

Legislative Analysis



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

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5074 (reported from committee as H-2)
Sponsor: Rep. Rob VerHeulen

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5075 (reported as H-2)
Sponsor: Rep. Ken Yonker

House Bill 5076 (reported as H-2)
Sponsor: Rep. Andy Schor

Committee: Tax Policy
Complete to 12-3-15

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. The exemptions would apply from January 1, 2016, to December 31, 2035.

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 composed of one or more buildings located in Michigan *owned* or *operated* by an entity whose primary business (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, processing, 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 but not limited to computers, servers, building materials, infrastructure, machinery, wiring, cabling, devices, tools, high technology, software, hardware, equipment that would otherwise be considered a fixture, or related equipment.

The term "high technology" would be defined as any technology used in the design and development of any of the following:

- 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 use or consumption in the operations of the qualified data center.

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 qualified data center to physically use or deploy data center equipment within the qualified data center for a period of one or more years. House Bill 5076 additionally requires the business to use or occupy all or part of the qualified data center for a period of one or more years for the purpose of the qualified data center.

Property Tax Exemption. The property tax exemption applies to eligible data center property and can be claimed only a person that owns the eligible data center property and that owns, leases, or otherwise occupies all or part of the qualified data center in which the property is located. This includes, but is not limited to, a colocated business.

Eligible Data Center Property. House Bill 5076 defines eligible data center property as all 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.

Local Option for Property Tax Exemption. The property tax exemption only applies if either of the following occurs:

- For a qualified data center in operation before January 1, 2016, the governing bodies of the local tax collecting unit and of the county in which the data center is located fail to adopt resolutions rejecting the exemption prior to April 1 of the first year the data center property could be made subject to tax.
- For a qualified data center beginning operations after December 31, 2015, the governing bodies of the local tax collecting unit and the county adopt resolutions approving the exemption no later than March 31, 2016.

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. Based on information from the Annual Capital Expenditures Survey (U.S. Census Bureau) corresponding to data centers

at the national level, the immediate revenue reduction is estimated to fall between \$20 million to \$30 million on an annual basis, assuming that local units of government allow existing personal property to become exempt. However, this estimate does not include revenue losses associated with colocated businesses that would also qualify for the preferential tax treatment, nor does it account for the possibility that existing businesses could spin off their data collection departments into subsidiaries and colocate as a way to qualify. The extent of this additional revenue reduction cannot be determined from available information.

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.). In general, the largest impact will fall on the SAF, which would absorb about one-half of the overall revenue loss. Local taxing authorities, to the extent that they don't opt out, could absorb as much as one-third of the revenue loss.

Legislative/Fiscal Analyst: Georges Tippens
Chris Couch
Fiscal Analyst: Jim Stansell

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.