

Legislative Analysis



SALES, USE, AND PERSONAL PROPERTY TAXES: EXEMPTIONS FOR DATA CENTERS

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House Bill 5074 (Proposed Substitute H-1)
Sponsor: Rep. Rob VerHeulen

House Bill 5075 (Proposed H-1)
Sponsor: Rep. Ken Yonker

House Bill 5076 (Proposed H-1)
Sponsor: Rep. Andy Schor

Committee: Tax Policy
Complete to 12-1-15

SUMMARY:

The bills would amend various acts to exempt certain personal property associated with the operation of a data center from sales, use, and property taxes.

A detailed description of the bills follows.

House Bill 5074 amends the Use Tax Act (MCL 205.104); House Bill 5075 amends the General Sales Tax Act (MCL 205.62); and House Bill 5076 amends the General Property Tax Act (MCL 211.19 et al.).

Qualified Data Centers. Qualified Data Centers are defined in each of the bills as facilities located in Michigan *owned or operated* by an entity whose primary business, which is defined as at least 51% of business activity, is owning, operating, managing, or maintaining a group of networked computers or networked facilities for the purpose of centralizing, or allowing one or more colocated businesses to centralize, the storage, management, and dissemination of third-party data or the data of a colocated business.

Data Center Equipment. House Bills 5074 and 5075 would exempt from the sales and use tax data center equipment, which the bills define as any material used *in or in support of a qualified data center*, including equipment that would otherwise be considered a fixture and high technology, which is defined as:

- Computer hardware and software;
- Data communications;
- Information technologies; and
- Technology supporting a qualified data center, such as cooling equipment, uninterrupted power supply units, batteries, and generators.

Under House Bill 5075, this includes property sold to the owner or operator of a qualified data center or a colocated business for use or consumption in the operations of the qualified data center. Under House Bill 5074, this includes property sold to a qualified data center or a colocated business for the use or consumption in the operations of the qualified data

center. As noted, because a qualified data center is defined as the facilities located in Michigan that meet certain requirements, the exemption in HB 5074 likely is intended to apply to the owner or operator of a qualified data center, not the qualified data center itself.

Colocated Business. In each of the bills, a colocated business is defined as a person that has entered into a contract with the owner or operator of a data center to use or deploy data center equipment in Michigan for a period of two or more years. House Bill 5076 additionally requires the business to use or occupy all or part of the qualified data center for the purpose of the qualified data center.

Eligible Data Center Property. House Bill 5076 defines eligible data center property as commercial personal property or industrial personal property located in a qualified data center that is directly used to *operate, maintain, manage, or support the business of the qualified data center*. As noted above, a qualified data center is defined as facilities located in Michigan that meet certain requirements. Eligible data center property therefore likely must be used to operate, maintain, manage, or support the business of *the owner or operator of a qualified data center or colocated business* located in a qualified data center.

FISCAL IMPACT:

The package as a whole would reduce sales tax, use tax, and personal property tax revenue by an indeterminate amount. There are currently about 40 data centers operating in Michigan that would become eligible for the exemptions. Utilizing Census information on capital expenditures by data centers at the national level, the immediate revenue reduction is estimated to fall between \$20 million to \$30 million on an annual basis. However, this estimate does not include revenue losses associated with colocated businesses that would also qualify for the preferential tax treatment, which could potentially exceed the initial \$20 million to \$30 million estimate several times over depending on how broadly the exemptions are construed.

In addition, no attempt has been made to estimate any revenue losses that would occur as data centers open or expand in Michigan because the amount of potential new investment and the corresponding time frame cannot be known in advance.

A reduction in sales tax revenue will reduce the School Aid Fund (SAF), Constitutional revenue sharing, and General Fund/General Purpose (GF/GP) revenue. Reductions in the use tax will affect SAF and GF/GP revenue, and reduced property tax collections will lower SAF revenue (via the 6-mill State Education Tax), local K-12 funding, and revenue to local governments and other taxing authorities (libraries, community colleges, etc.).

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