



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
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GOVERNOR

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LETTER RULING 2019-1

LR 2019-1. Eligibility for Sales and Use Tax exemption for property sold to contractors for affixation to, or construction of, nonprofit hospitals.

You are a construction company serving as the construction manager and general contractor with respect to the construction of a psychiatric hospital to be owned and operated by a department of the State of Michigan. You and your subcontractors will purchase materials as part of the project. You ask whether the materials to be used in the construction of the psychiatric hospital will be exempt from the tax imposed by the Michigan General Sales Tax Act, MCL 205.51 *et seq.*, and the Michigan Use Tax Act, MCL 205.91, *et seq.*

Summary of applicable law. The Michigan General Sales Tax Act and the Michigan Use Tax Act are complementary tax statutes that generally levy a 6% tax on the sale or use of tangible personal property. Both Acts provide an exemption for property sold to contractors for affixation to, or construction of, nonprofit hospitals. MCL 205.54w(1) and 205.94s(1). The Acts define “nonprofit hospitals” to include a hospital that “[i]s owned or operated by a governmental unit in which medical attention is provided.” MCL 205.54w(3)(a)(i)(B) and MCL 205.94s(3)(a)(i)(B). “Medical attention” is defined as “that level of medical care in which a physician provides acute care or active treatment of medical, surgical, obstetrical, psychiatric, chronic, or rehabilitative conditions, that require the observation, diagnosis, and daily treatment by a physician.” MCL 205.54w(3)(c) and MCL 205.94s(3)(c).

Application of law to facts. The psychiatric hospital meets the definition of a “nonprofit hospital” set forth above because it will be owned and operated by an executive agency of the State of Michigan. The hospital will therefore be owned and/or operated by a “governmental unit” within the meaning of the statute. Additionally, the psychiatric hospital will be a hospital “in which medical attention is provided,” because the facility will provide in-patient psychiatric care to Michigan citizens. Supporting documentation attached to your request for Letter Ruling states that the new facility will be a “new State Psychiatric Hospital,” and provides a specific location where the new hospital will be constructed.

Materials purchased by you and your subcontractors and used in the construction of the new hospital will be exempt from Michigan sales and use taxes. Based on the facts stated above, the materials used in the construction of all portions of the new psychiatric hospital that would be considered a “nonprofit hospital” will be exempt from Michigan sales and use taxes. To the extent that any portion of the psychiatric hospital, or any of the activities conducted there, do not fall within the statutory definition of “nonprofit hospital,” there would be no exemption. Additionally, to the extent that the facility is operated as a nursing home, used for hospice, or a home for the aged, it would not be eligible for the exemption. MCL 205.54w(3)(b) and MCL 205.94s(3)(b).

For more information, please see Revenue Administrative Bulletin 2016-18.

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