

HOUSE BILL No. 5468

November 28, 2007, Introduced by Reps. Spade, LeBlanc, Elsenheimer, Gonzales, Hopgood, Hansen, Stahl and 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.

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, joint
3 venture, association, social club, fraternal organization,
4 municipal or private corporation whether organized for profit or
5 not, company, estate, trust, receiver, trustee, syndicate, the
6 United States, this state, county, or any other group or
7 combination acting as a unit, and includes the plural as well as
8 the singular number, unless the intention to give a more limited
9 meaning is disclosed by the context.

10 (b) "Sale at retail" or "retail sale" means a sale, lease, or

1 rental of tangible personal property for any purpose other than for
2 resale, sublease, or subrent.

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

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

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

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

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

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

22 (B) Labor or service charges involved in maintenance and
23 repair work on tangible personal property of others if separately
24 itemized.

25 (iv) Delivery charges incurred or to be incurred before the
26 completion of the transfer of ownership of tangible personal
27 property from the seller to the purchaser.

1 (v) Installation 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 (vi) Credit for any trade-in.

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

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

12 (ix) **A CORE CHARGE ATTRIBUTABLE TO A RECYCLING FEE, DEPOSIT, OR**
13 **DISPOSAL FEE FOR AN AUTOMOBILE PART OR AUTOMOBILE BATTERY.**

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

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

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

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

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

25 (j) "Textiles" means goods that are made of or incorporate
26 woven or nonwoven fabric, including, but not limited to, clothing,
27 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,

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

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