

House Bill 5931 as enrolled
Public Act 424 of 1994
Second Analysis (1-12-95)

Sponsor: Rep. Terry London
House Committee: Taxation
Senate Committee: Finance

THE APPARENT PROBLEM:

Public Acts 156 and 157 of 1994 (House Bills 4661 and 4662) made amendments to the sales and use tax acts to exempt certain nonprofit organizations from collecting and remitting taxes when engaged in small-scale fundraising and to clarify both the policy and the process involved in determining which nonprofit organizations do not have to pay sales tax when making purchases. Public Act 157 amended the Use Tax Act, but its provisions were inadvertently repealed when a later amendment to the act, Public Act 214 of 1994 (House Bill 5451) was signed into law without having been modified to contain the language from Public Act 157. As a result, Public Act 157 was only in effect for 10 days! Legislation has been introduced to insert its provisions once again in the Use Tax Act. Further, proponents of Public Act 214, which dealt with exemptions for certain kinds of commercial aircraft, say that the language of that act needs to be repaired to correct references that have led, in some cases, to the wrong kind of aircraft being exempted.

THE CONTENT OF THE BILL:

The bill would amend the Use Tax Act (MCL 205.94) to clarify which entities do not have to pay the tax when making purchases and how the exemption would be achieved. Exempt would be sales to:

- a) A health, welfare, educational, cultural arts, charitable, or benevolent organization not operated for profit that had been issued an exemption ruling letter from the treasury department before June 13, 1994; and
- b) A non-profit organization exempt from federal income tax under Sections 501(c)(3) and 501 (c)(4) of the Internal Revenue Code.

The treasury department would be required to reissue an exemption letter to organizations after June 13, 1994, and such a letter would remain in effect unless the organization failed to meet the requirements that originally entitled it to the exemption. The exemption would not apply to sales of tangible personal property and sales of vehicles licensed for use on the public highways that are not used primarily to carry out the purposes of the organization as stated in the bylaws or articles of incorporation.

The bill also would amend the provisions of Public Act 214 of 1994, which expanded the aircraft exemption in order to make it apply to the storage, use, and consumption of any aircraft owned or used by a domestic air carrier operating under a certificate issued by the U.S. Department of Transportation, if the aircraft was used solely in the transport of air cargo or in the commercial transport of passengers. The new exemption was to be effective retroactively, beginning January 1, 1993. Under the bill, the exemption would apply instead to:

- a) The storage, use, or consumption by a domestic air carrier of an aircraft purchased after December 31, 1992, for use solely in the transport of air cargo and that had a maximum certificated takeoff weight of at least 12,500 pounds.
- b) The storage, use, or consumption by a domestic air carrier of an aircraft purchased after June 30, 1994, that was used solely in the regularly scheduled commercial transport of passengers.
- c) The storage, use, or consumption by a domestic air carrier of an aircraft, other than one described above, purchased after December 31, 1994, that had

a maximum certificated takeoff weight of at least 12,500 pounds and was designed to have a maximum passenger seating configuration of more than 30 seats and was used solely in the transport of passengers.

The term "domestic air carrier" would be limited to entities engaged in the commercial transport for hire of cargo or entities engaged in the commercial transport of passengers as a business activity.

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The bill would simply carry out the intent of two recently enacted bills amending the Use Tax Act. It would restore the provisions of Public Act 157 of 1994, which was inadvertently repealed by a near-simultaneous amendment to the act. And, reportedly, it would correct Public Act 214 of 1994, which because of faulty references to federal law failed to exempt some aircraft it intended to exempt and exempted some aircraft it did not intend to exempt.