

HOUSE BILL No. 5174

October 10, 2001, Introduced by Reps. Jammick, DeRossett, Richardville and Ruth Johnson and referred to the Committee on Commerce.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 3 and 4g (MCL 205.93 and 205.94g), section 3
as amended by 1999 PA 117 and section 4g as added by 1985 PA 66,
and by adding section 4w.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) There is levied upon and there shall be col-
2 lected from every person in this state a specific tax for the
3 privilege of using, storing, or consuming tangible personal prop-
4 erty in this state at a rate equal to 6% of the price of the
5 property or services specified in section 3a. Penalties and
6 interest shall be added to the tax if applicable as provided in
7 this act. For the purpose of the proper administration of this
8 act and to prevent the evasion of the tax, it is presumed that
9 tangible personal property purchased is subject to the tax if

1 brought into the state within 90 days of the purchase date and is
2 considered as acquired for storage, use, or other consumption in
3 this state.

4 (2) The tax imposed by this section for the privilege of
5 using, storing, or consuming a vehicle, ORV, mobile home, air-
6 craft, snowmobile, or watercraft shall be collected before the
7 transfer of the vehicle, ORV, mobile home, aircraft, snowmobile,
8 or watercraft, except a transfer to a licensed dealer or retailer
9 for purposes of resale that arises by reason of a transaction
10 made by a person who does not transfer vehicles, ORVs, mobile
11 homes, aircraft, snowmobiles, or watercraft in the ordinary
12 course of his or her business done in this state. The tax on a
13 vehicle, ORV, snowmobile, and watercraft shall be collected by
14 the secretary of state before the transfer of the vehicle, ORV,
15 snowmobile, or watercraft registration. ~~The tax on a mobile
16 home shall be collected by the department of consumer and indus-
17 try services, mobile home commission, or its agent before the
18 transfer of the certificate of title.~~ The tax on an aircraft
19 shall be collected by the department of treasury.

20 Notwithstanding any limitation contained in section 2, the price
21 tax base of any vehicle, ORV, mobile home, aircraft, snowmobile,
22 or watercraft subject to taxation under this act shall be not
23 less than its retail dollar value at the time of acquisition as
24 fixed pursuant to rules promulgated by the department.

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

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

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

10 (c) If a vehicle, ORV, ~~mobile home,~~ aircraft, snowmobile,
11 or watercraft that has once been subjected to the Michigan sales
12 or use tax is transferred in connection with the organization,
13 reorganization, dissolution, or partial liquidation of an incor-
14 porated or unincorporated business and the beneficial ownership
15 is not changed.

16 (d) If an insurance company licensed to conduct business in
17 this state acquires ownership of a late model distressed vehicle
18 as defined in section 12a of the Michigan vehicle code, 1949 PA
19 300, MCL 257.12a, through payment of damages in response to a
20 claim or when the person who owned the vehicle before the insur-
21 ance company reacquires ownership from the company as part of the
22 settlement of a claim.

23 (4) The department may utilize the services, information, or
24 records of any other department or agency of state government in
25 the performance of its duties under this act, and other depart-
26 ments or agencies of state government are required to furnish

1 those services, information, or records upon the request of the
2 department.

3 Sec. 4g. (1) The tax levied ~~shall~~ DOES not apply to prop-
4 erty purchased from a seller or transferor if the property is
5 part of the purchase or transfer of a business.

6 (2) The exemption provided by this section ~~shall~~ DOES not
7 apply to all of the following:

8 (a) The purchase or transfer of tangible personal property
9 that is stock-in-trade or other property of a kind ~~which~~ THAT
10 would properly be included in the inventory of the seller or
11 transferor if on hand at the close of the seller's or
12 transferor's tax period, or property held by the seller or trans-
13 feror for sale to customers in the ordinary course of its trade
14 or business.

15 (b) The purchase or transfer of a motor vehicle, ORV,
16 ~~mobile home,~~ aircraft, snowmobile, or watercraft.

17 (3) As used in this section, "purchase or transfer of a
18 business" means 1 or more of the following:

19 (a) The purchaser or transferee has acquired and intends to
20 use the seller's or transferor's trade name or good will.

21 (b) The purchaser or transferee intends to continue all or
22 part of the business of the seller or transferor at the same
23 location or at another location.

24 (c) The purchaser or transferee acquired at least 75% of the
25 seller's or transferor's tangible personal property at 1 or more
26 of the seller's or transferor's business locations.

1 SEC. 4W. THE TAX UNDER THIS ACT DOES NOT APPLY TO THE
2 STORAGE, USE, OR CONSUMPTION OF A MOBILE HOME EXCEPT AS PROVIDED
3 IN THIS SECTION. THE TAX DOES APPLY TO A NEW MOBILE HOME PUR-
4 CHASED AT A SALE AT RETAIL OUTSIDE OF THIS STATE AND BROUGHT INTO
5 THIS STATE FOR ITS INITIAL USE.