

HOUSE BILL No. 4514

March 22, 2007, Introduced by Reps. Brown, Espinoza, Polidori, Dean and Ebli and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 2 (MCL 205.92), as amended by 2004 PA 172.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Person" means an individual, firm, partnership, joint
3 venture, association, social club, fraternal organization,
4 municipal or private corporation whether or not organized for
5 profit, company, limited liability company, estate, trust,
6 receiver, trustee, syndicate, the United States, this state,
7 county, or any other group or combination acting as a unit, and the
8 plural as well as the singular number, unless the intention to give
9 a more limited meaning is disclosed by the context.

10 (b) "Use" means the exercise of a right or power over tangible

1 personal property incident to the ownership of that property
2 including transfer of the property in a transaction where
3 possession is given.

4 (c) "Storage" means a keeping or retention of property in this
5 state for any purpose after the property loses its interstate
6 character.

7 (d) "Seller" means the person from whom a purchase is made and
8 includes every person selling tangible personal property or
9 services for storage, use, or other consumption in this state. If,
10 in the opinion of the department, it is necessary for the efficient
11 administration of this act to regard a salesperson, representative,
12 peddler, or canvasser as the agent of a dealer, distributor,
13 supervisor, or employer under whom the person operates or from whom
14 he or she obtains tangible personal property or services sold by
15 him or her for storage, use, or other consumption in this state,
16 irrespective of whether or not he or she is making the sales on his
17 or her own behalf or on behalf of the dealer, distributor,
18 supervisor, or employer, the department may so consider him or her,
19 and may consider the dealer, distributor, supervisor, or employer
20 as the seller for the purpose of this act.

21 (e) "Purchase" means to acquire for a consideration, whether
22 the acquisition is effected by a transfer of title, of possession,
23 or of both, or a license to use or consume; whether the transfer is
24 absolute or conditional, and by whatever means the transfer is
25 effected; and whether consideration is a price or rental in money,
26 or by way of exchange or barter.

27 (f) "Purchase price" or "price" means the total amount of

1 consideration paid by the consumer to the seller, including cash,
2 credit, property, and services, for which tangible personal
3 property or services are sold, leased, or rented, valued in money,
4 whether received in money or otherwise, and applies to the measure
5 subject to use tax. Purchase price includes the following
6 subparagraphs (i) through (vi) and excludes subparagraphs (vii)
7 through ~~(viii)~~—(ix) :

8 (i) Seller's cost of the property sold.

9 (ii) Cost of materials used, labor or service cost, interest,
10 losses, costs of transportation to the seller, taxes imposed on the
11 seller other than taxes imposed by this act, and any other expense
12 of the seller.

13 (iii) Charges by the seller for any services necessary to
14 complete the sale, other than the following:

15 (A) An amount received or billed by the taxpayer for
16 remittance to the employee as a gratuity or tip, if the gratuity or
17 tip is separately identified and itemized on the guest check or
18 billed to the customer.

19 (B) Labor or service charges involved in maintenance and
20 repair work on tangible personal property of others if separately
21 itemized.

22 (iv) Delivery charges incurred or to be incurred before the
23 completion of the transfer of ownership of tangible personal
24 property from the seller to the purchaser.

25 (v) Installation charges incurred or to be incurred before the
26 completion of the transfer of ownership of tangible personal
27 property from the seller to the purchaser.

1 (vi) ~~Credit~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (ix) ,**
2 **CREDIT** for any trade-in.

3 (vii) Interest, financing, or carrying charges from credit
4 extended on the sale of personal property or services, if the
5 amount is separately stated on the invoice, bill of sale, or
6 similar document given to the purchaser.

7 (viii) Any taxes legally imposed directly on the consumer that
8 are separately stated on the invoice, bill of sale, or similar
9 document given to the purchaser.

10 (ix) **THE AGREED-UPON VALUE OF A MOTOR VEHICLE USED AS PART**
11 **PAYMENT OF THE PURCHASE OR LEASE PRICE OF A NEW MOTOR VEHICLE, IF**
12 **THE MOTOR VEHICLE USED AS PART PAYMENT IS OWNED BY THE PURCHASER OR**
13 **LESSEE OF THE NEW MOTOR VEHICLE. AS USED IN THIS SUBPARAGRAPH, "NEW**
14 **MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT HAS BEEN DRIVEN LESS THAN**
15 **300 MILES.**

16 (g) "Consumer" means the person who has purchased tangible
17 personal property or services for storage, use, or other
18 consumption in this state and includes a person acquiring tangible
19 personal property if engaged in the business of constructing,
20 altering, repairing, or improving the real estate of others.

21 (h) "Business" means all activities engaged in by a person or
22 caused to be engaged in by a person with the object of gain,
23 benefit, or advantage, either direct or indirect.

24 (i) "Department" means the department of treasury.

25 (j) "Tax" includes all taxes, interest, or penalties levied
26 under this act.

27 (k) "Tangible personal property" means personal property that

1 can be seen, weighed, measured, felt, or touched or that is in any
2 other manner perceptible to the senses and includes electricity,
3 water, gas, steam, and prewritten computer software.

4 (l) "Textiles" means goods that are made of or incorporate
5 woven or nonwoven fabric, including, but not limited to, clothing,
6 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,
7 pillows, pillowcases, tablecloths, napkins, aprons, linens, floor
8 mops, floor mats, and thread. Textiles also include materials used
9 to repair or construct textiles, or other goods used in the rental,
10 sale, or cleaning of textiles.

11 (m) "Interstate motor carrier" means a person who operates or
12 causes to be operated a qualified commercial motor vehicle on a
13 public road or highway in this state and at least 1 other state or
14 Canadian province.

15 (n) "Qualified commercial motor vehicle" means that term as
16 defined in section 1(i), (j), and (k) of the motor carrier fuel tax
17 act, 1980 PA 119, MCL 207.211.

18 (o) "Diesel fuel" means that term as defined in section 2(p)
19 of the motor fuel tax act, 2000 PA 403, MCL 207.1002.

20 (p) "Sale" means a transaction by which tangible personal
21 property or services are purchased or rented for storage, use, or
22 other consumption in this state.

23 Enacting section 1. This amendatory act does not take effect
24 unless all of the following bills of the 94th Legislature are
25 enacted into law:

26 (a) House Bill No. 4367.

27 (b) House Bill No. 4368.

- 1 (c) House Bill No. 4373.
- 2 (d) House Bill No. 4377.