

SENATE BILL No. 89

January 29, 2013, Introduced by Senators ROBERTSON, ROCCA, PAVLOV, COLBECK, MARLEAU, PROOS, CASPERSON, BRANDENBURG, PAPPAGEORGE, KOWALL, HUNE, JANSEN, BOOHER, GREEN, MEEKHOF, SCHUITMAKER, MOOLENAAR, NOFS, CASWELL, HANSEN, WALKER, HILDENBRAND, JONES and BIEDA and referred to the Committee on Finance.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 1 (MCL 205.51), as amended by 2008 PA 438.

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

1 meaning is disclosed by the context.

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

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

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

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

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

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

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

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

27 (iv) Delivery charges incurred or to be incurred before the

1 completion of the transfer of ownership of tangible personal
2 property subject to the tax levied under this act from the seller
3 to the purchaser. A seller is not liable under this act for
4 delivery charges allocated to the delivery of exempt property.

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

8 (vi) ~~Credit~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS (xi)**
9 **AND (xii) , CREDIT** for any trade-in.

10 (vii) Except as otherwise provided in subparagraph (x) ,
11 consideration received by the seller from third parties if all of
12 the following conditions are met:

13 (A) The seller actually receives consideration from a party
14 other than the purchaser and the consideration is directly related
15 to a price reduction or discount on the sale.

16 (B) The seller has an obligation to pass the price reduction
17 or discount through to the purchaser.

18 (C) The amount of the consideration attributable to the sale
19 is fixed and determinable by the seller at the time of the sale of
20 the item to the purchaser.

21 (D) One of the following criteria is met:

22 (I) The purchaser presents a coupon, certificate, or other
23 documentation to the seller to claim a price reduction or discount
24 where the coupon, certificate, or documentation is authorized,
25 distributed, or granted by a third party with the understanding
26 that the third party will reimburse any seller to whom the coupon,
27 certificate, or documentation is presented.

1 (II) The purchaser identifies himself or herself to the seller
2 as a member of a group or organization entitled to a price
3 reduction or discount. A preferred customer card that is available
4 to any patron does not constitute membership in a group or
5 organization.

6 (III) The price reduction or discount is identified as a third
7 party price reduction or discount on the invoice received by the
8 purchaser or on a coupon, certificate, or other documentation
9 presented by the purchaser.

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

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

17 (x) Beginning January 1, 2000, employee discounts that are
18 reimbursed by a third party on sales of motor vehicles.

19 (xi) **FOR A RETAIL SALE OF A TITLED WATERCRAFT THAT TAKES PLACE**
20 **AFTER JUNE 30, 2013, THE AGREED-UPON VALUE OF A TITLED WATERCRAFT**
21 **USED AS PART PAYMENT OF THE PURCHASE PRICE OF A NEW TITLED**
22 **WATERCRAFT OR USED TITLED WATERCRAFT IF THE AGREED-UPON VALUE IS**
23 **SEPARATELY STATED ON THE INVOICE, BILL OF SALE, OR SIMILAR DOCUMENT**
24 **GIVEN TO THE PURCHASER.**

25 (xii) **FOR A RETAIL SALE OF A MOTOR VEHICLE THAT TAKES PLACE**
26 **AFTER JUNE 30, 2013, THE AGREED-UPON VALUE OF A MOTOR VEHICLE USED**
27 **AS PART PAYMENT OF THE PURCHASE PRICE OF A NEW OR USED MOTOR**

1 VEHICLE IF THE AGREED-UPON VALUE IS SEPARATELY STATED ON THE
2 INVOICE, BILL OF SALE, OR SIMILAR DOCUMENT GIVEN TO THE PURCHASER.
3 FOR PURPOSES OF THIS SUBPARAGRAPH, THE AGREED-UPON VALUE OF A MOTOR
4 VEHICLE USED AS PART PAYMENT SHALL BE LIMITED AS FOLLOWS:

5 (A) AFTER JUNE 30, 2013 THROUGH DECEMBER 31, 2013, \$2,500.00.

6 (B) IN 2014, \$5,000.00.

7 (C) IN 2015, \$7,500.00.

8 (D) IN 2016, \$10,000.00.

9 (E) IN 2017, \$12,500.00.

10 (F) IN 2018, \$15,000.00.

11 (G) IN 2019 AND EACH YEAR AFTER 2019, NO LIMITATION ON THE
12 AGREED-UPON VALUE OF A MOTOR VEHICLE USED AS PART PAYMENT.

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

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

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

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

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

24 (j) "Textiles" means goods that are made of or incorporate
25 woven or nonwoven fabric, including, but not limited to, clothing,
26 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,
27 pillows, pillow cases, tablecloths, napkins, aprons, linens, floor

1 mops, floor mats, and thread. Textiles also include materials used
2 to repair or construct textiles, or other goods used in the rental,
3 sale, or cleaning of textiles.

4 (K) "NEW MOTOR VEHICLE" MEANS THAT TERM AS DEFINED IN SECTION
5 33A OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.33A.

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.