

"SALES TAX ON THE DIFFERENCE"

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Senate Bill 89 (Substitute S-1)
Sponsor: Rep. Dave Robertson
Senate Committee: Finance
House Committee: Tax Policy

Complete to 10-22-13

A SUMMARY OF SENATE BILL 89 AS REPORTED FROM HOUSE COMMITTEE

Senate Bill 89 (S-1) would amend the General Sales Tax Act (1933 PA 167, MCL 205.51), generally speaking, so that sales tax would be charged on the difference between the price of a new or used motor vehicle, recreational vehicle, or titled watercraft and the agreed-upon value of any trade-in.¹

Titled Watercraft

The substitute bill would exclude from sales taxes, the agreed-upon value of a titled watercraft used as a partial payment for the purchase of a new or used titled watercraft if the agreed-upon value is separately stated on the invoice, bill of sale, or similar document given to the purchaser. The exemption (provided based on 100% of the agreed-upon value) would apply beginning on the bill's effective date.

Motor Vehicles and Recreational Vehicles

The substitute bill would exclude from sales tax, beginning October 1, 2013, the agreed-upon value of a motor vehicle or recreational vehicle² used as partial payment for the purchase of a new or used motor vehicle or recreational vehicle if the agreed-upon value is separately stated on the invoice, bill of sale, or similar document provided to the

¹ Senate Bill 90 makes similar amendments to the Use Tax. On June 6, 2013, the House passed a similar bill sponsored by Rep. LaFontaine (HB 4234) with a shorter phase-in period that would provide a full trade-in allowance beginning October 1, 2018. Section 11 of the General Sales Tax Act (MCL 205.61) currently states that in a taxable sale at retail of a motor vehicle where another vehicle is used as a partial payment of the purchase price, the value of the trade-in is that value agreed to by the parties to the sale as evidenced by the signed statement executed under Section 251 of the Michigan Vehicle Code (1949 PA 300, MCL 257.251.) Further, Rule 4 of the Department of Treasury's *Specific Sales and Use Tax Rules* (R 205.54) provides that, "[f]or sales tax purposes the trade-in value of a vehicle shall not be less than its wholesale dollar value at the time of trade. The dealer may use, as a guide, the wholesale dollar value as shown in the current issue of any nationally recognized used vehicle guide for financial institution appraisal purposes in Michigan."

² The definition of "recreational vehicle" in the bill refers to the definition in Section 49a of the Michigan Vehicle Code, which defines "recreational vehicle" to mean a new or used vehicle that has its own motive power or is towed by a motor vehicle; is primarily designed to provide temporary living quarters for recreational, camping, travel, or seasonal use; complies with all applicable federal vehicle regulations; and does not require a special highway movement permit under Section 719a to be operated or towed on a street or highway. The term includes, but is not limited to, a motor home, travel trailer, park model trailer that does not require a special highway movement permit under Section 719a, or pickup camper.

purchaser.³ Under the bill, the agreed-upon value that would be exempted from the sales tax would be capped for the first several years as follows:

- Beginning October 1, 2013: 10% of the agreed-upon value of the trade-in vehicle.
- Beginning January 1, 2014: 20% of the agreed-upon value of the trade-in vehicle.
- Beginning January 1, 2015: 30% of the agreed-upon value of the trade-in vehicle.
- Beginning January 1, 2016: 40% of the agreed-upon value of the trade-in vehicle.
- Beginning January 1, 2017: 50% of the agreed-upon value of the trade-in vehicle.
- Beginning January 1, 2018: 60% of the agreed-upon value of the trade-in vehicle.
- Beginning January 1, 2019: 70% of the agreed-upon value of the trade-in vehicle.
- Beginning January 1, 2020: 80% of the agreed-upon value of the trade-in vehicle.
- Beginning January 1, 2021: 90% of the agreed-upon value of the trade-in vehicle.
- Beginning January 1, 2022: 100% of the agreed-upon value of the trade-in vehicle

FISCAL IMPACT:

As written, Senate Bill 89 would reduce sales tax revenue by an estimated \$29.7 million in FY2013-14, with the net cost increasing by an average of approximately \$30.6 million each year until fully implemented in FY2022-23. The majority of the revenue reduction would come from the School Aid Fund, which receives approximately 73% of gross sales tax revenue. Constitutional revenue sharing to cities, villages, and townships (which receives roughly 10% of sales tax revenue) would also decline, as would the Comprehensive Transportation Fund and General Fund/General Purpose revenues.

BACKGROUND INFORMATION:

Michigan has reciprocal agreements with a number of states whereby Michigan and the reciprocal state each collect and retain sales tax on vehicles purchased in their respective state, even in instances when the vehicle will be titled and registered in the other state.

For sales in Michigan of vehicles that will be registered and titled in a reciprocal state, Michigan collects the lesser amount of sales tax due calculated under Michigan law and

³ With respect to motor vehicles and recreational vehicles, the trade-in allowance does not appear to be limited to "like kind" exchanges. For example, a recreational vehicle used as a trade-in for a motor vehicle would appear to be eligible for the trade-in allowance. In contrast, Indiana law (IC 6-2.5-1-5) provides a broader sales tax on the difference on the sale of tangible personal property but limits the trade-in allowance to "like kind exchanges". See, Indiana Department of Revenue, Information Bulletin #28S, <http://www.in.gov/dor/reference/files/sib28s.pdf>.

under the law of the reciprocal state.⁴ The calculation of the sales tax due under the laws of the reciprocal state will include a trade-in allowance if provided under the reciprocal state's law. The sales tax collected by the state of purchase will generally be used as a credit against any applicable use tax owed to the state where the vehicle will be titled. Wisconsin, Illinois, Indiana, and Ohio each provide for a trade-in allowance.⁵

Generally speaking, under the reciprocity agreements with the state, Michigan sales of motor vehicles that will be titled and registered in those states will be based on the trade-in allowance allowed under the laws of those states. The Department of Treasury offers these examples for Michigan sales of vehicles that will be registered and titled in a reciprocal state.

Example A: Vehicle to be titled and registered in Iowa.		Example B: Vehicle to be titled and registered in Illinois.	
#1	\$10,000.00	#1	\$10,000.00 (No trade-in presented on purchase)
	<u>-3,000.00</u> (Trade-in allowed in Iowa)		<u>x 6.25%</u> (Sales tax rate in Illinois)
	\$7,000.00		\$ 625.00 Illinois sales tax
	<u>x 5%</u> (Sales tax rate in Iowa)		
	\$ 350.00 Iowa sales tax		
#2	\$10,000.00 (No trade-in allowed in Michigan)	#2	\$10,000.00 (No trade-in allowed in Michigan)
	<u>x 6%</u> (Sales tax rate in Michigan)		<u>x 6%</u> (Sales tax rate in Michigan)
	\$ 600.00 Michigan sales tax		\$ 600.00 Michigan sales tax
In Example A, the Michigan sales tax due is \$350.		In Example B, Michigan sales tax due is \$600.00.	

Source: Department of Treasury's *Instructions for Collecting Vehicle Sales Tax from Buyers Who Will Register and Title Their Vehicle in Another State*, Revised September 2013

In Example A above, if the vehicle was purchased in Iowa and titled in Michigan, the purchaser would pay \$350 in Iowa sales tax at the time of purchase and an additional \$250 in Michigan use tax at the time it was registered and titled (representing a use tax liability of \$600 less a credit for the \$350 in Iowa sales taxes already paid).

POSITIONS:

The Michigan Auto Dealers supported Senate Bill 89 before the Senate Finance Committee and supported similar legislation (House Bill 4234) before the House Tax Policy Committee.

Groups indicating support for SB 89 to the House Tax Policy Committee include the Michigan Chamber of Commerce, the National Marine Manufacturing Association, the Michigan Boating Industries Association (5-29-13)

The Department of Treasury indicated that it is opposed to the bill (5-29-13)

⁴ See the Department of Treasury's *Instructions for Collecting Vehicle Sales Tax from Buyers Who Will Register and Title Their Vehicle in Another State*, September 2013, http://www.michigan.gov/documents/485_72279_7.pdf. See, also, Chapter 8 (Sales Tax) of the Department of State's *Dealer Manual*, http://www.michigan.gov/documents/sos/Dealer_Manual_Chapter_8_186065_7.pdf.

⁵ Under Ohio Revised Code Section 5739.01, the trade-in allowance is available only for the purchase of new vehicles.

Among the groups indicating opposition to SB 89 are the Michigan AFL-CIO, the Michigan Townships Association, the Michigan Municipal League, the Michigan Association of School Boards, the Michigan Association of Intermediate School Administrators, the Michigan Association of School Administrators, the Genesee ISD, the Calhoun ISD, Wayne RESA, Oakland Schools, and the AFT Michigan. (5-29-13)

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■ 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.