

## Instructions for 2019 Sales, Use and Withholding Taxes 4% and 6% Annual Return (Form 5091)

**IMPORTANT:** This is a return for sales tax, use tax and/or withholding tax. If the taxpayer inserts a zero on or leaves blank any line reporting sales tax, use tax or withholding tax, the taxpayer is certifying that no tax is owed for that tax type. **Only enter figures for taxes the business is registered and/or liable for.** If it is determined that tax is owed the taxpayer will be liable for the deficiency as well as penalty and interest. Form 5091 is available for submission electronically using Michigan Treasury Online (MTO) at [mto.treasury.michigan.gov](http://mto.treasury.michigan.gov), or by using approved tax preparation software.

### Line-by-Line Instructions

#### NOTE:

- Enter sales tax amounts computed at 4% (0.04) in column A
- Enter sales tax amounts computed at 6% (0.06) in column B
- Enter use tax amounts for sales and rentals in column C

### PART 1: SALES AND USE TAX

**Line 1A/B: Total Gross Sales for Tax Year being Reported.** Enter total gross sales, including cash, credit and installment transactions, of tangible personal property. Include any costs incurred before ownership of the property is transferred to the buyer, including installation, shipping, handling, and delivery charges. Dealers do not reduce sales reported here by any trade-in value.

Providers of nontaxable services (that do not involve the sale or lease of tangible personal property) should not report those sales.

**Line 1C: Out-of-state Retailers Who do Not Have Retail Stores in Michigan:** Enter total sales of tangible personal property including cash, credit, and installment transactions.

**Line 2C: Rental of Tangible Property and Accommodations.**

- **Lessors of tangible personal property:** Enter amount of total rental receipts.
- **Persons providing accommodations:** This includes but is not limited to total hotel, motel, and vacation home rentals, and assessments imposed under the Convention and Tourism Act, the Convention Facility Development Act, the Regional Tourism Marketing Act, and the Community Convention or Tourism Marketing Act.

**Line 3C: Telecommunications Services.** Enter gross income from telecommunications services.

**Line 5a-5l: Allowable Exemptions and/or Deductions.** Use lines 5a - 5l to deduct from gross sales the nontaxable sales included in line 4. Deductions taken for tax exempt sales must be substantiated in business records. A copy of *Michigan Sales and Use Tax Certificate of Exemption*

(Form 3372) or the same information in another format must be obtained from the purchaser. For more information on exemption documentation, see Revenue Administrative Bulletin (RAB) 2016-14.

**Line 5a: Resale, Sublease or Subrent.** Enter resale, sublease or subrent exemption claims.

**Line 5b: Industrial Processing Exemption.** The property sold must be for direct use in producing a product for eventual sale at retail or to be affixed to and made a structural part of real estate located in another state.

**Line 5c: Agricultural Production Exemption.** The property sold must be for direct use in agricultural production.

**Line 5d: Interstate Commerce.** Enter sales made in interstate commerce. To claim such a deduction, the property or service must be delivered by the business to the out-of-state purchaser. Property transported out-of-state by the purchaser does not qualify as interstate commerce. Documentation of out-of-state shipments must be retained in business records to support this deduction.

**Line 5e: Nontaxable Services Billed Separately.** Enter charges for nontaxable services billed separately, such as repair or maintenance, if these charges were included in gross receipts on line 1. Costs, such as delivery or installation charges, that are incurred before the completion of the transfer of ownership of taxable property are included in the tax base and may not be subtracted.

**Line 5f: Bad Debts.** Deduct the amount of bad debts from business proceeds if all of the following criteria are met:

- The debts are charged off as uncollectible on business records at the time the debts become worthless
- The debts are deducted on the return for the period during which the bad debts are written off as uncollectible
- The debts are eligible to be deducted for federal income tax purposes.

A bad debt deduction may also be claimed by a third-party lender provided the retailer who reported the tax and the lender financing the sale executed and maintained a separate written election designating which party may claim the deduction. Certain additional conditions must be met. See MCL 205.54i and MCL 205.99a.

**Line 5g: Food for Human/Home Consumption.** Enter total of retail sales of grocery-type food, excluding tobacco and alcoholic beverages. Prepared food is subject to tax. See MCL 205.54g and MCL 205.94d for more information.

**Line 5h: Government Exemption.** Direct sales to the United States Government, State of Michigan, or its political subdivisions are exempt.

**Line 5i: Michigan Motor Fuel Tax.** Motor fuel retailers may deduct the Michigan motor fuel taxes that were included in gross sales on line 1 and paid to the State or the distributor.

**Line 5j: Direct Payment Deduction.** Enter sales made to purchasers that claimed direct pay exemption from sales and use taxes. If you accepted *Michigan's Sales and Use Tax Certificate of Exemption* (Form 3372), the box in Section 3 for "Other" should substantially include the following statement: "Direct pay authorized under Account Number [listing either the Federal Employer Identification Number or the Michigan Treasury Registration Number]." MCL 205.98.

**Line 5k: Other Exemptions and/or Deductions.** Identify exemptions or deductions not covered in items 5a through 5j on this line. Examples of exemptions or deductions are:

- Trade-in values on vehicle sales. Allowable trade-in values on vehicle sales. Motor vehicle, recreational vehicle, and watercraft dealers may be eligible to deduct a limited trade-in value under MCL 205.51(d). **Taxes paid to Secretary of State are not reported here.** Instead, they are reported on the *Vehicle Dealer Supplemental Schedule* (Form 5086, e-file only).
- Direct sales, not for resale, to certain nonprofit agencies, churches, schools, hospitals, and homes for the care of children and the aged, to the extent the property is used to carry out the nonprofit purpose of the organization. Limitations apply to vehicles. All sales must be paid for directly from the funds of the exempt organization to qualify.
- Assessments imposed under the Convention and Tourism Act, the Convention Facility Development Act, the Regional Tourism Marketing Act, or the Community Convention or Tourism Marketing Act. Hotels and motels may deduct the assessments included in gross sales and rentals provided use tax on the assessments was not charged to the customers.
- Credits allowed to customers for sales tax originally paid on merchandise voluntarily returned, provided the return is made within the time period for returns stated in the taxpayer's refund policy or 180 days after the initial sale, whichever is earlier. Repossessions are not allowable deductions.
- Sales to contractors of materials which will become part of a finished structure for a qualified exempt nonprofit hospital, qualified exempt nonprofit housing entity or church sanctuary, or materials to be affixed to and made a structural part of real estate located in another state. The purchaser will provide a *Michigan Sales and Use Tax Contractor Eligibility Statement* (Form 3520). See RAB 2016-18.
- Vehicle sales to non-reciprocal states for which no tax was paid to Secretary of State.
- Qualified nonprofit organizations may take a deduction for the sale of the first \$10,000.00 of tangible personal property in a calendar year for fund-raising purposes if the aggregate sales at retail in the calendar year are less than \$25,000.00. For qualifications, see RAB 1995-3.

**Line 5l: Tax Included in Gross Sales.** If you have tax included in your gross sales, divide your gross sales by 17.6667 and enter the amount.

**Line 8:** If more tax was collected than the amount on line 7, enter the difference.

**Line 10: Total Discount Allowed.**

- **Annual filers:** Enter \$72 if the tax due on line 9 is \$108 or more. If tax due is less than \$108, calculate the discount by multiplying line 9 by 2/3 (0.6667).
- **Accelerated/Monthly/Quarterly filers:** Enter total discounts allowed for the year.

**Line 12:** Enter total payments plus credits from the *2019 Fuel Supplier and Wholesaler Prepaid Sales Tax Schedule* (Form 5083), *2019 Fuel Retailer Supplemental Schedule* (Form 5085), and *2019 Vehicle Dealer Supplemental Schedule* (Form 5086), if applicable, made for the current tax year.

**Note:** all prepaid sales tax schedules are e-file only.

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## PART 2: USE TAX ON ITEMS PURCHASED FOR BUSINESS OR PERSONAL USE

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**Line 13:** Enter purchases for which no tax was paid, including property withdrawn from inventory for business or personal use. For Manufacturer/Contractors, alternative measures of the use tax base should be reported (see MCL 205.93a(1)(f) and (g) and RAB 2016-24 for more information). For all other taxpayers, report the "purchase price" as defined in MCL 205.92(f).

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## PART 3: WITHHOLDING TAX

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**Line 17:** Enter the number of W-2 and 1099 statements.

**Line 18:** Enter the total Michigan income tax withheld for the return year.

**Line 19:** Enter the total Michigan income tax paid for the tax year prior to filing this return. (Do not include penalty and interest).

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## PART 4: Summary

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**Line 24:** Enter the amount of overpayment from line 22 to be refunded. Refunds will not be made in amounts of less than \$1.

**Line 25:** If line 21 (tax paid) is less than line 20 (tax due), enter the additional tax due. Pay any amount \$1 or over with this return.

**Line 28: Total Payment Due.** Add lines 25, 26 and 27. Make check payable to "State of Michigan." Write the **account number**, "SUW Annual" and **tax year** on the check. Do not pay if the amount due is less than \$1.

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## How to Compute Penalty and Interest

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If the return is filed after February 28 and no tax is due, compute penalty at \$10 per day up to a maximum of \$400. If the return is filed with additional tax due, include penalty and interest with the payment. Penalty is 5% of the tax due and increases by an additional 5% per month or fraction thereof, after the second month, to a maximum of 25%. Interest is charged daily using the average prime rate, plus 1 percent.

Refer to [www.michigan.gov/taxes](http://www.michigan.gov/taxes) for current interest rate information or help in calculating late payment fees.

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## Wage Statements and Reporting

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Wage statements are federal forms and include W-2s and 1099s. W-2 statements must be furnished to employees by January 31. See IRS form instructions to determine the deadline to furnish 1099 forms to recipients. State copies of wage statements are due to the Department of Treasury on or before February 28. Wage statement copies, or the ability to recreate the data, should be retained in business records for seven years.

Michigan is now participating in the combined federal/state 1099 filing program. The IRS will share this information with Michigan. If there is no Michigan individual income tax withholding reported and the 1099s were filed using this program, the Michigan requirement for reporting non-employee compensation paid to Michigan residents has been satisfied. This rule applies for tax years 2014 and beyond. If Michigan income tax was withheld, the taxpayer needs to file as any other filer who has paid Michigan individual income tax withholding.

For tax years 2015 and beyond, you may electronically upload wage statement information through Michigan Treasury Online (MTO). Visit [michigan.gov/mtobusiness](http://michigan.gov/mtobusiness) for MTO guides and tutorials as well as file format and size restrictions for wage statement upload.

You may also electronically file W-2 data in the Social Security Administrations EFW2 format, when using computer software programs to e-file Form 5081. Check with your software provider for more details.

Alternatively, wage statements can be mailed separately to the address below. Do not include a copy of the annual return with the wage statements.

Michigan Department of Treasury  
Lansing, MI 48930

Employers with 250 or more employees must report using magnetic media. Smaller employers are encouraged to use magnetic media reporting, but are not required to send state copies of federal wage statements in this manner. Filing and format instructions are available on Transmittal for Magnetic Media Reporting of W-2s, W-2Gs, and 1099s to the State of Michigan (Form 447).

For tax years 2017 and beyond, electronic upload of wage statement information through MTO or electronic filing of W-2 data using computer software programs is magnetic media compliant.

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## Tax Assistance

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For assistance, call 517-636-6925. Assistance is available using TTY through the Michigan Relay Center by calling 711.