

HOUSE BILL No. 5191

September 7, 2007, Introduced by Rep. Tobocman and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 1 (MCL 205.51), as amended by 2004 PA 173, and
by adding section 9a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) As used in this act:

2 (a) "Person" means an individual, firm, partnership, **LIMITED**
3 **PARTNERSHIP, LIMITED LIABILITY COMPANY**, joint venture, association,
4 social club, fraternal organization, municipal or private
5 corporation whether organized for profit or not, company, estate,
6 trust, receiver, trustee, syndicate, the United States, this state,
7 county, or any other group or combination acting as a unit, and
8 includes the plural as well as the singular number, unless the

1 intention to give a more limited meaning is disclosed by the
2 context.

3 (b) "Sale at retail" or "retail sale" means a sale, lease, or
4 rental of tangible personal property for any purpose other than for
5 resale, sublease, or subrent.

6 (c) "Gross proceeds" means sales price.

7 (d) "Sales price" means the total amount of consideration,
8 including cash, credit, property, and services, for which tangible
9 personal property or services are sold, leased, or rented, valued
10 in money, whether received in money or otherwise, and applies to
11 the measure subject to sales tax. Sales price includes the
12 following subparagraphs (i) through (vi) and excludes subparagraphs
13 (vii) through (viii):

14 (i) Seller's cost of the property sold.

15 (ii) Cost of materials used, labor or service cost, interest,
16 losses, costs of transportation to the seller, taxes imposed on the
17 seller other than taxes imposed by this act, and any other expense
18 of the seller.

19 (iii) Charges by the seller for any services necessary to
20 complete the sale, other than the following:

21 (A) An amount received or billed by the taxpayer for
22 remittance to the employee as a gratuity or tip, if the gratuity or
23 tip is separately identified and itemized on the guest check or
24 billed to the customer.

25 (B) Labor or service charges involved in maintenance and
26 repair work on tangible personal property of others if separately
27 itemized.

1 (iv) Delivery charges incurred or to be incurred before the
2 completion of the transfer of ownership of tangible personal
3 property from the seller to the purchaser.

4 (v) Installation charges incurred or to be incurred before the
5 completion of the transfer of ownership of tangible personal
6 property from the seller to the purchaser.

7 (vi) Credit for any trade-in.

8 (vii) Interest, financing, or carrying charges from credit
9 extended on the sale of personal property or services, if the
10 amount is separately stated on the invoice, bill of sale, or
11 similar document given to the purchaser.

12 (viii) Any taxes legally imposed directly on the consumer that
13 are separately stated on the invoice, bill of sale, or similar
14 document given to the purchaser.

15 (e) "Business" includes an activity engaged in by a person or
16 caused to be engaged in by that person with the object of gain,
17 benefit, or advantage, either direct or indirect.

18 (f) "Tax year" or "taxable year" means the fiscal year of ~~the~~
19 **THIS** state or the taxpayer's fiscal year if permission is obtained
20 by the taxpayer from the department to use the taxpayer's fiscal
21 year as the tax period instead.

22 (g) "Department" means the department of treasury.

23 (h) "Taxpayer" means a person subject to a tax under this act.

24 (i) "Tax" includes a tax, interest, or penalty levied under
25 this act.

26 (j) "Textiles" means goods that are made of or incorporate
27 woven or nonwoven fabric, including, but not limited to, clothing,

1 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,
2 pillows, pillow cases, tablecloths, napkins, aprons, linens, floor
3 mops, floor mats, and thread. Textiles also include materials used
4 to repair or construct textiles, or other goods used in the rental,
5 sale, or cleaning of textiles.

6 (2) If the department determines that it is necessary for the
7 efficient administration of this act to regard an unlicensed
8 person, including a salesperson, representative, peddler, or
9 canvasser as the agent of the dealer, distributor, supervisor, or
10 employer under whom the unlicensed person operates or from whom the
11 unlicensed person obtains the tangible personal property sold by
12 the unlicensed person, irrespective of whether the unlicensed
13 person is making sales on the unlicensed person's own behalf or on
14 behalf of the dealer, distributor, supervisor, or employer, the
15 department may so regard the unlicensed person and may regard the
16 dealer, distributor, supervisor, or employer as making sales at
17 retail at the retail price for the purposes of this act.

18 **SEC. 9A. (1) ANY OTHER PROVISION OF THIS ACT NOTWITHSTANDING,**
19 **THE DEPARTMENT MAY ESTABLISH A PILOT PROGRAM IN WHICH BOTH OF THE**
20 **FOLLOWING OCCUR:**

21 (A) A PERSON SELECTED UNDER SUBSECTION (2) SHALL
22 ELECTRONICALLY SUBMIT A RETURN FOR EACH SALE AT RETAIL TO THE
23 DEPARTMENT OR THE DEPARTMENT'S DESIGNEE. THE RETURN SHALL SHOW THE
24 ENTIRE AMOUNT OF THE SALE AT RETAIL, THE GROSS PROCEEDS FROM THAT
25 SALE AT RETAIL, THE ALLOWABLE DEDUCTIONS, IF ANY, AND THE AMOUNT OF
26 TAX FOR WHICH THE PERSON IS LIABLE ON THAT SALE AT RETAIL. THE
27 RETURN SHALL INCLUDE THE REMITTANCE FOR THE AMOUNT OF TAX FOR WHICH

1 THE PERSON IS LIABLE ON THAT SALE AT RETAIL.

2 (B) THE DEPARTMENT OR THE DEPARTMENT'S DESIGNEE SHALL ISSUE AN
3 ELECTRONICALLY GENERATED RECEIPT TO EACH CUSTOMER OF A TAXPAYER
4 LIABLE FOR SUBMITTING A RETURN UNDER SUBDIVISION (A). THE RECEIPT
5 SHALL INDICATE THAT THE TAXPAYER HAS ELECTRONICALLY REPORTED TO THE
6 DEPARTMENT OR THE DEPARTMENT'S DESIGNEE THE ENTIRE AMOUNT OF THE
7 SALE AT RETAIL, THE GROSS PROCEEDS FROM THAT SALE AT RETAIL, THE
8 ALLOWABLE DEDUCTIONS, IF ANY, THE AMOUNT OF TAX FOR WHICH HE OR SHE
9 IS LIABLE ON THAT SALE AT RETAIL, AND THE AMOUNT OF TAX REMITTED
10 FOR THAT SALE AT RETAIL.

11 (2) THE DEPARTMENT MAY RANDOMLY SELECT INTERESTED TAXPAYERS TO
12 PARTICIPATE IN THE PILOT PROGRAM UNDER THIS SECTION.

13 Enacting section 1. Sections 4y and 4z of the general sales
14 tax act, 1933 PA 167, MCL 205.54y and 205.54z, are repealed.