Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 791 (as introduced 11-2-11)
Sponsor: Senator Dave Hildenbrand
Committee: Finance

Date Completed: 6-12-12

CONTENT

The bill would amend provisions of the Use Tax Act that impose the tax on certain costs of a manufacturer that affixes its product to real estate, by referring to real estate "in this state", as well as the "price" of the costs.

Under the Act, the use or consumption of specified services is taxed in the same manner as tangible personal property is taxed. These services include certain costs of a manufacturer that affixes its product to real estate, as described below.

For a manufacturer that affixes its product to real estate and maintains an inventory of its product that is available for sale to others, or that makes its product available for sale by publication or price list, the tax is imposed on the direct production costs and indirect production costs of the product affixed to the real estate that are incident to and necessary for production or manufacturing operations or processes.

For a manufacturer that affixes its product to real estate but does not maintain an inventory of its product available for sale to others or make its product available for sale by publication or price list, the tax is imposed on the sum of the materials cost of the property and the cost of labor to manufacture, fabricate, or assemble the property, but not the cost of labor to cut, bend, assemble, or attach the property at the site for affixation to real estate.

In both of these provisions, the bill would refer to real estate "in this state". The bill also specifies "the price is" the direct and indirect production costs, or the sum of the materials and labor costs, as applicable.

The bill would be retroactive and effective January 1, 2006.

MCL 205.93a

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an unknown impact on State use tax revenue. The language specifies the price to be used in computing tax in cases where the product is affixed to real estate located in Michigan. In those circumstances, the bill would not affect the tax levied on the transactions. However, it is unknown what price would be used in computing the tax in cases where the property is affixed to real estate located outside of Michigan: whether the full transaction price would be applied in the tax computation or whether it would be treated as exempt. Exemptions to the use tax are generally listed in Sections 94 through 94z of the Act, while the bill would amend Section 93a.

To the extent that the full transaction price was used in computing use tax liability under the bill, the bill would likely increase State use tax revenue. On the other hand, to the extent the changes were treated as an exemption, the bill would reduce use tax revenue. While the magnitude of either change is unknown, the magnitude of any revenue reduction would be greater than the magnitude of any revenue increase. The impact of any change in revenue would be divided between the General Fund and the School Aid Fund, with the School Aid Fund experiencing one-third of any impact.

Because the bill would be retroactive to January 1, 2006, the impact in the first fiscal year in which the bill would be enacted would be substantially greater than the impact in later fiscal years.

The bill would have no impact on local unit revenue or expenditure.

Fiscal Analyst: David Zin

S1112\s791sa.