

Notice: Penalty and Interest Waived for 31 Days for Certain Sales, Use, and Withholding Taxpayers with Returns Due December 20, 2020

Issued: December 8, 2020

On December 7, 2020, the Michigan Department of Health and Human Services (MDHHS) issued an epidemic order temporarily extending certain capacity and facemask restrictions on gatherings in order to mitigate the continued spread of COVID-19 in Michigan.[1] Section 3 of the order extends the prohibition on gatherings at certain types of facilities, including most entertainment, recreational, and indoor food service venues, resulting in the continued closure of those facilities.[2]

To alleviate some of the present challenges faced by those businesses, the Department of Treasury is automatically waiving penalty and interest for the late reporting or late payment of sales, use, and withholding tax for any non-accelerated return or payment due on December 20, 2020. The waiver will be effective for a period of 31 days; therefore, any non-accelerated sales, use, and withholding tax returns or payments currently due on December 20, 2020 may be reported and submitted to the Department without penalty or interest through January 20, 2021.

The waiver of penalty and interest only applies to non-accelerated sales, use, and withholding filers whose business is subject to the prohibition on gatherings under Section 3 of the MDHHS order. This includes, for example, businesses that are entertainment venues,[3] recreational facilities and places of public amusement,[4] and food service establishments with indoor dining.[5] Businesses not subject to a capacity prohibition, such as a business operating under the emergency rules issued by Michigan Occupational Safety and Health Administration (MIOSHA) on October 14, 2020, or businesses operating under general occupancy limitations, such as a retail store, are not eligible for the waiver of penalty and interest within this Notice. Taxpayers should consult with the MDHHS order to determine if the relief under this Notice is applicable.

The waiver does not apply to any accelerated return or payment of sales and use tax[6] that may be due on December 20, 2020 and similarly does not apply to any withholding required to be paid on an accelerated schedule.[7] Any taxpayer that currently pays sales, use, or withholding taxes on an accelerated basis must therefore continue to remit tax according to that accelerated schedule. The automatic waiver of penalty and interest applies only to a non-accelerated return or payment of sales and use tax due on December 20, 2020.[8] Any return or payment due after December 20, 2020 will not be eligible for the waiver provided within this Notice.

The waiver of penalty and interest provided within this Notice is automatic. Taxpayers do not need to contact or otherwise submit any documentation to the Department to receive this relief.

Questions regarding this Notice may be directed to the Department at (517) 636-6925.

[1] The order can be accessed at https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455-546790--,00.html.

[2] Examples of businesses that are open and closed under the current order can be found online at https://www.michigan.gov/documents/coronavirus/Pause_to_Save_Lives_Extension_709806_7.pdf.

[3] Examples of entertainment venues under the order include auditoriums, arenas, banquet halls, cinemas, conference centers, concert halls, performance venues, sporting venues, stadiums, and theaters.

[4] Examples of recreational facilities and places of public amusement include amusement parks, arcades, bingo halls, bowling alleys, casinos, night clubs, skating rinks, strip clubs, water parks, and trampoline parks.

[5] See MCL 289.1107(t) (defining "food service establishment").

[6] MCL 205.56(2); MCL 205.96(2)

[7] MCL 205.19(2).

[8] MCL 205.56(2); MCL 205.96(2).