

Sales/Use/Indirect:

Michigan: Notice Explains Implementation of New Law Exempting Delivery and Installation Charges

Notice Regarding Changes in the Taxability of Delivery and Installation Charges for Sales and Use Taxes, Mich. Dept. of Treas. (4/26/23). The Michigan Department of Treasury (Department) issued a notice summarizing and explaining its implementation of recently enacted legislation [see H.B. 4039 / H.B. 4253, signed by gov. 4/26/23, and *State Tax Matters*, Issue 2023-17, for more details on this new law] that amends Michigan sales and use tax provisions by modifying the definitions of taxable “sales price” and “purchase price” to exclude certain delivery and installation charges from those definitions when the charges are separately stated on the invoice, bill of sale, or similar document provided to the purchaser, *and* adequate underlying books and records of such transactions are maintained. The notice explains that these exclusions generally do *not* apply to delivery or installation charges involving or relating to the sale of electricity, natural gas, or artificial gas by a utility unless otherwise exempt.

URL: <https://www.michigan.gov/treasury/reference/taxpayer-notices/changes-in-the-taxability-of-delivery-and-installation-charges-for-su>

URL: [https://www.legislature.mi.gov/\(S\(2n5h5aqtodp4lcgyfg241nea\)\)/mileg.aspx?page=getObject&objectName=2023-HB-4039](https://www.legislature.mi.gov/(S(2n5h5aqtodp4lcgyfg241nea))/mileg.aspx?page=getObject&objectName=2023-HB-4039)

URL: [https://www.legislature.mi.gov/\(S\(hc3exohvrdq2mj0vvnfzbsv\)\)/mileg.aspx?page=getObject&objectname=2023-HB-4253](https://www.legislature.mi.gov/(S(hc3exohvrdq2mj0vvnfzbsv))/mileg.aspx?page=getObject&objectname=2023-HB-4253)

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/STM/230428_8.html

The Department also explains that while the new law requires it to cancel all outstanding (unpaid) balances related to impacted delivery and installation charges on “Notices of Intent to Assess” and “Final Assessments” issued by it before the legislation’s effective date and it intends to be “proactive” in locating and cancelling such assessments, impacted taxpayers with outstanding balances for delivery or installation charges are “strongly encouraged” to contact it about cancelling them. Furthermore, the Department states that the new law’s relief provisions are limited to the cancellation of outstanding balances; accordingly, the legislation does *not* establish a right to a refund for sales tax or use tax on delivery or installation charges that a taxpayer has already remitted prior to the legislation’s effective date. Therefore, purchasers are not able to seek refunds based on the new law from retailers or the Department for periods prior to the legislation’s effective date.

Additionally, the Department explains that there is no statutory requirement for retailers to refund their customers if they collect tax in error on delivery or installation charges that are exempt or that are excluded from the “sales price” or “purchase price” under this new legislation. However, if such retailers do collect tax from their customers on those delivery or installation charges, they must remit the tax collected from the customers to the Department. Lastly, the Department announces that it will issue a new revenue administrative bulletin (RAB) to replace RAB 2015-17 to further address the taxability of delivery and installation charges following this newly enacted legislation. Please contact us with any questions.

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