



**House  
Legislative  
Analysis  
Section**

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**USE TAX TREATMENT FOR  
CERTAIN ATHLETIC EVENTS**

**Senate Bill 1370 as passed by the Senate  
First Analysis (6-5-02)**

**Sponsor: Sen. Joanne G. Emmons  
House Committee: Tax Policy  
Senate Committee: Finance**

***THE APPARENT PROBLEM:***

The Ryder Cup pits the best golfers from the United States against the best golfers from Europe in a biennial match play tournament. The location of the tournament alternates between the two continents. This September the cup matches will be played at the DeVere Belfry in Sutton Coldfield, England. In 2004, the matches will be played at the Oakland Hills Country Club in Bloomfield Hills, Michigan. According to information provided to the House Committee on Tax Policy, the PGA of America is attracting corporate sponsorships for the event by selling packages that will combine taxable and nontaxable products and services. An example cited to the committee involved a package that combines such taxable items as golf balls, T-shirts, and mugs, with nontaxable items such as tickets to the event, advertising on the grounds of the competition, and tables in a hospitality tent. The General Sales Tax Act is understood to require that such packages be fully taxed. Recently drafted legislation, House Bill 6002, will allow the Department of Treasury to work out in advance with the PGA the taxable and nontaxable elements in sponsorship packages so that only the taxable elements are actually made subject to the state's sales tax. A similar situation will arise in February of 2006 when the National Football League's Super Bowl XL will be played at Ford Field in downtown Detroit, the new home of the Detroit Lions. The same kinds of provisions that House Bill 6002 will put into the General Sales Tax Act need to be inserted into the Use Tax Act (which would govern leases and rentals of property and services at such events) to keep the two acts consistent.

***THE CONTENT OF THE BILL:***

The bill would amend the Use Tax Act to allow the organizing entity of a "qualified athletic event" that sold corporate sponsor contracts for the event to apply the use tax only to the amount charged for the rental of taxable tangible personal property or taxable services. This would apply only if the Department of

Treasury had given written approval to the organizing entity's allocation of the tax. (A "qualified athletic event" would mean either 1) a professional sporting competition in which individuals officially representing at least two countries or nations compete; or 2) a professional football competition in which teams compete in a postseason event to determine the league champion.) The bill's provisions would be repealed effective January 1, 2007.

The bill would require that the organizing entity provide the department written notice of its intent to enter into corporate sponsor contracts and an itemized schedule of the taxable tangible personal property and taxable services to be provided under each contract at least 180 days in advance of entering into the first contract. The bill also would specify that the provisions would only apply if the entity was tax exempt or wholly owned by an entity exempt under Section 501(c)(6) of the federal Internal Revenue Code. (That subsection applies to business leagues, chambers of commerce, real estate boards, boards of trades, and professional football leagues not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.)

The bill also would add limited liability companies to the definition of the term "person" in the act and would use the term "manufactured housing" in place of the term "mobile home".

MCL 205.92 et al.

***BACKGROUND INFORMATION:***

House Bill 6002, which recently passed the House, would put similar provisions in the General Sales Tax Act. Section 2 (1) of the General Sales Tax Act imposes the six percent sales tax on the gross proceeds of persons engaged in the business of

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making sales at retail. Section 2 (2) says that "any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation, or profession not taxable under this act shall keep books to show separately the transactions used in determining the tax levied by this act. If the person fails to keep the separate books, there shall be levied upon him or her the tax provided for in subsection (1) equal to 6 percent of the entire gross proceeds of both or all of his or her businesses". This provision is why a single bundled package containing taxable and (otherwise) nontaxable items is, as a whole, taxable.

### ***FISCAL IMPLICATIONS:***

There is no information at present. A representative from the Department of Treasury testified before the House Committee on Tax Policy that House Bill 6002, the companion bill to Senate Bill 1370, would not affect state revenues. (Testimony on 5-15-02)

### ***ARGUMENTS:***

#### ***For:***

Senate Bill 1370, in conjunction with House Bill 6002, is intended to allow a nonprofit organizer of an international athletic event to work out in advance with the Department of Treasury the taxable and nontaxable elements of corporate sponsorship contracts so that the sales and use taxes would only be applied to those elements that would be taxable if each of the elements were sold separately. Under the bill, the allocation of taxable and nontaxable elements would have to be approved by the department in advance of the first corporate contract being entered into. The advantage to this is that it will minimize enforcement problems that otherwise could arise. The impetus for the bill is the 2004 Ryder Cup golf matches to be played in suburban Detroit. It will also apply to the Super Bowl to be held in downtown Detroit in 2006. The promotion of these kinds of events in Michigan can produce long-term benefits to Michigan tourism (since they bring people into the state from all over the world, some perhaps visiting for the first time).

#### ***Against:***

A number of concerns were raised about the companion to this bill (House Bill 6002). Some people feared that it represented further draining of tax revenue from schools. When the new school finance system was enacted with the passage of Proposal A, schools were supposed to get a stable stream of revenue from dedicated tax sources. The

regular legislating of exemptions erodes these taxes. Others have criticized the proposal as providing an incentive to corporations to sponsor one kind of event and possibly withdraw financial support from others (that do not enjoy similar tax treatment). Critics complain that since the events at which this special tax treatment is targeted have already been scheduled, the legislation can't be described as an incentive.

#### ***Response:***

The bill would allow for the "unbundling" of elements in corporate sponsorship contracts so that only the items that would be taxable standing alone will be taxed. Nontaxable items will not be taxed. This hardly qualifies as special tax treatment; indeed, to some observers, it seems the only fair approach to the issue. It should be noted that the bill contains a 2007 sunset date.

### ***POSITIONS:***

The Department of Treasury has indicated support for the bill. (6-5-02)

A representative from the PGA Tour, Inc., has indicated support for the bill. (6-5-02)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.