.1362. The local community stabilization share is a local tax,
 17 not a state tax, and money received and collected for the local
 18 community stabilization share is money of the authority and not
 19 money of this state.

20 (5) ~~Beginning~~ **Except as otherwise provided in subsection (6),**
 21 **beginning** October 1, 2016 and the first day of each calendar
 22 quarter thereafter **through September 30, 2020,** from the money
 23 received and collected under this act for the state share, an
 24 amount equal to the collections for the calendar quarter that is 2
 25 calendar quarters immediately preceding the current calendar
 26 quarter of the tax imposed under this act at the additional rate of
 27 2% approved by the electors on March 15, 1994 from the use,
 28 storage, or consumption of aviation fuel must be distributed as
 29 follows:



1 (a) An amount equal to 35% of the collections of the tax
2 imposed at a rate of 2% on the use, storage, or consumption of
3 aviation fuel must be deposited in the state aeronautics fund and
4 must be expended, on appropriation, only for those purposes
5 authorized in the aeronautics code of the state of Michigan, 1945
6 PA 327, MCL 259.1 to 259.208.

7 (b) An amount equal to 65% of the collections of the tax
8 imposed at a rate of 2% on the use, storage, or consumption of
9 aviation fuel must be deposited in the qualified airport fund and
10 must be expended, on appropriation, only for those purposes
11 authorized under section 35 of the aeronautics code of the state of
12 Michigan, 1945 PA 327, MCL 259.35.

13 (6) ~~The~~ **For fiscal years ending before October 1, 2020, the**
14 department shall, on an annual basis, reconcile the amounts
15 distributed under subsection (5) during each fiscal year with the
16 amounts actually collected for a particular fiscal year and, **except**
17 **as otherwise provided in this subsection,** shall make any necessary
18 adjustments, positive or negative, to the amounts to be distributed
19 for the next successive calendar quarter that begins January 1. The
20 **department may transfer money between funds, delay and adjust a**
21 **distribution under subsection (5), or take any other action that**
22 **the department considers necessary to account for any necessary**
23 **adjustments, positive or negative, resulting from the**
24 **reconciliation under this subsection for the fiscal year ending**
25 **September 30, 2020. For fiscal years ending before October 1, 2020,**
26 **the** state treasurer or his or her designee shall annually provide
27 to the operator of each qualified airport a report of the
28 reconciliation performed under this subsection. The reconciliation
29 report is subject to the confidentiality restrictions and penalties



1 provided in section 28(1)(f) of 1941 PA 122, MCL 205.28.

2 (7) As used in this section:

3 (a) "Aviation fuel" means fuel as that term is defined in
4 section 4 of the aeronautics code of the state of Michigan, 1945 PA
5 327, MCL 259.4.

6 (b) "Qualified airport" means that term as defined in section
7 109 of the aeronautics code of the state of Michigan, 1945 PA 327,
8 MCL 259.109.

9 (c) "Qualified airport fund" means the qualified airport fund
10 created in section 34(2) of the aeronautics code of the state of
11 Michigan, 1945 PA 327, MCL 259.34.

12 (d) "State aeronautics fund" means the state aeronautics fund
13 created in section 34(1) of the aeronautics code of the state of
14 Michigan, 1945 PA 327, MCL 259.34.

15 Enacting section 1. This amendatory act does not take effect
16 unless all of the following bills of the 100th Legislature are
17 enacted into law:

18 (a) Senate Bill No. ____ or House Bill No. 5582 (request no.
19 01324'19).

20 (b) Senate Bill No. ____ or House Bill No. 5584 (request no.
21 01899'19).

22 (c) Senate Bill No. ____ or House Bill No. 5585 (request no.
23 03278'19).

24 (d) Senate Bill No. ____ or House Bill No. 5586 (request no.
25 06193'20).

