

**SUBSTITUTE FOR
SENATE BILL NO. 853**

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 18 (MCL 205.68), as amended by 2022 PA 3.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 18. (1) A person liable for any tax imposed under this
2 act shall keep in a paper, electronic, or digital format an
3 accurate and complete beginning and annual inventory and purchase
4 records of additions to inventory, complete daily sales records,
5 receipts, invoices, bills of lading, and all pertinent documents in
6 a form the department requires. Except as otherwise provided for a
7 person described under subsection (6), if an exemption from the tax
8 under this act is claimed by a person because the sale is for
9 resale at retail, a record must be kept of the sales tax license

1 number if the person has a sales tax license. These records must be
2 retained for a period of 4 years after the tax imposed under this
3 act to which the records apply is due or as otherwise provided by
4 law.

5 (2) If the department considers it necessary, the department
6 may require a person, by notice served upon that person, to make a
7 return, render under oath certain statements, or keep certain
8 records the department considers sufficient to show whether or not
9 that person is liable for the tax under this act.

10 (3) A person knowingly making a sale of tangible personal
11 property for the purpose of resale at retail to another person not
12 licensed under this act is liable for the tax under this act unless
13 the transaction is exempt under the provisions of section 4k.

14 (4) If a taxpayer fails to file a return or to maintain or
15 preserve sufficient records as prescribed in this section, or the
16 department has reason to believe that any records maintained or
17 returns filed are inaccurate or incomplete and that additional
18 taxes are due, the department may assess the amount of the tax due
19 from the taxpayer based on an indirect audit procedure or any other
20 information that is available or that may become available to the
21 department. That assessment is considered prima facie correct for
22 the purpose of this act and the burden of proof of refuting the
23 assessment is upon the taxpayer. An indirect audit of a taxpayer
24 under this subsection must be conducted in accordance with 1941 PA
25 122, MCL 205.1 to 205.31, and the standards published by the
26 department under section 21 of 1941 PA 122, MCL 205.21, and must
27 include all of the following elements:

28 (a) A review of the taxpayer's books and records. The
29 department may use an indirect method to test the accuracy of the

1 taxpayer's books and records.

2 (b) Both the credibility of the evidence and the
3 reasonableness of the conclusion must be evaluated before any
4 determination of tax liability is made.

5 (c) The department may use any method to reconstruct income,
6 deductions, or expenses that is reasonable under the circumstances.
7 The department may use third-party records in the reconstruction.

8 (d) The department shall investigate all reasonable evidence
9 presented by the taxpayer refuting the computation.

10 (5) If a taxpayer has filed all the required returns and has
11 maintained and preserved sufficient records as required under this
12 section, the department shall not base a tax deficiency
13 determination or assessment on any indirect audit procedure unless
14 the department has a documented reason to believe that any records
15 maintained or returns filed are inaccurate or incomplete and that
16 additional taxes are due.

17 (6) If the information required under section 12(1) is
18 maintained, an exemption certificate or any other documentation or
19 information is not required for an exemption claim obtained by any
20 of the following:

21 (a) A person licensed by the Michigan liquor control
22 commission as a wholesaler for purposes of sales of alcoholic
23 liquor to another person licensed by the Michigan liquor control
24 commission. As used in this subsection, "alcoholic liquor",
25 "authorized distribution agent", and "wholesaler" mean those terms
26 as defined in the Michigan liquor control code of 1998, 1998 PA 58,
27 MCL 436.1101 to 436.2303.

28 (b) The Michigan liquor control commission or a person
29 certified by the commission as an authorized distribution agent for

1 purposes of the sale and distribution of alcoholic liquor to a
2 person licensed by the Michigan liquor control commission.

3 **(c) A person licensed by the Michigan liquor control**
4 **commission as a micro brewer for purposes of sales of alcoholic**
5 **liquor to another person licensed by the Michigan liquor control**
6 **commission. As used in this subdivision, "micro brewer" means that**
7 **term as defined in section 109 of the Michigan liquor control code**
8 **of 1998, 1998 PA 58, MCL 436.1109.**

9 (7) For purposes of this act, a blanket exemption claim covers
10 all exempt transfers between the taxpayer and the buyer for a
11 period of 4 years or for a period of less than 4 years as stated on
12 the blanket exemption claim if that period is agreed to by the
13 buyer and taxpayer. Renewal of a blanket exemption claim or an
14 update of exemption claim information or data elements is not
15 required if there is a recurring business relationship between the
16 seller and the purchaser. For purposes of this subsection, a
17 recurring business relationship exists when a period of not more
18 than 12 months elapses between sales transactions.

19 (8) As used in this section:

20 (a) "Indirect audit procedure" is an audit method that
21 involves the determination of tax liabilities through an analysis
22 of a taxpayer's business activities using information from a range
23 of sources beyond the taxpayer's declaration and formal books and
24 records.

25 (b) "Sufficient records" means records that meet the
26 department's need to determine the tax due under this act.

27 **Enacting section 1. This amendatory act does not take effect**
28 **unless Senate Bill No. 852 of the 101st Legislature is enacted into**
29 **law.**