

Legislative Analysis



INDUSTRIAL PROCESSING EXEMPTIONS

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

House Bill 5255 (proposed substitute H-1)
Sponsor: Rep. TC Clements

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

House Bill 5872 as introduced
Sponsor: Rep. Matt Hall

Committee: Tax Policy
Complete to 3-15-22

SUMMARY:

House Bills 5255 and 5872 would respectively amend the Use Tax Act and the General Sales Tax Act to change the scope and applicability of the industrial processing exemptions under those acts.

Generally speaking, the Use Tax Act and the Sales Tax Act exempt sales of tangible personal property that is to be used in “industrial processing.” Each act contains a list of activities that constitute industrial processing. Each act also lists the kinds of personal property that are eligible for an industrial processing sales tax exemption and those that are not eligible for the exemption. For example, machinery used in industrial processing is exempt.

House Bill 5255 would amend the Use Tax Act to provide that property that performs an industrial processing activity on an *aggregate* product or material that will be used as an ingredient or component part for the construction, maintenance, repair, or reconstruction of real property located in Michigan is eligible for an industrial processing exemption as long as that aggregate product or material is subject to the use tax under the act. This provision would apply notwithstanding another that provides that industrial processing does not include design, engineering, construction, or maintenance of real property and nonprocessing equipment.

Aggregate would mean common variety building materials such as sand, gravel, crushed stone, slag, recycled concrete, recycled asphalt, and geosynthetic aggregates.

The bill also would add that “industrial processing” includes the production, manufacturing, or recycling of aggregate by the property described above, and for the purpose described above, as long as that aggregate is subject to the use tax under the act. The bill would make complementary amendments to the definitions of the terms “industrial processing” and “industrial processor” for purposes of the provisions governing the industrial processing exemption.

In addition, the act currently provides that property that becomes an ingredient or component part of the finished product to be affixed to and made a structural part of real estate is eligible for an industrial processing exemption. The bill would amend this provision so that, to be eligible for the exemption, the finished product would have to be affixed to and made a structural part of real estate *located in another state*. (The bill would not amend a related exemption for property that becomes a component part of a finished product to be sold ultimately at retail.)

Finally, the bill states that it clarifies that existing law as originally intended provides that the use tax does not apply to property that is used or consumed in the activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property if the finished product is subject to sales or use tax.

MCL 205.94o

House Bill 5872 would similarly amend the General Sales Tax Act to provide that property that performs an industrial processing activity on an aggregate product or material that will be used as an ingredient or component part for the construction, maintenance, repair, or reconstruction of real property located in Michigan is eligible for an industrial processing exemption as long as that aggregate product or material is subject to the use tax under the Use Tax Act. This provision would apply notwithstanding another that provides that industrial processing does not include design, engineering, construction, or maintenance of real property and nonprocessing equipment.

The bill also would add that “industrial processing” includes the production, manufacturing, or recycling of aggregate by the property described above, and for the purpose described above, as long as that aggregate is subject to the use tax under the Use Tax Act. The bill would make complementary amendments to the definitions of the terms “industrial processing” and “industrial processor” for purposes of the provisions governing the industrial processing exemption.

In addition, the bill would add new language to provide that property that becomes an ingredient or component part of the finished product to be affixed to and made a structural part of real estate located in another state is eligible for an industrial processing exemption under the act.

MCL 205.54t

Neither bill would take effect unless both bills were enacted.

FISCAL IMPACT:

Based on information provided by the Michigan Department of Treasury, the bills would likely reduce sales and use tax revenue by roughly \$1.0 million or potentially less on an ongoing annual basis. However, because of the retroactivity provision in HB 5255, the initial revenue reduction would likely be significantly higher.

About one-third of use tax revenue is earmarked to the School Aid Fund, with the rest accruing to the general fund. Roughly 73% of sales tax revenue is earmarked to the School Aid Fund, with an additional 10% constitutionally dedicated to local revenue sharing. The majority of the remainder accrues to the general fund.

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■ 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.