

HOUSE BILL No. 6611

December 19, 2018, Introduced by Reps. Rabhi, Wittenberg and Sowerby and referred to the Committee on Commerce and Trade.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 1 (MCL 205.51), as amended by 2018 PA 2.

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.

10 (b) "Sale at retail" or "retail sale" means a sale, lease, or

1 rental of tangible personal property for any purpose other than for
2 resale, sublease, or subrent.

3 (c) "Gross proceeds" means sales price.

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

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

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

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

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

22 (B) Labor or service charges involved in maintenance and
23 repair work on tangible personal property of others if separately
24 itemized.

25 (iv) Delivery charges incurred or to be incurred before the
26 completion of the transfer of ownership of tangible personal
27 property subject to the tax levied under this act from the seller

1 to the purchaser. A seller is not liable under this act for
2 delivery charges allocated to the delivery of exempt property.

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

6 (vi) Except as otherwise provided in subparagraphs (xi),
7 (xii), and (xiv), credit for any trade-in.

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

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

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

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

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

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

26 (II) The purchaser identifies himself or herself to the seller
27 as a member of a group or organization entitled to a price

1 reduction or discount. A preferred customer card that is available
2 to any patron does not constitute membership in a group or
3 organization.

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

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

12 (ix) Any taxes legally imposed directly on the consumer that
13 are separately stated on the invoice, bill of sale, or similar
14 document given to the purchaser, **INCLUDING ANY TAX OR FEE IMPOSED**
15 **BY PART 177 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION**
16 **ACT, 1994 PA 451, MCL 324.17701 TO 324.17719.**

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

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. Except as otherwise provided
6 under subparagraph (xiv), for purposes of this subparagraph, the
7 agreed-upon value of a motor vehicle or recreational vehicle used
8 as part payment shall be limited as follows:

9 (A) Beginning December 15, 2013, subject to sub-subparagraphs

10 (B) and (C), the lesser of the following:

11 (I) \$2,000.00.

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

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

17 (C) Beginning January 1, 2019, subject to sub-subparagraphs
18 (D) and (E), the lesser of the following:

19 (I) \$5,000.00.

20 (II) The agreed-upon value of the motor vehicle used as part
21 payment.

22 (D) Beginning January 1, 2020 and each January 1 thereafter,
23 the amount under sub-subparagraph (C) (I) shall be increased by an
24 additional \$1,000.00 each year.

25 (E) Beginning on January 1 in the year in which the amount
26 under sub-subparagraph (C) (I) exceeds \$14,000.00 and each January 1
27 thereafter, there shall be no limitation on the agreed-upon value

1 of the motor vehicle used as part payment.

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

7 (xiv) Beginning January 1, 2018, credit for the agreed-upon
8 value of a recreational vehicle used as part payment of the
9 purchase price of a recreational vehicle purchased from a dealer if
10 the agreed-upon value is separately stated on the invoice, bill of
11 sale, or similar document given to the purchaser. This subparagraph
12 does not apply to leases or rentals.

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

16 (f) "Tax year" or "taxable year" means the fiscal year of ~~the~~
17 **THIS** state or the taxpayer's fiscal year if permission is obtained
18 by the taxpayer from the department to use the taxpayer's fiscal
19 year as the tax period instead.

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

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

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

24 (j) "Textiles" means goods that are made of or incorporate
25 woven or nonwoven fabric, including, but not limited to, clothing,
26 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,
27 pillows, pillow cases, tablecloths, napkins, aprons, linens, floor

1 mops, floor mats, and thread. Textiles also include materials used
2 to repair or construct textiles, or other goods used in the rental,
3 sale, or cleaning of textiles.

4 (k) "New motor vehicle" means that term as defined in section
5 33a of the Michigan vehicle code, 1949 PA 300, MCL 257.33a.

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

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

10 (n) "Watercraft dealer" means a dealer as that term is defined
11 in section 80102 of the natural resources and environmental
12 protection act, 1994 PA 451, MCL 324.80102.

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

25 Enacting section 1. This amendatory act takes effect 90 days
26 after the date it is enacted into law.

27 Enacting section 2. This amendatory act does not take effect

1 unless all of the following bills of the 99th Legislature are
2 enacted into law:

3 (a) Senate Bill No. _____ or House Bill No. 6610 (request no.
4 06618'18).

5 (b) Senate Bill No. _____ or House Bill No. 6612 (request no.
6 06618'18 b).

7 (c) Senate Bill No. _____ or House Bill No. 6609 (request no.
8 06619'18).