

USE TAX ACT (EXCERPT)
Act 94 of 1937

***** 205.104b.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT
OF THE 2024 REGULAR SESSION SINE DIE *****

205.104b.amended Exemption claimed by purchaser; duties of seller; process to claim exemption after purchase.

Sec. 14b. (1) If an exemption from the tax under this act is claimed, the seller shall obtain identifying information of the purchaser and the reason for claiming the exemption at the time of the purchase or at a later date. The seller shall obtain the same information for a claimed exemption regardless of the medium in which the transaction occurred. If the seller is a person described in section 14a(6)(a), (b), or (c), obtaining the purchaser's license number issued by the Michigan liquor control commission satisfies the requirements of this subsection.

(2) A seller shall use a standard format for claiming an exemption electronically as adopted by the governing board under the streamlined sales and use tax agreement.

(3) A purchaser is not required to provide a signature to claim an exemption under this act unless a paper exemption form is used.

(4) A seller shall maintain a proper record of all exempt transactions and shall provide the record if requested by the department.

(5) A seller who complies with the requirements of this section is not liable for the tax under this act if a purchaser improperly claims an exemption. A purchaser who improperly claims an exemption is liable for the tax due under this act. This subsection does not apply if a seller does any of the following:

(a) Fraudulently fails to collect the tax under this act.

(b) Solicits a purchaser to make an improper claim for exemption.

(c) Accepts an exemption form when the purchaser claims an entity-based exemption if both of the following occur:

(i) The subject of the transaction sought to be covered by the exemption form is actually received by the purchaser at a location operated by the seller.

(ii) The state in which the location operated by the seller is located provides an exemption form that clearly and affirmatively indicates that the claimed exemption is not available in that state.

(6) A seller who obtains a fully completed exemption form or captures the relevant data elements as outlined in this section within 120 days after the date of sale is not liable for the tax under this act.

(7) If the seller has not obtained an exemption form or all relevant data elements, the seller may either prove that the transaction was not subject to the tax under this act by other means or obtain a fully completed exemption form from the purchaser, by the later of the following:

(a) 120 days after a request by the department.

(b) The date an assessment becomes final.

(c) The denial of a claim for refund.

(d) In the instance of a credit audit, the issuance of an audit determination letter or informal conference decision and order of determination.

(e) The date of a final order of the court of claims or the Michigan tax tribunal, as applicable, with respect to an assessment, order, or decision of the department.

(8) The department may, in its discretion, allow a seller additional time to comply with subsection (7).

(9) A seller is not liable for the tax under this act if the seller obtains a blanket exemption form for a purchaser with which the seller has a recurring business relationship. Renewals of blanket exemption forms or updates of exemption form information or data elements are not required if there is a recurring business relationship between the seller and the purchaser. For purposes of this section, a recurring business relationship exists when a period of not more than 12 months elapses between sales transactions.

(10) A purchaser that fails to claim an exemption at the time of purchase by notifying the seller of the exemption and providing a complete and proper claim of exemption may submit a claim for a refund to the department for the tax related to that purchase if all of the following conditions are met:

(a) The claim for a refund is made within 4 years of the date of purchase.

(b) The purchaser submits to the department an accurate record of the purchase, including, but not limited to, a paper, electronic, or digital receipt, invoice, or purchase order related to the sale, that includes the date of the purchase and the amount of sales tax paid to the seller for which the purchaser is seeking a refund under this subsection.

(c) The purchaser submits to the department a form signed by the seller as prescribed by the department

that contains information required by the department to substantiate the refund claim. The form must contain a statement that the seller reported and paid the tax on the sale for which the purchaser is seeking a refund under this subsection and that the seller has not claimed, and will not claim, a refund of that tax.

(d) The purchaser submits to the department a proper exemption claim on a form as prescribed by the department under this subsection.

(e) The purchaser submits to the department any additional information that the department requires related to the purchaser's claim for refund under this subsection.

History: Add. 2004, Act 172, Eff. Sept. 1, 2004;—Am. 2008, Act 439, Imd. Eff. Jan. 9, 2009;—Am. 2015, Act 252, Imd. Eff. Dec. 23, 2015;—Am. 2018, Act 168, Eff. Jan. 1, 2019;—Am. 2022, Act 4, Imd. Eff. Feb. 1, 2022;—Am. 2024, Act 61, Eff. (sine die).

Compiler's note: Enacting section 1 of Act 252 of 2015 provides:

"Enacting section 1. The legislature shall annually appropriate sufficient funds from the state general fund to the state school aid fund created in section 11 of article IX of the state constitution of 1963 to fully compensate for any loss of revenue to the state school aid fund resulting from the enactment of this amendatory act."