Legislative Analysis

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ALLOW THE GOVERNOR TO SUSPEND SALES TAXES ON GASOLINE AND DIESEL FUEL

House Bill 4204 as passed by the House
Sponsor: Rep. Robert Gosselin
Committee: Tax Policy

Second Analysis (9-15-05)

BRIEF SUMMARY: The bill would exempt the sale of gasoline and diesel fuel from the sales tax, if the governor issues an executive order exempting those sales.

FISCAL IMPACT: The fiscal impact of suspending the sales tax on purchases of gasoline and diesel fuel depends on the prices and quantities of gas and diesel fuel purchased, as well as the duration of time the sales tax is suspended. Based on FY2005-06 projections of gasoline and diesel fuel consumption, if the price of gasoline was $3.00 per gallon BEFORE the sales tax component was removed, the full-year impact would be to reduce sales tax revenue by an estimated $790 million. Similarly, the reduction in sales tax revenue from the purchase of diesel fuel would be almost $130 million. This would result in reductions of almost $675 million to the School Aid Fund and just under $92 million to Constitutional revenue sharing.

THE APPARENT PROBLEM:

Gasoline prices in Michigan are up, and are now at near-record levels. According to AAA Michigan, the average price for a gallon of regular gasoline in the state increased by about 37 cents in the last days of August and first days of September to an average of $3.04 for self-serve regular gasoline. This average price, however, is about $0.16 cheaper than record levels set later in the week due to the devastation of the Gulf Coast caused by Hurricane Katrina. (At one point following the hurricane, the state had the highest gas prices in the nation.) This past week, gas prices remained close to $3.00 per gallon. At the same time last year, the average price for a gallon of regular gasoline was about $1.85. Similarly, diesel fuel prices are also up, with a gallon costing about $2.95, up from $1.90 at the same time last year.

The reasons for the continued increase in gasoline prices are varied, though they are largely not something individual consumers or the state can control. Experts say that gasoline prices remain at historic highs in part because of continued political unrest in the world's oil producing regions, increasing worldwide demand, and, now, reduced refining capacity in the wake of Hurricane Katrina.

Higher gasoline prices affect drivers and businesses and can be a drag on consumer spending and the economy as a whole. As gas prices continue to increase, consumers have fewer dollars to spend on other goods and services. Moreover, businesses are faced with increased costs because of higher motor fuel prices. And service stations, which rely on fuel sales, often see significant drops in sales of non-gasoline items such as beverages and food, and see an increase in the number of drive-offs (and angry customers).

Since consumers and state government have little or no power over the cost of the basic commodity, some people have suggested the state should influence gasoline prices at the pump through tax policy. The state imposes the six percent sales tax and, on top of that, an excise tax on sales of gasoline and diesel in the state. Legislation has been introduced to allow the governor to issue an executive order exempting gasoline and diesel sales from the sales tax.

THE CONTENT OF THE BILL:

The bill would amend the General Sales Tax Act to exempt the sale of gasoline and diesel fuel from the sales tax if the governor issues an executive order exempting those sales.

MCL 205.54a

BACKGROUND INFORMATION:

Currently, the federal government imposes an excise tax of 18.4 cents per gallon of gasoline and 24.4 cents per gallon of diesel, and the state imposes an excise tax of 19 cents per gallon of gasoline and 15 cents per gallon of diesel. The general sales tax of 6 percent is imposed on sales of gasoline and diesel fuel; the sales tax is imposed on the price including the federal motor fuel taxes but excluding the state motor fuel taxes.

Diesel-powered cars and light trucks and Michigan intrastate motor carriers[1] pay the federal diesel tax, state diesel tax, and the sales tax. Interstate motor carriers purchasing diesel fuel in Michigan pay the state and federal diesel taxes, the sales tax, the 15 cents per gallon Motor Carrier Fuel Tax, and a six percent use tax. These motor carriers do, however, receive a credit for the amount of state diesel and sales taxes paid.[2] Interstate motor carriers consuming fuel not purchased in Michigan pay the federal diesel tax (by virtue of it being paid in the state of purchase), the state motor carrier fuel tax, and the six percent use tax, but do not pay the state diesel tax or the sales tax.

The following equations show the components in a price of gasoline and diesel fuel used in cars and Michigan trucks when the pump price for both is $3.00 per gallon. The sales tax, in both cases, is six percent of the retail price plus the federal tax. In this example, House Bill 4204 would reduce the price per gallon for both types of fuel by 16 cents.

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[1] Michigan intrastate motor carriers are not considered "motor carriers" as that term is defined in the Motor Carrier Fuel Tax Act and, as such, are no longer required to file a MCFT form.

[2] The six percent use tax and the credit are now part of the Streamlined Sales Tax and Use Tax Revenue and Equalization Act

Gasoline

$3.00 = Federal Gas Tax ($0.184) + State Gas Tax ($0.19) + Sales Tax ($0.16) + Retail Price ($2.47)

Diesel

$3.00 = Federal Diesel Tax ($0.244) + State Diesel Tax ($0.15) + Sales Tax ($0.16) + Retail Price ($2.44)

The table below shows the amount of sales tax paid and the general range of the price per gallon at the pump. The pump price includes the sales tax.

Sales Tax	Gasoline Pump Price	Diesel Pump Price
12 cents	$2.23 - $2.42	$2.19 - $2.38
13 cents	$2.43 - $2.56	$2.39 - $2.52
14 cents	$2.57 - $2.74	$2.53 - $2.70
15 cents	$2.75 - $2.92	$2.71 - $2.88
16 cents	$2.94 - $3.09	$2.89 - $3.05
17 cents	$3.10 - $3.27	$3.06 - $3.23

ARGUMENTS:

For:

Exempting gasoline and diesel fuel sales from the imposition of the sales tax when prices are extraordinarily high would provide Michigan taxpayers (individuals and businesses) with some much-needed tax and price relief. The cost of gasoline is felt not only at the service station, but in the price of goods and services throughout the economy. Limiting the sales tax is one way state government can help lessen the blow. With this proposal, the state has the opportunity to forego collecting a windfall from higher gasoline taxes.

Against:

Suspending the sales tax on gasoline sales would provide individual taxpayers with minimal relief while depriving schools and local governments of a substantial amount of revenue. If a gallon of gasoline was around $3.00 for a month and the governor suspended the sales tax during that month, the savings to an individual car owner would be about $10 during that time.[3] Meanwhile, the amount of revenue foregone (or lost) by the state would be several millions. This is revenue that would primarily benefit local governments and schools, two groups that have faced continued financial hardships in recent years and who may seek tax increases (where possible) to make up for the lost revenue. The loss of revenue will come at a time, moreover, when higher fuel prices are straining school budgets and other government budgets.

[3] Based on the following assumptions: (1) a vehicle with a fuel economy of 20 miles per gallon, (2) driving an average of 15,000 per year, (3) purchasing about 750 gallons per year, or on average 62.5 gallons per month. At 16 cents per gallon, total savings would be 62.5 X 0.16, or $10.

For:

By providing the governor with the ultimate authority over when the sales tax should be suspended, the bill provides targeted tax relief when warranted by exceedingly high gasoline prices. This is preferable to exempting gas and diesel sales for a certain period of time (through the end of the year, for example) without regard to price levels; that could reduce state revenue without providing significant tax relief if prices suddenly fell to manageable levels. Presumably, the governor would exercise the newly acquired authority only in an "energy emergency" that may result from another natural disaster, terrorist attack, or increased hostility in the oil producing regions of the world. Immediately after Hurricane Katrina hit the Gulf Coast, the price for a gallon of regular unleaded gasoline, in some parts of the state, was around $3.40 for self-serve regular (and higher still for premium grades). At that price, some relief was necessary.

Response:

It is not entirely clear the bill is necessary. Public Act 191 of 1982 permits the governor to declare an "energy emergency" – that is, a condition of danger to the health, safety, or welfare of the citizens of the state due to an impending or present energy shortage – when warranted. The declaration of an energy emergency permits the governor to suspend a statute (or a portion of a statute), order, or rule when strict compliance prevents, hinders, or delays necessary action in coping with the energy emergency. In response to Hurricane Katrina, the governor has used this authority to declare an energy emergency and suspend a variety of regulations related to gasoline vapor pressure, the transportation of petroleum, and the use of dyed diesel fuel. Suspending motor fuel-related taxes on exceedingly high gas prices may very well fall within the scope of the governor's authority under Public Act 191.

Against:

The bill gives the governor (whoever holds that position) the power to decrease gas prices at the pump when they reach extraordinarily high levels and then increase gas prices when the price of the commodity falls. This puts the governor in a near-impossible position. (What price is so high that taxes should be reduced? What price is low enough to justify "increasing" taxes?) Political realities may dictate that once suspended, the sales tax won't be reinstated. Furthermore, the bill gives the illusion that a state governor has (and ought to have) the power to determine gas prices and the power singlehandedly to determine state tax policy. Is this a good precedent? The original version of the bill would have created a legislatively approved price level above which the sales tax would no longer be imposed.

Against:

As with the original proposal, which would have allowed the sales tax to be imposed only on a certain portion of the price of gasoline, critics say that the bill violates the tenets and promises of Proposal A and the shift in school funding from local property taxes to the state sales tax. Voters in 1994 clearly expressed their desire to fund schools through the sales tax, not the property tax. Schools were supposed to be the beneficiaries of revenue from a strong, stable state tax. This proposal contains the potential to deprive the schools of huge amounts of revenue. If the dollars were to be replaced from other state sources, the state budget as a whole would be decimated. Local units of government would also suffer from reduced revenue for state revenue sharing, which could result in higher local property taxes.

Moreover, it is a bad precedent to single out one commodity for this kind of treatment, regardless of its importance. The "slippery slope" question is, why not apply this policy to other goods as well?

Response:

On the other hand, it could be argued that the sales tax revenue that accrues schools and local governments when prices reach exorbitant levels are "windfall" revenues derived from the extraordinarily high cost of an essential commodity. Few other goods are so central to people's lives.

POSITIONS:

There are no positions at present on this version of the bill.

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