

SENATE BILL No. 168

February 3, 2005, Introduced by Senators McMANUS, JELINEK, GARCIA, GOSCHKA, OLSHOVE, ALLEN, JOHNSON, KUIPERS, BISHOP and BIRKHOLZ and referred to the Committee on Finance.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 1 (MCL 205.51), as amended by 2004 PA 173.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) 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 organized for profit or
5 not, company, estate, trust, receiver, trustee, syndicate, the
6 United States, this state, county, or any other group or
7 combination acting as a unit, and includes the plural as well as
8 the singular number, unless the intention to give a more limited
9 meaning is disclosed by the context.

1 (b) "Sale at retail" or "retail sale" means a sale, lease, or
2 rental of tangible personal property for any purpose other than for
3 resale, sublease, or subrent.

4 (c) "Gross proceeds" means sales price. **FOR THE PURPOSE OF A**
5 **CHARITABLE AUCTION HELD BY A TAXPAYER WITH A TAX-EXEMPT STATUS**
6 **UNDER SECTION 4Q(1) (A) OR (B), GROSS PROCEEDS MEAN THE FAIR MARKET**
7 **VALUE OF THE AUCTION ITEM.**

8 (d) "Sales price" means the total amount of consideration,
9 including cash, credit, property, and services, for which tangible
10 personal property or services are sold, leased, or rented, valued
11 in money, whether received in money or otherwise, and applies to
12 the measure subject to sales tax. Sales price includes the
13 following subparagraphs (i) through (vi) and excludes subparagraphs
14 (vii) through (viii):

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

16 (ii) Cost of materials used, labor or service cost, interest,
17 losses, costs of transportation to the seller, taxes imposed on the
18 seller other than taxes imposed by this act, and any other expense
19 of the seller.

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

22 (A) An amount received or billed by the taxpayer for
23 remittance to the employee as a gratuity or tip, if the gratuity or
24 tip is separately identified and itemized on the guest check or
25 billed to the customer.

26 (B) Labor or service charges involved in maintenance and
27 repair work on tangible personal property of others if separately

1 itemized.

2 (iv) Delivery charges incurred or to be incurred before the
3 completion of the transfer of ownership of tangible personal
4 property from the seller to the purchaser.

5 (v) Installation charges incurred or to be incurred before the
6 completion of the transfer of ownership of tangible personal
7 property from the seller to the purchaser.

8 (vi) Credit for any trade-in.

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

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

16 (e) "Business" includes an activity engaged in by a person or
17 caused to be engaged in by that person with the object of gain,
18 benefit, or advantage, either direct or indirect.

19 (f) "Tax year" or "taxable year" means the fiscal year of the
20 state or the taxpayer's fiscal year if permission is obtained by
21 the taxpayer from the department to use the taxpayer's fiscal year
22 as the tax period instead.

23 (g) "Department" means the department of treasury.

24 (h) "Taxpayer" means a person subject to a tax under this act.

25 (i) "Tax" includes a tax, interest, or penalty levied under
26 this act.

27 (j) "Textiles" means goods that are made of or incorporate

1 woven or nonwoven fabric, including, but not limited to, clothing,
2 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,
3 pillows, pillow cases, tablecloths, napkins, aprons, linens, floor
4 mops, floor mats, and thread. Textiles also include materials used
5 to repair or construct textiles, or other goods used in the rental,
6 sale, or cleaning of textiles.

7 (2) If the department determines that it is necessary for the
8 efficient administration of this act to regard an unlicensed
9 person, including a salesperson, representative, peddler, or
10 canvasser as the agent of the dealer, distributor, supervisor, or
11 employer under whom the unlicensed person operates or from whom the
12 unlicensed person obtains the tangible personal property sold by
13 the unlicensed person, irrespective of whether the unlicensed
14 person is making sales on the unlicensed person's own behalf or on
15 behalf of the dealer, distributor, supervisor, or employer, the
16 department may so regard the unlicensed person and may regard the
17 dealer, distributor, supervisor, or employer as making sales at
18 retail at the retail price for the purposes of this act.