



# SENATE BILL No. 1015

February 9, 1994, Introduced by Senators WELBORN CARL, KELLY, DI NELLO, HOFFMAN, DILLINGHAM, HART, HONIGMAN and PRIDNIA and referred to the Committee on Finance

A bill to amend section 2 of Act No 94 of the Public Acts of 1937, entitled as amended

"Use tax act "

as amended by Act No 506 of the Public Acts of 1988 being section 205 92 of the Michigan Compiled Laws

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 2 of Act No 94 of the Public Acts of  
2 1937, as amended by Act No 506 of the Public Acts of 1988, being  
3 section 205 92 of the Michigan Compiled Laws is amended to read  
4 as follows

5 Sec 2 As used in this act

6 (a) "Person" means an individual, firm, partnership, joint  
7 venture, association, social club, fraternal organization  
8 municipal or private corporation whether or not organized for  
9 profit, company, estate, trust, receiver, trustee, syndicate, the

1 United States, this state, county, or any other group or  
2 combination acting as a unit, and the plural as well as the sin-  
3 gular number, unless the intention to give a more limited meaning  
4 is disclosed by the context

5 (b) "Use" means the exercise of a right or power over tangi-  
6 ble personal property incident to the ownership of that property  
7 including transfer of the property in a transaction where posses-  
8 sion is given

9 (c) "Storage" means a keeping or retention OF SOMETHING in  
10 this state for any purpose after losing its interstate  
11 character

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

1 (e) "Purchase" means ~~acquired~~ THE ACQUISITION for a  
2 consideration, whether the acquisition ~~was~~ IS effected by a  
3 transfer of title, of possession, or of both, or a license to use  
4 or consume whether the transfer ~~was~~ IS absolute or condition-  
5 al, and by whatever means the transfer ~~was~~ IS effected and  
6 whether consideration is a price or rental in money, or by way of  
7 exchange or barter

8 (f) "Price" means the aggregate value in money of anything  
9 paid or delivered, or promised to be paid or delivered, by a con-  
10 sumer to a seller in the consummation and complete performance of  
11 the transaction by which tangible personal property or services  
12 ~~were~~ ARE purchased or rented for storage use, or other con-  
13 sumption in this state, without a deduction for the cost of the  
14 property sold, cost of materials used, labor or service cost  
15 interest or discount paid, or any other expense The price of  
16 tangible personal property, for affixation to real estate, with-  
17 drawn by a construction contractor from inventory available for  
18 sale to others or made available by publication or price list as  
19 a finished product for sale to others is the finished goods  
20 inventory value of the property For contracts entered into  
21 after March 31 1989, if a construction contractor manufactures  
22 fabricates, or assembles tangible personal property ~~prior to~~  
23 BEFORE affixing it to real estate, the price of the property  
24 ~~shall be~~ IS equal to the sum of the materials cost of the prop-  
25 erty and the cost of labor to manufacture, fabricate or assemble  
26 the property but ~~shall~~ DOES not include the cost of labor to  
27 cut, bend, assemble, or attach property at the site of affixation

1 to real estate For the purposes of the preceding sentence, for  
2 property withdrawn by a construction contractor from inventory  
3 available for sale to others or made available by publication or  
4 price list as a finished product for sale to others the materi-  
5 als cost of the property means the finished goods inventory value  
6 of the property For purposes of this subdivision "manufacture"  
7 means to convert or condition tangible personal property by  
8 changing the form, composition, quality, combination, or charac-  
9 ter of the property, — and "fabricate" means to modify or pre-  
10 pare tangible personal property for affixation or assembly  
11 ~~Beginning January 1, 1984 and until July 3, 1984 if a purchase~~  
12 ~~is made of or a qualified purchase agreement is entered into for~~  
13 ~~the purchase of a motor vehicle or trailer coach with an exchange~~  
14 ~~of a used motor vehicle or a used trailer coach or if a purchase~~  
15 ~~is made of or a qualified purchase agreement is entered into for~~  
16 ~~the purchase of a titled watercraft with an exchange of a used~~  
17 ~~titled watercraft the price shall be the difference between the~~  
18 ~~agreed upon value of the motor vehicle, trailer coach or titled~~  
19 ~~watercraft used as part payment of the purchase price and the~~  
20 ~~full retail price of the motor vehicle trailer coach or titled~~  
21 ~~watercraft being purchased A qualified purchase agreement means~~  
22 ~~a purchase agreement presented to the secretary of state at the~~  
23 ~~time the vehicle is registered in this state for a transfer of~~  
24 ~~ownership that shall occur on or before February 1, 1985~~  
25 ~~Beginning July 3, 1984 the~~ THE price of a motor vehicle  
26 trailer coach, AIRCRAFT, or titled watercraft ~~shall be~~ IS the  
27 full retail price of the motor vehicle, trailer coach, AIRCRAFT,

1 or titled watercraft being purchased MINUS THE AGREED UPON VALUE  
2 OF ANY MOTOR VEHICLE, TRAILER COACH, AIRCRAFT, OR TITLED WATER-  
3 CRAFT USED AS PART PAYMENT OF THE PURCHASE PRICE The tax col-  
4 lected by the seller from the consumer or lessee under this act  
5 shall not be considered as a part of the price but shall be con-  
6 sidered as a tax collection for the benefit of the state, and a  
7 person other than the state shall not derive a benefit from the  
8 collection or payment of this tax A price does not include an  
9 assessment imposed pursuant to either the convention and tourism  
10 marketing act Act No 383 of the Public Acts of 1980 being sec-  
11 tions 141 881 to 141 889 of the Michigan Compiled Laws or the  
12 community convention ~~and~~ OR tourism marketing act Act No 395  
13 of the Public Acts of 1980, being sections 141 871 to 141 880 of  
14 the Michigan Compiled Laws, ~~which~~ THAT was added to charges for  
15 rooms or lodging otherwise subject, pursuant to section 3a, to  
16 tax under this act Price does not include specific charges for  
17 technical support or for adapting or modifying prewritten, stan-  
18 dard, or canned computer software programs to a purchaser's needs  
19 or equipment if the charges are separately stated and  
20 identified ~~Tax~~ THE TAX imposed pursuant to this act shall not  
21 be computed or collected on rental receipts ~~when~~ IF the tangi-  
22 ble personal property rented or leased has previously been sub-  
23 jected to a Michigan sales or use tax when purchased by the  
24 lessor

25 (g) "Consumer" means the person who has purchased tangible  
26 personal property or services for storage, use or other  
27 consumption in this state and includes a person acquiring

1 tangible personal property ~~when~~ IF engaged in the business of  
2 constructing, altering, repairing, or improving the real estate  
3 of others

4 (h) "Business" means all activities engaged in by a person  
5 or caused to be engaged in by a person with the object of gain,  
6 benefit, or advantage, either direct or indirect

7 (i) "Department" means the revenue division of the depart-  
8 ment of treasury

9 (j) "Tax" includes all taxes, interest, or penalties levied  
10 under this act

11 (k) "Tangible personal property" includes ~~beginning~~  
12 ~~December 28, 1987~~ computer software offered for general use by  
13 the public or software modified or adapted to the user's needs or  
14 equipment by the seller, only if the software is available from a  
15 seller of software on an as is basis or as an end product without  
16 modification or adaptation Tangible personal property does not  
17 include computer software originally designed for the exclusive  
18 use and special needs of the purchaser As used in this subdivi-  
19 sion, "computer software" means a set of statements or instruc-  
20 tions that when incorporated in a machine usable medium is  
21 capable of causing a machine or device having information pro-  
22 cessing capabilities to indicate, perform, or achieve a particu-  
23 lar function, task, or result