

HOUSE BILL NO. 6125

November 14, 2024, Introduced by Reps. Snyder, Slagh, Miller, Xiong and Hood and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 1 (MCL 205.51), as amended by 2023 PA 20.

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 **or not** organized for
5 profit, ~~or not~~, company, limited liability company, estate, trust,
6 receiver, trustee, syndicate, the United States, this state,

1 county, or any other group or combination acting as a unit, and
2 includes the plural as well as the singular number, unless the
3 intention to give a more limited meaning is disclosed by the
4 context.

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

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

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

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

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

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

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

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

1 (iv) Except as otherwise provided in subparagraph (xv),
2 delivery charges. A seller is not liable under this act for
3 delivery charges allocated to the delivery of exempt property.

4 (v) Except as otherwise provided in subparagraph (xv),
5 installation charges.

6 (vi) Except as otherwise provided in subparagraphs (xi), (xii),
7 ~~and (xiv)~~, **and (xvi)** 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
28 reduction or discount. A preferred customer card that is available
29 to any patron does not constitute membership in a group or

1 organization.

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

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

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

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

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

22 (xii) Beginning December 15, 2013, credit for the agreed-upon
23 value of a motor vehicle or recreational vehicle used as part
24 payment of the purchase price of a new motor vehicle or used motor
25 vehicle or recreational vehicle purchased from a dealer if the
26 agreed-upon value is separately stated on the invoice, bill of
27 sale, or similar document given to the purchaser. This subparagraph
28 does not apply to leases or rentals. Except as otherwise provided
29 under subparagraph (xiv), for purposes of this subparagraph, the

1 agreed-upon value of a motor vehicle or recreational vehicle used
2 as part payment is limited as follows:

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

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

5 (I) \$2,000.00.

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

8 (B) Beginning January 1, 2015 and each January 1 thereafter
9 through December 31, 2018, the amount under sub-subparagraph (A) (I)
10 is increased by an additional \$500.00 each year.

11 (C) Beginning January 1, 2019, subject to sub-subparagraphs

12 (D) and (E), the lesser of the following:

13 (I) \$5,000.00.

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

16 (D) Beginning January 1, 2020 and each January 1 thereafter,
17 the amount under sub-subparagraph (C) (I) is increased by an
18 additional \$1,000.00 each year.

19 (E) Beginning on January 1 in the year in which the amount
20 under sub-subparagraph (C) (I) exceeds \$14,000.00 and each January 1
21 thereafter, there is no limitation on the agreed-upon value of the
22 motor vehicle used as part payment.

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

28 (xiv) Beginning January 1, 2018, credit for the agreed-upon
29 value of a recreational vehicle used as part payment of the

1 purchase price of a recreational vehicle purchased from a dealer if
2 the agreed-upon value is separately stated on the invoice, bill of
3 sale, or similar document given to the purchaser. This subparagraph
4 does not apply to leases or rentals.

5 (xv) Delivery or installation charges if such charges are
6 separately stated on the invoice, bill of sale, or similar document
7 provided to the purchaser, and the seller maintains its books and
8 records to show separately the transactions used to determine the
9 tax levied by this act. This subdivision does not apply to delivery
10 or installation charges involving or relating to the sale of
11 electricity, natural gas, or artificial gas by a utility.

12 (xvi) **Credit for the agreed-upon value of a portable electronic**
13 **device used as part payment of the purchase price of a new or used**
14 **portable electronic device purchased from a seller engaged in the**
15 **business of selling portable electronic devices at retail, if the**
16 **value of the credit is separately stated on the invoice, bill of**
17 **sale, or similar document provided to the purchaser. As used in**
18 **this subparagraph, "portable electronic device" means an electronic**
19 **device that is portable and includes accessories related to that**
20 **device.**

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

24 (f) "Tax year" or "taxable year" means the fiscal year of the
25 state or the taxpayer's fiscal year if permission is obtained by
26 the taxpayer from the department to use the taxpayer's fiscal year
27 as the tax period instead.

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

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

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

3 (j) "Textiles" means goods that are made of or incorporate
4 woven or nonwoven fabric, including, but not limited to, clothing,
5 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,
6 pillows, ~~pillow cases,~~ **pillowcases**, tablecloths, napkins, aprons,
7 linens, floor mops, floor mats, and thread. Textiles also include
8 materials used to repair or construct textiles, or other goods used
9 in the rental, sale, or cleaning of textiles.

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

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

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

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

19 (o) "Utility" means either of the following:

20 (i) A person regulated by the Michigan public service
21 commission as a utility.

22 (ii) A person that operates equipment or facilities for
23 producing, generating, transmitting, delivering, or furnishing
24 electricity within this state for the public for compensation,
25 regardless of the person's owner, ownership structure, or
26 regulation by the Michigan public service commission.

27 (2) If the department determines that it is necessary for the
28 efficient administration of this act to regard an unlicensed
29 person, including a salesperson, representative, peddler, or

1 canvasser as the agent of the dealer, distributor, supervisor, or
 2 employer under whom the unlicensed person operates or from whom the
 3 unlicensed person obtains the tangible personal property sold by
 4 the unlicensed person, irrespective of whether the unlicensed
 5 person is making sales on the unlicensed person's own behalf or on
 6 behalf of the dealer, distributor, supervisor, or employer, the
 7 department may so regard the unlicensed person and may regard the
 8 dealer, distributor, supervisor, or employer as making sales at
 9 retail at the retail price for the purposes of this act.

10 (3) Notwithstanding anything to the contrary in this act, the
 11 following applies only to delivery and installation charges
 12 described in subsection (1)(d)(iv) or (v), except that this
 13 subsection does not apply to delivery and installation charges
 14 involving or relating to the sale of electricity, natural gas, or
 15 artificial gas by a utility:

16 (a) Not later than ~~90 days after the effective date of the~~
 17 ~~amendatory act that added this subsection,~~ **July 25, 2023**, the
 18 department shall cancel all outstanding balances related to such
 19 delivery and installation charges on notices of intent to assess
 20 that were issued under section 21 of 1941 PA 122, MCL 205.21, for
 21 the tax levied under this act and that were issued before ~~the~~
 22 ~~effective date of the amendatory act that added this~~
 23 ~~subsection.~~ **April 26, 2023.**

24 (b) Not later than ~~90 days after the effective date of the~~
 25 ~~amendatory act that added this subsection,~~ **July 25, 2023**, the
 26 department shall cancel all outstanding balances related to such
 27 delivery and installation charges on final assessments that were
 28 issued under section 22 of 1941 PA 122, MCL 205.22, for the tax
 29 levied under this act, and that were issued before ~~the effective~~

1 ~~date of the amendatory act that added this subsection.~~**April 26,**
2 **2023.**

3 (c) ~~After the effective date of the amendatory act that added~~
4 ~~this subsection,~~**Beginning April 26, 2023,** the department shall not
5 issue any new assessments for the tax levied under this act on such
6 delivery and installation charges for any tax period before ~~the~~
7 ~~effective date of the amendatory act that added this subsection~~
8 **April 26, 2023,** that is open under the statute of limitations
9 provided in section 27a of 1941 PA 122, MCL 205.27a.