

HOUSE BILL No. 5196

September 7, 2007, Introduced by Rep. Tobocman and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled "Use tax act," by amending sections 3 and 4a (MCL 205.93 and 205.94a), as amended by 2004 PA 172.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) There is levied upon and there shall be collected
2 from every person in this state a specific tax for the privilege of
3 using, storing, or consuming tangible personal property **OR SERVICES**
4 in this state at a rate equal to 6% of the price of the property or
5 services specified in section 3a or 3b. Penalties and interest
6 shall be added to the tax if applicable as provided in this act.
7 For the purpose of the proper administration of this act and to
8 prevent the evasion of the tax **LEVIED UNDER THIS ACT**, all of the
9 following shall be presumed:

1 (a) That tangible personal property purchased is subject to
2 the tax if brought into this state within 90 days of the purchase
3 date and is considered as acquired for storage, use, or other
4 consumption in this state.

5 (b) That tangible personal property used solely for personal,
6 nonbusiness purposes that is purchased outside of this state and
7 that is not an aircraft is exempt from the tax levied under this
8 act if 1 or more of the following conditions are satisfied:

9 (i) The property is purchased by a person who is not a resident
10 of this state at the time of purchase and is brought into this
11 state more than 90 days after the date of purchase.

12 (ii) The property is purchased by a person who is a resident of
13 this state at the time of purchase and is brought into this state
14 more than 360 days after the date of purchase.

15 (2) The tax imposed by this section for the privilege of
16 using, storing, or consuming a vehicle, ORV, manufactured housing,
17 aircraft, snowmobile, or watercraft shall be collected before the
18 transfer of the vehicle, ORV, manufactured housing, aircraft,
19 snowmobile, or watercraft, except a transfer to a licensed dealer
20 or retailer for purposes of resale that arises by reason of a
21 transaction made by a person who does not transfer vehicles, ORVs,
22 manufactured housing, aircraft, snowmobiles, or watercraft in the
23 ordinary course of his or her business done in this state. The tax
24 on a vehicle, ORV, snowmobile, and watercraft shall be collected by
25 the secretary of state before the transfer of the vehicle, ORV,
26 snowmobile, or watercraft registration. The tax on manufactured
27 housing shall be collected by the department of consumer and

1 industry services, mobile home commission, or its agent before the
2 transfer of the certificate of title. The tax on an aircraft shall
3 be collected by the department of treasury. The price tax base of a
4 new or previously owned car or truck held for resale by a dealer
5 and that is not exempt under section 4(1)(c) is the purchase price
6 of the car or truck multiplied by 2.5% plus \$30.00 per month
7 beginning with the month that the dealer uses the car or truck in a
8 nonexempt manner.

9 (3) The following transfers or purchases are not subject to
10 use tax:

11 (a) A transaction or a portion of a transaction if the
12 transferee or purchaser is the spouse, mother, father, brother,
13 sister, child, stepparent, stepchild, stepbrother, stepsister,
14 grandparent, grandchild, legal ward, or a legally appointed
15 guardian with a certified letter of guardianship, of the
16 transferor.

17 (b) A transaction or a portion of a transaction if the
18 transfer is a gift to a beneficiary in the administration of an
19 estate.

20 (c) If a vehicle, ORV, manufactured housing, aircraft,
21 snowmobile, or watercraft that has once been subjected to the
22 Michigan sales or use tax is transferred in connection with the
23 organization, reorganization, dissolution, or partial liquidation
24 of an incorporated or unincorporated business and the beneficial
25 ownership is not changed.

26 (d) If an insurance company licensed to conduct business in
27 this state acquires ownership of a late model distressed vehicle as

1 defined in section 12a of the Michigan vehicle code, 1949 PA 300,
2 MCL 257.12a, through payment of damages in response to a claim or
3 when the person who owned the vehicle before the insurance company
4 reacquires ownership from the company as part of the settlement of
5 a claim.

6 (4) The department may utilize the services, information, or
7 records of any other department or agency of state government in
8 the performance of its duties under this act, and other departments
9 or agencies of state government are required to furnish those
10 services, information, or records upon the request of the
11 department.

12 (5) Any decrease in the rate of the tax levied under
13 subsection (1) on services subject to tax under this act shall
14 apply only to billings rendered on or after the effective date of
15 the decrease.

16 **(6) AS USED IN THIS SECTION, "ORV" MEANS THAT TERM AS DEFINED**
17 **IN SECTION 81101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL**
18 **PROTECTION ACT, 1994 PA 451, MCL 324.81101.**

19 Sec. 4a. The following are exempt from the tax **LEVIED** under
20 this act:

21 (a) Rental receipts if the tangible personal property rented
22 or leased was previously subject to 1 of the following when
23 purchased by the lessor:

24 (i) This act.

25 (ii) The general sales tax act, 1933 PA 167, MCL 205.51 to
26 205.78.

27 (b) Rental receipts if the tangible personal property rented

1 or leased was previously taxed under a sales or use tax act of
2 another state or a political subdivision of another state levied at
3 a rate of 6% or more.

4 (c) Specific charges for technical support or for adapting or
5 modifying prewritten computer software programs to a purchaser's
6 needs or equipment if those charges are separately stated and
7 identified.

8 (d) The sale of computer software originally designed for the
9 exclusive use and special needs of the purchaser.

10 (e) The sale of a commercial advertising element if the
11 commercial advertising element is used to create or develop a
12 print, radio, television, or other advertisement, the commercial
13 advertising element is discarded or returned to the provider after
14 the advertising message is completed, and the commercial
15 advertising element is custom developed by the provider for the
16 purchaser. As used in this subdivision, "commercial advertising
17 element" means a negative or positive photographic image, an
18 audiotape or videotape master, a layout, a manuscript, writing of
19 copy, a design, artwork, an illustration, retouching, and
20 mechanical or keyline instructions. This exemption does not include
21 black and white or full color process separation elements, an
22 audiotape reproduction, or a videotape reproduction.

23 (f) The sale of oxygen for human use dispensed pursuant to a
24 prescription.

25 (g) The sale of insulin for human use.

26 (h) A meal provided free of charge or at a reduced rate to an
27 employee during work hours by a food service establishment licensed

1 by the department of agriculture.

2 (i) The sale of diesel fuel to a person who is an interstate
3 motor carrier for use in a qualified commercial motor vehicle.