

**SUBSTITUTE FOR  
SENATE BILL NO. 95**

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending section 2 (MCL 205.92), as amended by 2016 PA 516.

**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.

1 (b) "Use" means the exercise of a right or power over tangible  
2 personal property incident to the ownership of that property  
3 including transfer of the property in a transaction where  
4 possession is given. Converting tangible personal property acquired  
5 for a use exempt from the tax levied under this act to a use not  
6 exempt from the tax levied under this act is a taxable use.

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

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

24 (e) "Purchase" means to acquire for a consideration, whether  
25 the acquisition is effected by a transfer of title, of possession,  
26 or of both, or a license to use or consume; whether the transfer is  
27 absolute or conditional, and by whatever means the transfer is

1 effected; and whether consideration is a price or rental in money,  
2 or by way of exchange or barter. Purchase includes converting  
3 tangible personal property acquired for a use exempt from the tax  
4 levied under this act to a use not exempt from the tax levied under  
5 this act.

6 (f) "Purchase price" or "price" means the total amount of  
7 consideration paid by the consumer to the seller, including cash,  
8 credit, property, and services, for which tangible personal  
9 property or services are sold, leased, or rented, valued in money,  
10 whether received in money or otherwise, and applies to the measure  
11 subject to use tax. Purchase price includes the following  
12 subparagraphs (i) through (vii) and excludes subparagraphs (viii)  
13 through ~~(xiii)~~-(xiv) :

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

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

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

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

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

1           (iv) Delivery charges incurred or to be incurred before the  
2 completion of the transfer of ownership of tangible personal  
3 property subject to the tax levied under this act from the seller  
4 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) Except as otherwise provided in subparagraphs (xi), ~~and~~  
9 (xii), **AND (xiv)**, credit for any trade-in.

10           (vii) Except as otherwise provided in subparagraph (x),  
11 consideration received by the seller from third parties if all of  
12 the following conditions are met:

13           (A) The seller actually receives consideration from a party  
14 other than the purchaser and the consideration is directly related  
15 to a price reduction or discount on the sale.

16           (B) The seller has an obligation to pass the price reduction  
17 or discount through to the purchaser.

18           (C) The amount of the consideration attributable to the sale  
19 is fixed and determinable by the seller at the time of the sale of  
20 the item to the purchaser.

21           (D) One of the following criteria is met:

22           (I) The purchaser presents a coupon, certificate, or other  
23 documentation to the seller to claim a price reduction or discount  
24 where the coupon, certificate, or documentation is authorized,  
25 distributed, or granted by a third party with the understanding  
26 that the third party will reimburse any seller to whom the coupon,  
27 certificate, or documentation is presented.

1           (II) The purchaser identifies himself or herself to the seller  
2 as a member of a group or organization entitled to a price  
3 reduction or discount. A preferred customer card that is available  
4 to any patron does not constitute membership in a group or  
5 organization.

6           (III) The price reduction or discount is identified as a third  
7 party price reduction or discount on the invoice received by the  
8 purchaser or on a coupon, certificate, or other documentation  
9 presented by the purchaser.

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

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

17           (x) Beginning January 1, 2000, employee discounts that are  
18 reimbursed by a third party on sales of motor vehicles.

19           (xi) Beginning November 15, 2013, credit for the agreed-upon  
20 value of a titled watercraft used as part payment of the purchase  
21 price of a new titled watercraft or used titled watercraft  
22 purchased from a watercraft dealer if the agreed-upon value is  
23 separately stated on the invoice, bill of sale, or similar document  
24 given to the purchaser. This subparagraph does not apply to leases  
25 or rentals.

26           (xii) Beginning December 15, 2013, credit for the agreed-upon  
27 value of a motor vehicle or recreational vehicle used as part

## Senate Bill No. 95 as amended March 29, 2017

1 payment of the purchase price of a new motor vehicle or used motor  
 2 vehicle or recreational vehicle purchased from a dealer if the  
 3 agreed-upon value is separately stated on the invoice, bill of  
 4 sale, or similar document given to the purchaser. This subparagraph  
 5 does not apply to leases or rentals. ~~For~~**EXCEPT AS OTHERWISE**  
 6 **PROVIDED UNDER SUBPARAGRAPH (xiv), FOR** purposes of this  
 7 subparagraph, the agreed-upon value of a motor vehicle or  
 8 recreational vehicle used as part payment shall be limited as  
 9 follows:

10 (A) Beginning December 15, 2013, subject to sub-subparagraphs  
 11 (B) and (C), the lesser of the following:

12 (I) \$2,000.00.

13 (II) The agreed-upon value of the motor vehicle or  
 14 recreational vehicle used as part payment.

15 (B) Beginning January 1, 2015 and each January 1 thereafter  
 16 **THROUGH DECEMBER 31, 2018**, the amount under sub-subparagraph (A) (I)  
 17 shall be increased by an additional \$500.00 each year.

18 (C) **BEGINNING JANUARY 1, 2019, SUBJECT TO SUB-SUBPARAGRAPHS**  
 19 **(D) AND (E), THE LESSER OF THE FOLLOWING:**

20 (I) \$5,000.00.

21 (II) **THE AGREED-UPON VALUE OF THE MOTOR VEHICLE <<**  
 22 **>> USED AS PART PAYMENT.**

23 (D) **BEGINNING JANUARY 1, 2020 AND EACH JANUARY 1 THEREAFTER,**  
 24 **THE AMOUNT UNDER SUB-SUBPARAGRAPH (C) (I) SHALL BE INCREASED BY AN**  
 25 **ADDITIONAL \$1,000.00 EACH YEAR.**

26 (E) ~~(C)~~ Beginning on January 1, in the year in which the  
 27 amount under sub-subparagraph ~~(A) (I)~~ **(C) (I)** exceeds \$14,000.00 and

1 each January 1 thereafter, there shall be no limitation on the  
2 agreed-upon value of the motor vehicle ~~or recreational vehicle~~ used  
3 as part payment.

4 (xiii) Beginning January 1, 2017, credit for the core charge  
5 attributable to a recycling fee, deposit, or disposal fee for a  
6 motor vehicle or recreational vehicle part or battery if the  
7 recycling fee, deposit, or disposal fee is separately stated on the  
8 invoice, bill of sale, or similar document given to the purchaser.

9 (xiv) BEGINNING JANUARY 1, 2018, CREDIT FOR THE AGREED-UPON  
10 VALUE OF A RECREATIONAL VEHICLE USED AS PART PAYMENT OF THE  
11 PURCHASE PRICE OF A RECREATIONAL VEHICLE PURCHASED FROM A DEALER IF  
12 THE AGREED-UPON VALUE IS SEPARATELY STATED ON THE INVOICE, BILL OF  
13 SALE, OR SIMILAR DOCUMENT GIVEN TO THE PURCHASER. THIS SUBPARAGRAPH  
14 DOES NOT APPLY TO LEASES OR RENTALS.

15 (g) "Consumer" means the person who has purchased tangible  
16 personal property or services for storage, use, or other  
17 consumption in this state and includes, but is not limited to, 1 or  
18 more of the following:

19 (i) A person acquiring tangible personal property if engaged  
20 in the business of constructing, altering, repairing, or improving  
21 the real estate of others.

22 (ii) A person who has converted tangible personal property or  
23 services acquired for storage, use, or consumption in this state  
24 that is exempt from the tax levied under this act to storage, use,  
25 or consumption in this state that is not exempt from the tax levied  
26 under this act.

27 (h) "Business" means all activities engaged in by a person or

1 caused to be engaged in by a person with the object of gain,  
2 benefit, or advantage, either direct or indirect.

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

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

6 (k) "Tangible personal property" means personal property that  
7 can be seen, weighed, measured, felt, or touched or that is in any  
8 other manner perceptible to the senses and includes electricity,  
9 water, gas, steam, and prewritten computer software.

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

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

21 (n) "Qualified commercial motor vehicle" means that term as  
22 defined in section 1(l), (m), and (n) of the motor carrier fuel tax  
23 act, 1980 PA 119, MCL 207.211.

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

26 (p) "Sale" means a transaction by which tangible personal  
27 property or services are purchased or rented for storage, use, or



1 other consumption in this state.

2 (q) "Convert" means putting a service or tangible personal  
3 property acquired for a use exempt from the tax levied under this  
4 act at the time of acquisition to a use that is not exempt from the  
5 tax levied under this act, whether the use is in whole or in part,  
6 or permanent or not permanent. A motor vehicle purchased for resale  
7 by a new vehicle dealer licensed under section 248(8)(a) of the  
8 Michigan vehicle code, 1949 PA 300, MCL 257.248, and not titled in  
9 the name of the dealer shall not be considered to be converted  
10 prior to sale or lease by that dealer.

11 (r) "New motor vehicle" means that term as defined in section  
12 33a of the Michigan vehicle code, 1949 PA 300, MCL 257.33a.

13 (s) "Recreational vehicle" means that term as defined in  
14 section 49a of the Michigan vehicle code, 1949 PA 300, MCL 257.49a.

15 (t) "Dealer" means that term as defined in section 11 of the  
16 Michigan vehicle code, 1949 PA 300, MCL 257.11.

17 (u) "Watercraft dealer" means a dealer as that term is defined  
18 in section 80102 of the natural resources and environmental  
19 protection act, 1994 PA 451, MCL 324.80102.