

# SENATE BILL No. 237

April 9, 1991, Introduced by Senator DE GROW and referred to the Committee on Finance.

A bill to amend sections 3, 4f, 6, and 14 of Act No. 94 of the Public Acts of 1937, entitled as amended

"Use tax act,"

section 3 as amended by Act No. 86 of the Public Acts of 1990, section 4f as added by Act No. 220 of the Public Acts of 1981, and section 14 as amended by Act No. 41 of the Public Acts of 1986, being sections 205.93, 205.94f, 205.96, and 205.104 of the Michigan Compiled Laws; and to add section 8.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 3, 4f, 6, and 14 of Act No. 94 of the  
2 Public Acts of 1937, section 3 as amended by Act No. 86 of the  
3 Public Acts of 1990, section 4f as added by Act No. 220 of the  
4 Public Acts of 1981, and section 14 as amended by Act No. 41 of  
5 the Public Acts of 1986, being sections 205.93, 205.94f, 205.96,

1 and 205.104 of the Michigan Compiled Laws, are amended and  
2 section 8 is added to read as follows:

3       Sec. 3. (1) There is levied upon and there shall be col-  
4 lected from every person in this state a specific tax for the  
5 privilege of using, storing, or consuming tangible personal prop-  
6 erty in this state, which tax shall be equal to 4% of the price  
7 of the property, or services specified in section 3a. ~~and to~~  
8 TO the tax there shall be added penalties and interest where  
9 applicable as provided in this act. For the purpose of the  
10 proper administration of this act and to prevent the evasion of  
11 the tax, it is presumed that tangible personal property purchased  
12 ~~shall be~~ IS subject to the tax if brought into the state within  
13 90 days of the purchase date and is considered as acquired for  
14 storage, use, or other consumption in this state.

15       (2) The tax imposed by this section for the privilege of  
16 using, storing, or consuming a vehicle, ORV, mobile home, air-  
17 craft, snowmobile, or watercraft shall be collected before the  
18 transfer of the vehicle, ORV, mobile home, aircraft, snowmobile,  
19 or watercraft, except transfers to a licensed dealer or retailer  
20 for purposes of resale that arises by reason of a transaction  
21 made by a person who does not transfer vehicles, ORV's, mobile  
22 homes, aircraft, snowmobiles, or watercraft in the ordinary  
23 course of his or her business done in this state. The tax on a  
24 vehicle, ORV, snowmobile, and watercraft shall be collected by  
25 the secretary of state before the transfer of the vehicle, ORV,  
26 snowmobile, or watercraft registration. The tax on a mobile home  
27 shall be collected by the department of commerce, mobile home

1 commission, or its agent before the transfer of the certificate  
2 of title. The tax on an aircraft shall be collected by the  
3 department of ~~treasury~~ TRANSPORTATION, BUREAU OF AERONAUTICS,  
4 BEFORE REGISTRATION OF THE AIRCRAFT. Notwithstanding any limita-  
5 tion contained in section 2, the price tax base of any vehicle,  
6 ORV, mobile home, aircraft, snowmobile, or watercraft subject to  
7 taxation under this act shall be not less than its retail dollar  
8 value at the time of acquisition thereof as fixed pursuant to  
9 rules promulgated by the department.

10 (3) The following transfers or purchases are not subject to  
11 use tax:

12 (a) When the transferee or purchaser is the spouse, mother,  
13 father, brother, sister, or child of the transferor.

14 (b) When the transfer is a gift to a beneficiary in the  
15 administration of an estate.

16 (c) When a vehicle, ORV, mobile home, aircraft, snowmobile,  
17 or watercraft that has once been subjected to the Michigan sales  
18 or use tax is transferred in connection with the organization,  
19 reorganization, dissolution, or partial liquidation of an incor-  
20 porated or unincorporated business and the beneficial ownership  
21 is not changed.

22 (d) When an insurance company licensed to conduct business  
23 in this state acquires ownership of a late model distressed vehi-  
24 cle as defined in section 12a of the Michigan vehicle code, Act  
25 No. 300 of the Public Acts of 1949, being section 257.12a of the  
26 Michigan Compiled Laws, through payment of damages in response to  
27 a claim or when the person who owned the vehicle before the

1 insurance company reacquires ownership from the company as part  
2 of the settlement of a claim.

3 (4) The department may utilize the services, information, or  
4 records of any other department or agency of the state government  
5 in the performance of its duties under this act, and other  
6 departments or agencies of the state government are required to  
7 furnish those services, information, or records upon the request  
8 of the department.

9 Sec. 4f. (1) In computing the amount of tax payments  
10 required for any month of a seller who collects the tax from the  
11 purchaser under the provisions of this act, the seller who col-  
12 lects the tax from a purchaser may deduct the following amounts  
13 from the tax remitted to the department:

14 (a) For monthly tax payments for periods ending after  
15 January 1, 1983 and before January 1, 1984, the amount provided  
16 by subparagraph (i) or (ii), whichever is greater:

17 (i) If the tax that accrued to the state from the purchase  
18 of tangible personal property or services during the preceding  
19 month is remitted to the department on or before the seventh day  
20 of the month in which remittance is due, 0.50% of the tax col-  
21 lected for the preceding monthly period, but not to exceed  
22 \$15,000.00 of the tax collected for that month. If the tax that  
23 accrued to the state from the purchase of tangible personal prop-  
24 erty or services during the preceding month is remitted to the  
25 department after the seventh day of the month and on or before  
26 the fifteenth day of the month in which remittance is due, 0.25%

1 of the tax collected for the preceding monthly period, but not to  
2 exceed \$10,000.00 of the tax collected for that month.

3 (ii) The tax collected on \$100.00 of taxable purchase price  
4 for the preceding monthly period, or a prorated portion of  
5 \$100.00 of the taxable purchase price for the preceding month if  
6 the seller engaged in business for less than a month.

7 (b) For monthly tax payments for periods ending on or after  
8 January 1, 1984, the amount provided by subparagraph (i) or (ii),  
9 whichever is greater:

10 (i) If the tax that accrued to the state from the purchase  
11 of tangible personal property or services during the preceding  
12 month is remitted to the department on or before the seventh day  
13 of the month in which remittance is due, 0.75% of the tax col-  
14 lected for the preceding monthly period, but not to exceed  
15 \$20,000.00 of the tax collected for that month. If the tax that  
16 accrued to the state from the purchase of tangible personal prop-  
17 erty or services during the preceding month is remitted to the  
18 department after the seventh day of the month and on or before  
19 the fifteenth day of the month in which remittance is due, 0.50%  
20 of the tax collected for the preceding monthly period, but not to  
21 exceed \$15,000.00 of the tax collected for that month.

22 (ii) The tax collected on \$150.00 of taxable purchase price  
23 for the preceding monthly period or a prorated portion of \$150.00  
24 of the taxable purchase price for the preceding month if the  
25 seller engaged in business for less than a month.

26 (2) IN COMPUTING THE AMOUNT OF TAX PAYMENT REQUIRED FOR A  
27 WEEK THAT A SELLER IS REQUIRED TO REMIT TAXES ON A WEEKLY BASIS,

1 THE SELLER MAY DEDUCT FROM THE TAX DUE THE AMOUNT PROVIDED BY  
2 SUBDIVISION (A) OR (B), WHICHEVER IS GREATER:

3 (A) IF THE TAX THAT ACCRUED TO THE STATE FROM THE PURCHASE  
4 OF TANGIBLE PERSONAL PROPERTY OR SERVICES DURING THE PRECEDING  
5 WEEK IS REMITTED TO THE DEPARTMENT ON OR BEFORE THE FOLLOWING  
6 THURSDAY, 0.75% OF THE TAX COLLECTED FOR THE PRECEDING WEEKLY  
7 PERIOD, BUT NOT TO EXCEED \$4,615.38 OF THE TAX DUE FOR THAT  
8 WEEK.

9 (B) THE TAX DUE ON \$34.62 OF TAXABLE PURCHASE PRICE FOR THE  
10 PRECEDING WEEKLY PERIOD, OR A PRORATED PORTION OF \$34.62 OF THE  
11 TAXABLE PURCHASE PRICE FOR THE PRECEDING WEEK IF THE SELLER  
12 ENGAGED IN BUSINESS FOR LESS THAN A WEEK.

13 (3) ~~-(2)-~~ A deduction ~~shall not be~~ IS NOT allowed under  
14 this section for payments of taxes made to the department after  
15 the day the person is required to pay, pursuant to section 6, the  
16 tax imposed by this act.

17 (4) ~~-(3)-~~ If, pursuant to section 6(2), the commissioner of  
18 revenue prescribes the filing of returns and the payment of the  
19 tax for periods in excess of 1 month, a seller who collects the  
20 tax from the purchaser ~~shall be~~ IS entitled to a deduction from  
21 the tax collections remitted to the department for the extended  
22 payment period that is equivalent to the deduction allowed under  
23 subsection (1) for monthly periods. ~~If portions of the extended~~  
24 ~~payment period prescribed by the commissioner of revenue occurs~~  
25 ~~in both 1983 and 1984, the deduction shall be computed using the~~  
26 ~~applicable percentage or fixed deduction prescribed in subsection~~  
27 ~~(1)(a) for taxes accruing to the state in 1983 and the applicable~~

~~1 percentage or fixed deduction prescribed in subsection (1)(b) for~~  
~~2 taxes accruing to the state in 1984.~~

3       (5) ~~-(4)-~~ The commissioner may prescribe the filing of esti-  
 4 mated returns OR PAYMENTS and QUARTERLY OR annual periodic recon-  
 5 ciliations as necessary to carry out the purposes of this  
 6 section.

7       Sec. 6. (1) ~~Every~~ A person storing, using, or consuming  
 8 tangible personal property or services, the storage, use, or con-  
 9 sumption of which is subject to the tax imposed by the act, when  
 10 the tax was not paid to a seller, and ~~every~~ A seller collecting  
 11 the tax from the purchaser, ~~shall,~~ unless otherwise prescribed  
 12 by the department under the provisions of subsection (2), on or  
 13 before the fifteenth day of each calendar month SHALL file with  
 14 the department a return for the preceding calendar month in  
 15 ~~such~~ A form ~~as may be~~ prescribed by the department, showing  
 16 the price of each purchase of tangible personal property or serv-  
 17 ices during the preceding month, and ~~such~~ other information as  
 18 the department ~~may deem~~ CONSIDERS necessary for the proper  
 19 administration of this act. At the same time each person shall  
 20 pay to the department the amount of tax imposed by this act with  
 21 respect to the purchases covered by ~~such~~ THAT return. A return  
 22 shall be signed by the person liable for the tax, or his OR HER  
 23 duly authorized agent. ~~if~~ IF the return is prepared by any  
 24 person other than the taxpayer, the return shall also be signed  
 25 by ~~the~~ THAT person and show his OR HER address.

26       (2) The commissioner, ~~of revenue,~~ when he ~~deems~~ OR SHE  
 27 CONSIDERS it necessary to insure payment of the tax or to provide

1 a more efficient administration, may require and prescribe the  
2 filing of returns and payment OR ELECTRONIC FUNDS TRANSFER of the  
3 tax for other than monthly periods.

4 (3) FOR A TAXPAYER REMITTING THE TAX BY ELECTRONIC FUNDS  
5 TRANSFER PURSUANT TO SECTION 19 OF ACT NO. 122 OF THE PUBLIC ACTS  
6 OF 1941, BEING SECTION 205.19 OF THE MICHIGAN COMPILED LAWS, A  
7 RETURN IS NOT REQUIRED TO ACCOMPANY THE REMITTANCE. IF ELEC-  
8 TRONIC FUNDS TRANSFER FILERS ARE REMITTING ON A WEEKLY BASIS AND  
9 ACTUAL TAX FIGURES ARE NOT AVAILABLE ON A WEEKLY BASIS, ESTIMATED  
10 PAYMENTS ARE ALLOWED. QUARTERLY RECONCILIATION REPORTS IN A FORM  
11 PRESCRIBED BY THE DEPARTMENT ARE DUE WITHIN 30 DAYS AFTER THE END  
12 OF THE QUARTER AND ARE TO BE FILED SEPARATELY FROM ELECTRONIC  
13 TRANSMISSION OF THE REMITTANCE.

14 (4) FOR A TAXPAYER REQUIRED TO REMIT THE TAX ON A WEEKLY  
15 BASIS, THE PENALTY AND INTEREST PROVIDED BY SECTION 24 OF ACT  
16 NO. 122 OF THE PUBLIC ACTS OF 1941, BEING SECTION 205.24 OF THE  
17 MICHIGAN COMPILED LAWS, SHALL NOT BE ASSESSED IF THE SAME 1 OF  
18 THE FOLLOWING IS TRUE FOR EACH OF THE PAYMENTS REQUIRED IN A  
19 QUARTER:

20 (A) THE ESTIMATED PAYMENT EQUALS NOT LESS THAN 25% OF THE  
21 LIABILITY OF THE SAME MONTH IN THE IMMEDIATELY PRECEDING YEAR.

22 (B) THE ESTIMATED PAYMENT EQUALS NOT LESS THAN 22.5% OF THE  
23 ACTUAL LIABILITY FOR THE MONTH.

24 (C) THE PAYMENT EQUALS 100% OF THE ACTUAL LIABILITY FOR THE  
25 WEEK.

26 (5) ~~-(3)-~~ If a corporation licensed under this act fails for  
27 any reason to file the required returns or to pay the tax due,



1 any of its officers having control, or supervision of, or charged  
2 with the responsibility for making the returns and payments  
3 ~~shall be~~ ARE personally liable for the failure. The dissolu-  
4 tion of a corporation ~~shall~~ DOES not discharge an officer's  
5 liability for a prior failure of the corporation to make a return  
6 or remit the tax due. ~~The sum due for such a liability may be~~  
7 ~~assessed and collected as provided in section 17.~~

8 (6) ~~(4)~~ The tax imposed under this act ~~shall accrue~~  
9 ACCRUES to the state on the last day of each calendar month  
10 EXCEPT TAXES THAT ARE TO BE REMITTED BY ELECTRONIC FUNDS TRANSFER  
11 PURSUANT TO SECTION 19 OF ACT NO. 122 OF THE PUBLIC ACTS OF 1941,  
12 WHICH ARE ACCRUED ON THE LAST DAY OF THE FILING PERIOD.

13 REMITTANCE BY ELECTRONIC FUNDS TRANSFER IS CONSIDERED TO HAVE  
14 BEEN MADE ON THE DATE THAT THE REMITTANCE IS ADDED TO THE BANK  
15 ACCOUNT DESIGNATED BY THE TREASURER OF THE STATE OF MICHIGAN.

16 SEC. 8. A PERSON ENGAGING IN 2 OR MORE PLACES IN THE SAME  
17 BUSINESS OR BUSINESSES TAXABLE UNDER THIS ACT SHALL FILE A CON-  
18 SOLIDATED RETURN OR MAKE A CONSOLIDATED PAYMENT COVERING ALL THE  
19 BUSINESS ACTIVITIES ENGAGED IN WITHIN THIS STATE. A TAXPAYER  
20 FILING A CONSOLIDATED RETURN OR MAKING A CONSOLIDATED PAYMENT  
21 SHALL BE ENTITLED TO ONLY 1 MAXIMUM DISCOUNT AS PROVIDED IN  
22 SECTION 4F.

23 Sec. 14. A person in the business of selling tangible per-  
24 sonal property and liable for any tax ~~imposed~~ under this act  
25 shall keep accurate and complete beginning and annual inventory  
26 and purchase records of additions to inventory, complete daily  
27 sales records, receipts, invoices, bills of lading, and any and

1 all pertinent documents in a form the department may require. If  
2 an exemption from this tax is claimed by reason of any of the  
3 exemptions or deductions granted under this act, a record shall  
4 be kept of the name and address of the person to whom the sale is  
5 made, the date of the sale, the article purchased, the use to be  
6 made of the article, and the amount of the sale, and if that  
7 person has a sales tax license issued under the provisions of the  
8 general sales tax act, Act No. 167 of the Public Acts of 1933,  
9 as amended being sections 205.51 to 205.78 of the Michigan  
10 Compiled Laws, that number shall also be included. ~~Any~~ A  
11 person knowingly making a sale of tangible personal property for  
12 the purpose of resale at retail to another person not licensed  
13 under Act No. 167 of the Public Acts of 1933, as amended, ~~shall~~  
14 ~~be~~ IS liable for the tax imposed by this act unless the transac-  
15 tion is exempt under the provisions of section 4h. These records  
16 must be kept for a period of 4 years after the tax imposed under  
17 this act to which the records apply is due or as otherwise pro-  
18 vided by law. If the department considers it necessary, the  
19 department may require ~~any~~ A person, by notice served upon that  
20 person, to make a return, MAKE A PAYMENT, render under oath cer-  
21 tain statements, or keep certain records the department considers  
22 sufficient to show whether or not that person is liable for tax  
23 under this act. If the taxpayer fails to file a return, MAKE A  
24 PAYMENT, or to maintain or preserve proper records as prescribed  
25 in this section, or the department has reason to believe that any  
26 records maintained or returns filed OR PAYMENTS MADE are  
27 inaccurate or incomplete and that additional taxes are due, the

1 department may assess the amount of the tax due from the taxpayer  
2 based on information that is available or that may become avail-  
3 able to the department. That assessment ~~shall be~~ IS considered  
4 prima facie correct for the purpose of this act and the burden of  
5 proof of refuting the assessment ~~shall be~~ IS upon the  
6 taxpayer.