



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

USE TAX EXEMPTIONS

House Bill 4659 as introduced
First Analysis (10-14-93)

Sponsor: Rep. James McNutt
Committee: Taxation

THE APPARENT PROBLEM:

When a person buys a used car, he or she must pay a four percent use tax. However, the Use Tax Act exempts transactions when the transferee or purchaser is the spouse, mother, father, brother, sister, or child of the transferor. Reportedly, the treasury department has since 1990 insisted on a strict interpretation of the statute and denied exemptions in cases where a stepparent has transferred or sold a car to a stepchild. Currently, some close family members can use a two-step process to get around the payment of use tax. For example, a grandparent could transfer a car to a grandchild by transferring it first to the appropriate parent, who would then transfer it to the grandchild. Or, a woman who wanted to transfer a car to a father-in-law could first transfer it to her husband, who would then transfer the car again. Some people believe that certainly stepparents should enjoy the same exemption from the use tax as parents and that it would make sense for other close family members, such as in-laws, to be exempt as well without going through the extra steps.

THE CONTENT OF THE BILL:

Certain transfers and purchases are exempt from the Use Tax Act, including when the transferee or purchaser (of, for example, a used vehicle) is the spouse, mother, father, brother, sister, or child of the transferor. House Bill 4659 would amend the act to include "stepparent, stepchild, stepbrother, stepsister, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, grandchild, or a legally appointed guardian with a certified letter of guardianship."

MCL 205.93

FISCAL IMPLICATIONS:

There is no specific information at present. A representative of the Department of Treasury pointed out to the House Taxation Committee that

there would be a cost to the state (in lost use taxes) in expanding the exemption. (10-13-93)

ARGUMENTS:

For:

It makes sense to expand the use tax exemption for transferring used motor vehicles between close family members in recognition of the realities of modern families. It seems absurd that a stepparent or stepchild would not qualify in the same manner as a parent or child. And it makes little sense to make grandparents and in-laws go through extra transactions to make a vehicle transfer exempt from the tax. Now, if a woman wants to transfer a vehicle to a son-in-law, to avoid the use tax, she must first transfer the car to her daughter, who would then transfer it to her husband. Why not exempt the direct transfer?

Against:

The expansion of the exemption to stepparents, stepchildren, stepbrothers, and stepchildren is unexceptional and follows the logic of the current law, but going beyond that to include various in-laws seems unnecessary and a bigger step. What is next, transfers to favorite nephews and nieces? Cousins brought up as siblings? The use tax act cannot be expected to anticipate the variety of psychological relationships in families. Besides, it is possible, through the two-step process, for those listed in this bill (and others) to accomplish a tax-free transfer.

Response:

The expansion of exemptions in the bill would be fairer than the current situation. For example, a maternal grandparent could not transfer a vehicle tax-free to a grandchild who lived with her if that child's mother was dead or otherwise not available. So, to say the exemption is already available with one extra step is not fair to those who cannot take advantage of the two-step transfer.

POSITIONS:

A representative of the Department of Treasury indicated to the House Taxation Committee that the department would be opposed to the bill in its current form, but would support the additional exemption for step-relationships. (10-13-93)