

SENATE BILL No. 1310

June 22, 2004, Introduced by Senators GARCIA and BASHAM and referred to the
Committee on Finance.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 3 and 4g (MCL 205.93 and 205.94g), section 3
as amended by 2003 PA 27 and section 4g as added by 1985 PA 66,
and by adding section 4w.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) There is levied upon and there shall be
2 collected from every person in this state a specific tax for the
3 privilege of using, storing, or consuming tangible personal
4 property in this state at a rate equal to 6% of the price of the
5 property or services specified in section 3a or 3b. Penalties
6 and interest shall be added to the tax if applicable as provided
7 in this act. For the purpose of the proper administration of
8 this act and to prevent the evasion of the tax, all of the
9 following shall be presumed:

1 (a) That tangible personal property purchased is subject to
2 the tax if brought into this state within 90 days of the purchase
3 date and is considered as acquired for storage, use, or other
4 consumption in this state. Beginning April 1, 2003, as used in
5 this subsection and section 4(1)(a), the term "price" means, with
6 respect to diesel fuel used by interstate motor carriers in a
7 qualified commercial motor vehicle, the statewide average retail
8 price of a gallon of self-serve diesel fuel as determined and
9 certified quarterly by the department, rounded down to the
10 nearest 1/10 of a cent. This use tax on diesel fuel used by
11 interstate motor carriers in a qualified commercial motor vehicle
12 shall be collected under the international fuel tax agreement.

13 (b) That tangible personal property used solely for personal,
14 nonbusiness purposes that is purchased outside of this state and
15 that is not an aircraft is exempt from the tax levied under this
16 act if 1 or more of the following conditions are satisfied:

17 (i) The property is purchased by a person who is not a
18 resident of this state at the time of purchase and is brought
19 into this state more than 90 days after the date of purchase.

20 (ii) The property is purchased by a person who is a resident
21 of this state at the time of purchase and is brought into this
22 state more than 360 days after the date of purchase.

23 (2) The tax imposed by this section for the privilege of
24 using, storing, or consuming a vehicle, ORV, ~~manufactured~~
25 ~~housing,~~ aircraft, snowmobile, or watercraft shall be collected
26 before the transfer of the vehicle, ORV, ~~manufactured housing,~~
27 aircraft, snowmobile, or watercraft, except a transfer to a

1 licensed dealer or retailer for purposes of resale that arises by
2 reason of a transaction made by a person who does not transfer
3 vehicles, ORVs, ~~manufactured housing,~~ aircraft, snowmobiles, or
4 watercraft in the ordinary course of his or her business done in
5 this state. The tax on a vehicle, ORV, snowmobile, and
6 watercraft shall be collected by the secretary of state before
7 the transfer of the vehicle, ORV, snowmobile, or watercraft
8 registration. ~~The tax on manufactured housing shall be~~
9 ~~collected by the department of consumer and industry services,~~
10 ~~mobile home commission, or its agent before the transfer of the~~
11 ~~certificate of title.~~ The tax on an aircraft shall be collected
12 by the department of treasury. Notwithstanding any limitation
13 contained in section 2 and except as provided in this subsection,
14 the price tax base of any vehicle, ORV, manufactured housing,
15 aircraft, snowmobile, or watercraft subject to taxation under
16 this act shall be not less than its retail dollar value at the
17 time of acquisition as fixed ~~pursuant to~~ **by** rules promulgated
18 by the department. However, the price tax base of an aircraft
19 that would otherwise qualify for the presumption under subsection
20 (1)(b) if it were other tangible personal property shall be its
21 retail value at the time it becomes taxable in this state. The
22 price tax base of a new or previously owned car or truck held for
23 resale by a dealer and that is not exempt under section 4(1)(c)
24 is the purchase price of the car or truck multiplied by 2.5% plus
25 \$30.00 per month beginning with the month that the dealer uses
26 the car or truck in a nonexempt manner.

27 (3) The following transfers or purchases are not subject to

1 use tax:

2 (a) A transaction or a portion of a transaction if the
3 transferee or purchaser is the spouse, mother, father, brother,
4 sister, child, stepparent, stepchild, stepbrother, stepsister,
5 grandparent, grandchild, legal ward, or a legally appointed
6 guardian with a certified letter of guardianship, of the
7 transferor.

8 (b) A transaction or a portion of a transaction if the
9 transfer is a gift to a beneficiary in the administration of an
10 estate.

11 (c) If a vehicle, ORV, manufactured housing, aircraft,
12 snowmobile, or watercraft that has once been subjected to the
13 Michigan sales or use tax is transferred in connection with the
14 organization, reorganization, dissolution, or partial liquidation
15 of an incorporated or unincorporated business and the beneficial
16 ownership is not changed.

17 (d) If an insurance company licensed to conduct business in
18 this state acquires ownership of a late model distressed vehicle
19 as defined in section 12a of the Michigan vehicle code, 1949
20 PA 300, MCL 257.12a, through payment of damages in response to a
21 claim or when the person who owned the vehicle before the
22 insurance company reacquires ownership from the company as part
23 of the settlement of a claim.

24 (4) The department may utilize the services, information, or
25 records of any other department or agency of state government in
26 the performance of its duties under this act, and other
27 departments or agencies of state government are required to

1 furnish those services, information, or records upon the request
2 of the department.

3 Sec. 4g. (1) The tax levied ~~shall~~ **does** not apply to
4 property purchased from a seller or transferor if the property is
5 part of the purchase or transfer of a business.

6 (2) The exemption provided by this section ~~shall~~ **does** not
7 apply to all of the following:

8 (a) The purchase or transfer of tangible personal property
9 that is stock-in-trade or other property of a kind ~~which~~ **that**
10 would properly be included in the inventory of the seller or
11 transferor if on hand at the close of the seller's or
12 transferor's tax period, or property held by the seller or
13 transferor for sale to customers in the ordinary course of its
14 trade or business.

15 (b) The purchase or transfer of a motor vehicle, ORV, ~~mobile~~
16 ~~home,~~ aircraft, snowmobile, or watercraft.

17 (3) As used in this section, "purchase or transfer of a
18 business" means 1 or more of the following:

19 (a) The purchaser or transferee has acquired and intends to
20 use the seller's or transferor's trade name or good will.

21 (b) The purchaser or transferee intends to continue all or
22 part of the business of the seller or transferor at the same
23 location or at another location.

24 (c) The purchaser or transferee acquired at least 75% of the
25 seller's or transferor's tangible personal property at 1 or more
26 of the seller's or transferor's business locations.

27 **Sec. 4w. The tax under this act does not apply to the**

1 storage, use, or consumption of a manufactured home except as
2 provided in this section. The tax does apply to a new
3 manufactured home purchased at a sale at retail outside of this
4 state and brought into this state for its initial use. The tax
5 shall be collected by the secretary of state at the time the
6 manufactured home is brought into this state. As used in this
7 section, "manufactured home" means that term as defined in
8 section 9102 of the uniform commercial code, 1962 PA 174, MCL
9 440.9102.