

1998 PUBLIC AND LOCAL ACTS

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[No. 266]

(HB 5313)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending sections 4f and 6 (MCL 205.94f and 205.96), as amended by 1993 PA 326.

*The People of the State of Michigan enact:*

205.94f Computing monthly tax payments; deductions by seller collecting tax from purchaser; disallowance of deduction; deduction for extended payment period; filing estimated returns and annual periodic reconciliations. [M.S.A. 7.555(4f)]

Sec. 4f. (1) In computing the amount of tax payments required for any month of a seller not subject to section 6(2) or (3) who collects the tax from the purchaser under the provisions of this act, the seller who collects the tax from a purchaser may deduct the amount provided by subdivision (a) or (b), whichever is greater:

(a) If the tax that accrued to the state from the purchase of tangible personal property or services during the preceding month is remitted to the department on or before the seventh day of the month in which remittance is due, 0.75% of the tax collected at a rate of 4% for the preceding monthly period, but not to exceed \$20,000.00 of the tax collected for that month. If the tax that accrued to the state from the purchase of tangible personal property or services during the preceding month is remitted to the department after the seventh day of the month and on or before the fifteenth day of the month in which remittance is due, 0.50% of the tax collected at a rate of 4% for the preceding monthly period, but not to exceed \$15,000.00 of the tax collected for that month.

(b) The tax collected at a rate of 4% on \$150.00 of taxable purchase price for the preceding monthly period or a prorated portion of \$150.00 of the taxable purchase price for the preceding month if the seller engaged in business for less than a month.

(2) Before January 1, 1999, in computing the amount of tax levied under this act for any month, a seller who collects the tax from the purchaser under this act and who is subject to section 6(2) may deduct the amount provided in this subsection. If the tax that is due to the state from the purchase of tangible personal property or services is remitted to the department on or before the eleventh day of the month in which remittance is due, 0.75% of the tax due at a rate of 4% but not to exceed \$20,000.00 of the tax due for that month may be deducted. If the tax that is due to the state from the purchase of tangible personal property or services is remitted to the department after the eleventh day and on or before the eighteenth day of the month in which remittance is due, 0.50% of the tax due at a rate of 4% but not to exceed \$15,000.00 of the tax due for that month may be deducted.

(3) Beginning January 1, 1999, in computing the amount of tax levied under this act for any month, a seller who collects the tax from the purchaser under this act and who is subject to section 6(3) may deduct from the amount of the tax paid 0.50% of the tax due at a rate of 4%.

(4) A deduction is not allowed under this section for payments of taxes made to the department after the day the person is required to pay the tax imposed by this act pursuant to section 6.

## 1998 PUBLIC AND LOCAL ACTS

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(5) If, pursuant to section 6(4), the commissioner of revenue prescribes the filing of returns and the payment of the tax for periods in excess of 1 month, a seller who collects the tax from the purchaser is entitled to a deduction from the tax collections remitted to the department for the extended payment period that is equivalent to the deduction allowed under subsection (1), (2), or (3) for monthly periods.

(6) The commissioner may prescribe the filing of estimated returns and annual periodic reconciliations as necessary to carry out the purposes of this section.

205.96 Use tax returns; filing; form; contents; payment of tax; signing of return; remittance for certain total tax liability after subtracting tax payments; electronic funds transfer; filing other than monthly returns; personal liability of corporate officers; accrual to state. [M.S.A. 7.555(6)]

Sec. 6. (1) Every person storing, using, or consuming tangible personal property or services, the storage, use, or consumption of which is subject to the tax imposed by this act when the tax was not paid to a seller, and every seller collecting the tax from the purchaser, unless otherwise prescribed by the department under the provisions of subsection (2), (3), or (4), on or before the fifteenth day of each calendar month shall file with the department a return for the preceding calendar month, in a form prescribed by the department, showing the price of each purchase of tangible personal property or services during the preceding month, and other information the department considers necessary for the proper administration of this act. At the same time, each person shall pay to the department the amount of tax imposed by this act with respect to the purchases covered by the return. A return shall be signed by the person liable for the tax or his or her duly authorized agent. If the return is prepared by a person other than the taxpayer, the return shall also be signed by that person and show his or her address.

(2) Before January 1, 1999, each seller that had a total tax liability after subtracting the tax payments made to the secretary of state under this act or the sales tax act, 1933 PA 167, MCL 205.51 to 205.78, or after subtracting the tax credits available under section 6a of the general sales tax act, 1933 PA 167, MCL 205.6a, in the immediately preceding calendar year of \$720,000.00 or more on or before the eighteenth of each month shall remit to the department, by an electronic funds transfer method approved by the commissioner of revenue, an amount equal to 95% of the taxpayer's liability under this act for the same month in the immediately preceding calendar year, or 95% of the actual liability for the current month being reported, plus a reconciliation payment equal to the difference between the tax liability determined for the immediately preceding month minus the amount of tax previously paid for that month.

(3) Beginning January 1, 1999, each seller that had a total tax liability after subtracting the tax payments made to the secretary of state under this act or the sales tax act, 1933 PA 167, MCL 205.51 to 205.78, or after subtracting the tax credits available under section 6a of the general sales tax act, 1933 PA 167, MCL 205.6a, in the immediately preceding calendar year of \$720,000.00 or more shall remit to the department, by an electronic funds transfer method approved by the commissioner of revenue on or before the fifteenth day of the month, an amount equal to 50% of the taxpayer's liability under this act for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported, whichever is less, plus a reconciliation payment equal to the difference between the tax liability determined for the immediately preceding month minus the amount of tax previously paid for that month. Additionally, the seller shall remit to the department, by an electronic funds transfer method approved by the commissioner of revenue on or before the last day of the month, an amount equal to 50% of the taxpayer's liability under this act for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported, whichever is less.

## 1998 PUBLIC AND LOCAL ACTS

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(4) If considered necessary to insure payment of the tax or to provide a more efficient administration, the revenue commissioner may require and prescribe the filing of returns and payment of the tax for other than monthly periods.

(5) If a corporation licensed under this act fails for any reason to file the required returns or to pay the tax due, any of its officers having control or supervision of, or charged with the responsibility for, making the returns and payments are personally liable for the failure. The dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due.

(6) The tax imposed under this act shall accrue to this state on the last day of each calendar month.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

- (a) Senate Bill No. 1158.
- (b) House Bill No. 4942.

This act is ordered to take immediate effect.

Approved July 16, 1998.

Filed with Secretary of State July 17, 1998.

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**Compiler's note:** Senate Bill No. 1158, referred to in enacting section 1, was filed with the Secretary of State July 17, 1998, and became P.A. 1998, No. 267, Imd. Eff. July 17, 1998.

House Bill No. 4942, also referred to in enacting section 1, was filed with the Secretary of State July 17, 1998, and became P.A. 1998, No. 265, Imd. Eff. July 17, 1998.

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