

USE TAX ACT (EXCERPT)
Act 94 of 1937

***** 205.93a.amended THIS AMENDED SECTION IS EFFECTIVE DECEMBER 1, 2007 *****

205.93a.amended Tax for use or consumption; services; charges for intrastate telecommunications services or telecommunications services between state and another state; definitions.

Sec. 3a. (1) The use or consumption of the following services is taxed under this act in the same manner as tangible personal property is taxed under this act:

(a) Except as provided in section 3b, intrastate telephone, telegraph, leased wire, and other similar communications, including local telephone exchange and long distance telephone service that both originates and terminates in this state, and telegraph, private line, and teletypewriter service between places in this state, but excluding telephone service by coin-operated installations, switchboards, concentrator-identifiers, interoffice circuitry and their accessories for telephone answering service, and directory advertising proceeds.

(b) Rooms or lodging furnished by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public on the basis of a commercial and business enterprise, irrespective of whether or not membership is required for use of the accommodations, except rooms and lodging rented for a continuous period of more than 1 month. As used in this act, "hotel" or "motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, nudist camps, apartment hotels, resort lodges and cabins, camps operated by other than nonprofit organizations but not including those licensed under 1973 PA 116, MCL 722.111 to 722.128, and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than 1 month and accommodations furnished by hospitals or nursing homes.

(c) Except as provided in section 3b, interstate telephone communications that either originate or terminate in this state and for which the charge for the service is billed to a service address in this state or phone number by the provider either within or outside this state including calls between this state and any place within or without the United States of America outside of this state. This subdivision does not apply to a wide area telecommunication service or a similar type service, an 800 prefix service or similar type service, an interstate private network and related usage charges, or an international call either inbound or outbound.

(d) The laundering or cleaning of textiles under a sale, rental, or service agreement with a term of at least 5 days. This subdivision does not apply to the laundering or cleaning of textiles used by a restaurant or retail sales business. As used in this subdivision, "restaurant" means a food service establishment defined and licensed under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(e) The transmission and distribution of electricity, whether the electricity is purchased from the delivering utility or from another provider, if the sale is made to the consumer or user of the electricity for consumption or use rather than for resale.

(f) For a manufacturer who affixes its product to real estate and maintains an inventory of its product that is available for sale to others by publication or price list, 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, as defined by the department.

(g) For a manufacturer who 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 to others by publication or price list, 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.

(2) If charges for intrastate telecommunications services or telecommunications services between this state and another state and other billed services not subject to the tax under this act are aggregated with and not separately stated from charges for telecommunications services that are subject to the tax under this act, the nontaxable telecommunications services and other nontaxable billed services are subject to the tax under this act unless the service provider can reasonably identify charges for telecommunications services not subject to the tax under this act from its books and records that are kept in the regular course of business.

(3) If charges for intrastate telecommunications services or telecommunications services between this state and another state and other billed services not subject to the tax under this act are aggregated with and not separately stated from telecommunications services that are subject to the tax under this act, a customer may not rely upon the nontaxability of those telecommunications services and other billed services unless the

customer's service provider separately states the charges for nontaxable telecommunications services and other nontaxable billed services from taxable telecommunications services or the service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the service provider's books and records that are kept in the regular course of business that reasonably identify the nontaxable services.

(4) As used in this section:

(a) "Fabricate" means to modify or prepare tangible personal property for affixation or assembly.

(b) "Manufacture" means to convert or condition tangible personal property by changing the form, composition, quality, combination, or character of the property.

(c) "Manufacturer" means a person who manufactures, fabricates, or assembles tangible personal property.

History: Add. 1959, Act 263, Eff. Sept. 1, 1959;—Am. 1959, Act 272, Eff. Jan. 1, 1960;—Am. 1960, Act 119, Imd. Eff. Apr. 26, 1960;—Am. 1962, Act 219, Eff. July 1, 1962;—Am. 1993, Act 326, Eff. May 1, 1994;—Am. 1998, Act 366, Imd. Eff. Oct. 20, 1998;—Am. 2002, Act 455, Imd. Eff. June 21, 2002;—Am. 2004, Act 172, Eff. Sept. 1, 2004;—Am. 2007, Act 93, Eff. Dec. 1, 2007.

Compiler's note: Act 219 of 1962 was presented to the governor on June 14, 1962, and became a law without his approval upon the expiration of 10 days, Sundays excepted, after presentation.