

USE TAX ACT (EXCERPT)
Act 94 of 1937

205.93 Tax rate; applicability to tangible personal property or services; conversion to taxable use; penalties and interest; presumption; using, storing, or consuming vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft; collection; price tax base; exemptions; services, information, or records of other department or agency; state share tax and local community stabilization share; total combined rate levied by state and authority; limitation.

Sec. 3.

(1) There is levied upon and there shall be collected from every person in this state a specific tax, including both the local community stabilization share and the state share, for the privilege of using, storing, or consuming tangible personal property in this state at a total combined rate equal to 6% of the price of the property or services specified in section 3a or 3b. The tax levied under this act applies to a person who acquires tangible personal property or services that are subject to the tax levied under this act for any tax-exempt use who subsequently converts the tangible personal property or service to a taxable use, including an interim taxable use. If tangible personal property or services are converted to a taxable use, the tax levied under this act shall be imposed without regard to any subsequent tax-exempt use. Penalties and interest shall be added to the tax if applicable as provided in this act. For the purpose of the proper administration of this act and to prevent the evasion of the tax, all of the following shall be presumed:

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

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

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

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

(2) The tax imposed by this section for the privilege of using, storing, or consuming a vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft shall be collected before the transfer of the vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft, except a transfer to a licensed dealer or retailer for purposes of resale that arises by reason of a transaction made by a person who does not transfer vehicles, ORVs, manufactured housing, aircraft, snowmobiles, or watercraft in the ordinary course of his or her business done in this state. The tax on a vehicle, ORV, snowmobile, and watercraft shall be collected by the secretary of state before the transfer of the vehicle, ORV, snowmobile, or watercraft registration. The tax on manufactured housing shall be collected by the department of licensing and regulatory affairs, mobile home commission, or its agent before the transfer of the certificate of title. The tax on an aircraft shall be collected by the department of treasury. The price tax base of a new or previously owned car or truck held for resale by a dealer and that is not exempt under section 4(1)(c) is the purchase price of the car or truck multiplied by 2.5% plus \$30.00 per month beginning with the month that the dealer uses the car or truck in a nonexempt manner.

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

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

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

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

(d) If an insurance company licensed to conduct business in this state acquires ownership of a late model distressed vehicle as defined in section 12a of the Michigan vehicle code, 1949 PA 300, MCL 257.12a, through payment of damages in response to a claim or when the person who owned the vehicle before the insurance company reacquires ownership from the company as part of the settlement of a claim.

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

(5) Beginning on October 1, 2015, the specific tax levied under subsection (1) includes both a state share tax

levied by this state and a local community stabilization share tax authorized by 2014 PA 80 and levied by the authority, which replaces the reduced state share at the following rates in each of the following state fiscal years:

(a) For fiscal year 2015-2016, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$96,400,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(b) For fiscal year 2016-2017, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$380,900,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(c) For fiscal year 2017-2018, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$410,800,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(d) For fiscal year 2018-2019, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$438,000,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(e) For fiscal year 2019-2020, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$465,900,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(f) For fiscal year 2020-2021, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$491,500,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(g) For fiscal year 2021-2022, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$521,300,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(h) For fiscal year 2022-2023, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$548,000,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(i) For fiscal year 2023-2024, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$561,700,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(j) For fiscal year 2024-2025, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$569,800,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(k) For fiscal year 2025-2026, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$571,400,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(l) For fiscal year 2026-2027, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$572,200,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(m) For fiscal year 2027-2028, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$572,600,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(n) For fiscal year 2028-2029 and each fiscal year thereafter, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate the amount distributed under this section in the immediately preceding year adjusted by the personal property growth factor and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(6) The state share includes the portion of the use tax imposed at the additional rate of 2% approved by the electors of this state on March 15, 1994 and dedicated for aid to schools under section 21(2). The local community

stabilization share does not include the portion of the use tax imposed at the additional rate of 2% approved by the electors of this state on March 15, 1994.

(7) The total combined rate of the tax levied by this state and the authority under this act, including both the state share, as reduced by 2014 PA 80, and the local community stabilization share, shall not exceed the constitutional limit of 6% under section 8 of article IX of the state constitution of 1963. The authority shall not increase any tax or tax rate, but is authorized to and shall levy the local community stabilization share at the rate provided in subsection (5).

History: 1937, Act 94, Eff. Oct. 29, 1937 ;-- Am. 1949, Act 273, Eff. July 1, 1949 ;-- Am. 1953, Act 211, Eff. Oct. 2, 1953 ;-- Am. 1957, Act 167, Imd. Eff. May 29, 1957 ;-- Am. 1959, Act 263, Eff. Sept. 1, 1959 ;-- Am. 1959, Act 272, Eff. Jan. 1, 1960 ;-- Am. 1960, 2nd Ex. Sess., Act 2, Eff. Jan. 1, 1961 ;-- Am. 1962, Act 219, Eff. July 1, 1962 ;-- Am. 1964, Act 48, Eff. Aug. 28, 1964 ;-- Am. 1971, Act 51, Eff. Sept. 1, 1971 ;-- Am. 1982, Act 219, Eff. Jan. 1, 1984 ;-- Am. 1982, Act 478, Imd. Eff. Dec. 30, 1982 ;-- Am. 1984, Act 178, Imd. Eff. July 3, 1984 ;-- Am. 1990, Act 86, Eff. June 6, 1990 ;-- Am. 1993, Act 326, Eff. May 1, 1994 ;-- Am. 1995, Act 67, Imd. Eff. May 31, 1995 ;-- Am. 1999, Act 117, Imd. Eff. July 14, 1999 ;-- Am. 2002, Act 110, Imd. Eff. Mar. 27, 2002 ;-- Am. 2002, Act 456, Imd. Eff. June 21, 2002 ;-- Am. 2002, Act 511, Imd. Eff. July 23, 2002 ;-- Am. 2002, Act 669, Eff. Mar. 31, 2003 ;-- Am. 2003, Act 27, Eff. Mar. 30, 2004 ;-- Am. 2004, Act 172, Eff. Sept. 1, 2004 ;-- Am. 2007, Act 103, Eff. Sept. 30, 2002 ;-- Am. 2014, Act 80, Eff. Jan. 1, 2015 ;-- Am. 2015, Act 124, Imd. Eff. July 10, 2015

Compiler's Notes: Enacting section 1 of Act 117 of 1999 provides: "Enacting section 1. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, the tax levied does not apply to the price of property or services to the extent that the property or services are stored, used, or consumed for exempt purposes. For telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides for a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a." Enacting sections 1 and 2 of 2007 PA 103 provide: "Enacting section 1. It is the intent of the legislature that this amendatory act clarify that a person who acquires tangible personal property for a purpose exempt under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, who subsequently converts that property to a use taxable under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, is liable for the tax levied under the use tax act, 1937 PA 94, MCL 205.91 to 205.111." Enacting section 2. This amendatory act is curative and intended to prevent any misinterpretation of the ability of a taxpayer to claim an exemption from the tax levied under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, based on the purchase of tangible personal property or services for resale that may result from the decision of the Michigan court of appeals in *Betten Auto Center, Inc v Department of Treasury*, No. 265976, as affirmed by the Michigan Supreme Court. This amendatory act is retroactive and is effective beginning September 30, 2002 and for all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a." Enacting section 1 of Act 80 of 2014 provides: "Enacting section 1. This amendatory act does not take effect unless approved by a majority of the registered and qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014. Except as otherwise provided in this enacting section, this amendatory act shall be submitted to the registered and qualified electors of this state at that election as provided by the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, and for the purpose of complying with section 31 of article IX of the state constitution of 1963. Notwithstanding other law, when submitted to the registered and qualified electors of this state, this amendatory act shall be presented with the following question: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [] NO []". Enacting section 2 of Act 80 of 2014 provides: "Enacting section 2. If approved by the registered and qualified electors of this state as provided in enacting section 1, this amendatory act takes effect January 1, 2015."

Compiler's Notes: Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

Compiler's Notes: The conditions in enacting section 1 of Act 408 of 2012 were not met. Act 408 of 2012 did not go into effect.

Compiler's Notes: The conditions in enacting section 1 of Act 81 of 2014 were not met. Act 81 of 2014 did not go into effect.

Compiler's Notes: Enacting section 1 of Act 474 of 2014 provides: "Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 474 of 2014 does not go into effect.