Legislative Analysis

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SALES TAX DEFINITION OF "MATERIALPERSON": INCLUDE A PERSON SELLING PRECAST CONCRETE

House Bill 4105
Sponsor: Rep. Jeff Mayes
Committee: Tax Policy

Complete to 3-16-09

A SUMMARY OF HOUSE BILL 4105 AS INTRODUCED 1-22-09

Generally speaking, the General Sales Tax requires businesses to remit sales taxes they collect on the 20th of each month. However, the act allows a "materialperson" to file on a quarterly basis, with collections due on April 20th, July 20th, October 20th, and January 20th for the calendar quarter ending the previous month.

A material person is currently defined in the act as a person who is primarily engaged in the sale of lumber and building materials used for the improvement of real property to owners, contractors, subcontractors, repairpersons, and consumers and who is authorized to file a construction lien under the Construction Lien Act. House Bill 4105 provides that a materialperson would also include **a person who sells precast concrete products.**

FISCAL IMPACT:

The bill would have a minimal fiscal impact on the state and local units of government.

BACKGROUND INFORMATION:

Sales Tax Treatment of Materialpersons
When sales of materials used for construction are made on a credit basis, the seller typically receive the payment three to four months after the sale. Requiring these firms to file returns on a monthly basis has the potential to create considerable cash flow problems. Public Act 453 of 1998 amended the General Sales Tax Act to alleviate this problem by permitting a materialperson to file returns on a quarterly basis.

Sellers of precast concrete products also make most sales on a credit basis and may face the same financial constraints when required to make monthly returns. Following enactment of Public Act 453 at least one seller of precast concrete products began submitting quarterly sales returns. However, the Department of Treasury, in the course of its regular audits, discovered that the firm, by not also selling lumber products, did not meet the definition of "materialperson" under the General Sales Tax Act, and wasn't eligible to make quarterly payments.

Precast Concrete Products

While not defined in the bill, precast concrete products are used in the construction of commercial and residential buildings and improve the appearance or usefulness of the physical site around a building, and include such products as steps, basement and above-grade walls, foundation systems, basement entries, floor and roof slabs, architectural wall panels, furniture, landscape retaining walls, modular paving products, modular housing units, air conditioning pads, ornamental products, parking bumpers and curbs, signs, storm shelters, safe rooms, bank vaults, and automated teller machine vaults.

Based on information provided by the sponsor concerning an identical bill in prior sessions (HB 4067 from the 2007-08 session and HB 5770 from the 2005-06 session), the following Michigan businesses sell precast concrete products:

- ADL Systems, Inc. – Portland
- Advance Concrete Products Co. – Highland
- Aggregate Industries/Central Region – Kalamazoo
- American Concrete Products, Inc. – Howell
- Bush Concrete Products, Inc. – Muskegon
- Grand Valley Concrete Products, Inc. – Grand Rapids
- Hollowcore Midwest LLC – Detroit
- Kerkstra/Spancrete Great Lakes – Jenison
- LC Redi Mix, Inc. – Lake City
- Mack Industries of Michigan – White Lake
- Milan Vault, Inc. – Milan
- Northern Concrete Pipe, Inc. – Bay City
- Stress-Con Industries – Detroit
- Upper Peninsula Concrete Pipe Co. – Escanaba

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