House Legislative Analysis Section
Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

USE TAX EXEMPTIONS

House Bill 4069 as introduced
First Analysis (4-4-95)

Sponsor: Rep. James McNutt
Committee: Tax Policy

THE APPARENT PROBLEM:

When a person buys a used car, he or she must pay a six percent use tax. The tax is collected by the Department of State, on behalf of the Department of Treasury, when the title is transferred. However, the Use Tax Act exempts transactions when the transferee or purchaser is the spouse, mother, father, brother, sister, or child of the transferor. Reportedly, the treasury department began in 1990 to insist on a strict interpretation of the statute and denies exemptions in cases where a stepparent has transferred or sold a car to a stepchild. Currently, some close family members can use a two-step process to get around the payment of use tax. For example, a grandparent could transfer a car to a grandchild by transferring it first to the appropriate parent, who would then transfer it to the grandchild. (Obviously, in-laws can do this, too, and apparently it is the practice of the Department of State, with Department of Treasury approval, to have branch clerks advise customers how to avoid taxes through multiple title transfers.) Some people believe that certainly stepparents should enjoy the same exemption from the use tax as parents and that it would make sense for other close family members, such as grandparents, to be granted an exemption as well, to save them the trouble of going through the extra step. Legislation was proposed last session to address this, but died in conference committee due to a disagreement over how far the exemption should be expanded. New legislation has been introduced.

THE CONTENT OF THE BILL:

Certain transfers and purchases are exempt from the Use Tax Act (MCL 205.93), including when the transferee or purchaser (of, for example, a used vehicle) is the spouse, mother, father, brother, sister, or child of the transferor. House Bill 4069 would amend the act to include "stepparent, stepchild, stepbrother, stepsister, grandparent, grandchild, legal ward or a legally appointed guardian with a certified letter of guardianship." The bill would take effect May 1, 1995.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the revenue loss associated with the bill is likely to be less than $100,000 annually. (3-29-95) The Department of State says the revenue loss would be minimal because branch clerks currently, under the direction of the Department of Treasury, advise customers how to avoid the tax through multiple transfers. (3-30-95)

ARGUMENTS:

For:

It makes sense to expand the use tax exemption for transferring used motor vehicles between close family members in recognition of the realities of modern families. It seems absurd that a stepparent or stepchild would not qualify in the same manner as a parent or child. And it makes little sense to make grandparents go through extra transactions to make a vehicle transfer exempt from the tax. Besides, sometimes the extra step is not available to a family. For example, currently a maternal grandparent could not transfer a vehicle tax-free to a grandchild who lived with her if that child's mother was dead or otherwise not available. So, to say the exemption is already available with one extra step is not fair to those who cannot take advantage of the two-step transfer.

Against:

Some people believe that the exemption should be extended to in-laws, as well. Here is another case where an exemption can, in some cases, essentially be accomplished by making an extra step. In fact, the Department of State says its branch clerks tell people how to use multiple title transfers to avoid the use tax! Why make this step necessary? It should be noted that use of multiple title transfers to avoid payment of the tax simply adds to the state's paperwork load; in addition to the extra transfer, the Department of Treasury must send out an additional letter requesting verification of the relationship. Branch office workers in the Department of State would prefer that the bill go further and exempt in-laws, according to department officials. Before January of 1993, when branch workers began advising people how to escape the tax, there were many complaints about the tax. Complaints are likely to increase if the passage of this bill results in the end to advising in-laws how to avoid the tax. Taxes should not be structured so that the well-informed can avoid them while the unaware are forced to pay.

Response:

The expansion of the exemption to stepparents, stepchildren, stepbrothers, and stepchildren is unexceptional and follows the logic of the current law, but going beyond that to include various in-laws, as some propose, seems unnecessary and a bigger step. What is next, transfers to favorite nephews and nieces? Cousins brought up as siblings? Close family friends who are "just like a member of the family"? The Use Tax Act cannot be expected to anticipate the variety of psychological relationships among people. The treasury department has said expanding the exemption will lead to problems with verifying relationships. The department says it sends out 600 letters per month already asking for verification of a claim for an exemption. The exemptions contained in this bill are easy to track; additional exemptions would pose problems. The department, based on its experience, says the fraud rate would increase some 50 percent with an expansion of the exemption to in-laws.

POSITIONS:

The Department of Treasury supports the bill as introduced but would oppose any expansion. (3-30-95)

The Department of State supports the bill. (3-30-95)