

Act No. 80
Public Acts of 2014
Approved by the Governor
March 28, 2014
Filed with the Secretary of State
March 28, 2014
EFFECTIVE DATE: Pending

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Senators Hildenbrand, Jansen, Warren, Moolenaar and Brandenburg

ENROLLED SENATE BILL No. 822

AN ACT to amend 1937 PA 94, entitled “An act to provide for the levy, assessment, and collection of a specific excise tax on the storage, use, or consumption in this state of tangible personal property and certain services; to appropriate the proceeds of that tax; to prescribe penalties; and to make appropriations,” by amending sections 3, 19, and 21 (MCL 205.93, 205.109, and 205.111), section 3 as amended by 2007 PA 103, section 19 as added by 2004 PA 172, and section 21 as amended by 2010 PA 37, and by adding sections 2c and 10a.

The People of the State of Michigan enact:

Sec. 2c. As used in this act:

(a) “Authority” means the local community stabilization authority created under the local community stabilization authority act.

(b) “Basic school operating mills” means school operating mills used to calculate the state portion of a local school district’s foundation allowance under section 20 of the state school aid act of 1979, 1979 PA 94, MCL 388.1620, and levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, by a local school district that receives from this state a portion of its foundation allowance, as calculated under section 20(4) of the state school aid act of 1979, 1979 PA 94, MCL 388.1620.

(c) “Local community stabilization share” means the local community stabilization share tax described in section 3(5), authorized by the amendatory act that added this section, and included in the specific tax levied under section 3(1).

(d) “Personal property growth factor” means the average annual growth rate for industrial and commercial personal property taxable value from 1996 through 2012 rounded up to the nearest tenth of a percent, which is 1.0%.

(e) “State fiscal year” means the annual period fiscal beginning on October 1 of each year and ending on September 30 in the immediately succeeding year.

(f) “State share” means the state share tax described in section 3(5) and included in the specific tax levied under section 3(1).

Sec. 3. (1) There is levied upon and there shall be collected from every person in this state a specific tax, including both the local community stabilization share and the state share, for the privilege of using, storing, or consuming tangible personal property in this state at a total combined rate equal to 6% of the price of the property or services specified in section 3a or 3b. The tax levied under this act applies to a person who acquires tangible personal property or services that are subject to the tax levied under this act for any tax-exempt use who subsequently converts the tangible personal property or service to a taxable use, including an interim taxable use. If tangible personal property or services are converted to a taxable use, the tax levied under this act shall be imposed without regard to any subsequent tax-exempt use. Penalties and interest shall be added to the tax if applicable as provided in this act. For the purpose of the proper administration of this act and to prevent the evasion of the tax, all of the following shall be presumed:

(a) That tangible personal property purchased is subject to the tax if brought into this state within 90 days of the purchase date and is considered as acquired for storage, use, or other consumption in this state.

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

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

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

(2) The tax imposed by this section for the privilege of using, storing, or consuming a vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft shall be collected before the transfer of the vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft, except a transfer to a licensed dealer or retailer for purposes of resale that arises by reason of a transaction made by a person who does not transfer vehicles, ORVs, manufactured housing, aircraft, snowmobiles, or watercraft in the ordinary course of his or her business done in this state. The tax on a vehicle, ORV, snowmobile, and watercraft shall be collected by the secretary of state before the transfer of the vehicle, ORV, snowmobile, or watercraft registration. The tax on manufactured housing shall be collected by the department of licensing and regulatory affairs, mobile home commission, or its agent before the transfer of the certificate of title. The tax on an aircraft shall be collected by the department of treasury. The price tax base of a new or previously owned car or truck held for resale by a dealer and that is not exempt under section 4(1)(c) is the purchase price of the car or truck multiplied by 2.5% plus \$30.00 per month beginning with the month that the dealer uses the car or truck in a nonexempt manner.

(3) The following transfers or purchases are not subject to use tax:

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

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

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

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

(4) The department may utilize the services, information, or records of any other department or agency of state government or of the authority in the performance of its duties under this act, and other departments or agencies of state government and the authority are required to furnish those services, information, or records upon the request of the department.

(5) Beginning on October 1, 2015, the specific tax levied under subsection (1) includes both a state share tax levied by this state and a local community stabilization share tax authorized by the amendatory act that added section 2c and levied by the authority, which replaces the reduced state share at the following rates in each of the following state fiscal years:

(a) For fiscal year 2015-2016, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$96,100,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(b) For fiscal year 2016-2017, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$380,600,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(c) For fiscal year 2017-2018, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$410,500,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(d) For fiscal year 2018-2019, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$437,700,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(e) For fiscal year 2019-2020, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$465,900,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(f) For fiscal year 2020-2021, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$491,500,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(g) For fiscal year 2021-2022, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$521,300,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(h) For fiscal year 2022-2023, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$548,000,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(i) For fiscal year 2023-2024, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$561,700,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(j) For fiscal year 2024-2025, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$569,800,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(k) For fiscal year 2025-2026, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$571,400,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(l) For fiscal year 2026-2027, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$572,200,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(m) For fiscal year 2027-2028, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate \$572,600,000.00 in revenue and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(n) For fiscal year 2028-2029 and each fiscal year thereafter, the local community stabilization share tax rate to be levied by the authority is that rate calculated by the department of treasury on behalf of the authority sufficient to generate the amount distributed under this section in the immediately preceding year adjusted by the personal property growth factor and the state share tax rate is that rate determined by subtracting the local community stabilization share tax rate from 6%.

(6) The state share includes the portion of the use tax imposed at the additional rate of 2% approved by the electors of this state on March 15, 1994 and dedicated for aid to schools under section 21(2). The local community stabilization share does not include the portion of the use tax imposed at the additional rate of 2% approved by the electors of this state on March 15, 1994.

(7) The total combined rate of the tax levied by this state and the authority under this act, including both the state share, as reduced by the amendatory act that added this subsection, and the local community stabilization share, shall not exceed the constitutional limit of 6% under section 8 of article IX of the state constitution of 1963. The authority shall not increase any tax or tax rate, but is authorized to and shall levy the local community stabilization share at the rate provided in subsection (5).

Sec. 10a. The department shall administer under this act and under 1941 PA 122, MCL 205.1 to 205.31, the receipt and collection of the local community stabilization share on behalf of the authority as an agent of the authority. The department may enter into an agreement with the authority relating to the receipt and collection of the local community stabilization share and the payment of authority revenue generated by the local community stabilization share to the authority, which is dedicated to local purposes, including, but not limited to, police safety, fire protection, and ambulance emergency services.

Sec. 19. (1) The tax collected by the seller from the consumer or lessee under this act is for the benefit of this state, the authority, and the metropolitan areas of this state, including, but not limited to, local communities within the metropolitan areas. A person other than this state, the authority, and the metropolitan areas of this state shall not derive a benefit from the collection or payment of this tax.

(2) The legislature finds and declares that the purpose of the amendatory act that added this subsection is modernizing the tax system to help small businesses grow and create jobs in this state.

Sec. 21. (1) Except as provided in subsections (2), (3), and (4), all money received and collected under this act shall be deposited by the department of treasury in the state treasury to the credit of the general fund, to be disbursed only by appropriations by the legislature.

(2) The collections from the use tax imposed at the additional rate of 2% approved by the electors March 15, 1994 shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963.

(3) From the money received and collected under this act for the state share, an amount equal to all revenue lost under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and all revenue lost from basic school operating mills as a result of the exemption of personal property under sections 9m, 9n, and 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o, as determined by the department, shall be deposited into the state school aid fund established by section 11 of article IX of the state constitution of 1963. Funds deposited into the state school aid fund under this subsection shall not include the portion of the state share of the use tax imposed at the additional rate of 2% approved by the electors of this state on March 15, 1994 and dedicated for aid to schools under subsection (2).

(4) Money received and collected under this act for the local community stabilization share is not state funds, shall not be credited to the state treasury, and shall be transmitted to the authority for deposit in the treasury of the authority, to be disbursed by the authority only as authorized under the local community stabilization authority act. The local community stabilization share is a local tax, not a state tax, and money received and collected for the local community stabilization share is money of the authority and not money of this state.

Enacting section 1. This amendatory act does not take effect unless approved by a majority of the registered and qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014. Except as otherwise provided in this enacting section, this amendatory act shall be submitted to the registered and qualified electors of this state at that election as provided by the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, and for the purpose of complying with section 31 of article IX of the state constitution of 1963. Notwithstanding other law, when submitted to the registered and qualified electors of this state, this amendatory act shall be presented with the following question:

“APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS

The amendatory act adopted by the Legislature would:

1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan.
2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services.
3. Increase portion of state use tax dedicated for aid to local school districts.
4. Prohibit Authority from increasing taxes.
5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation.

Should this law be approved?

YES []

NO []

Enacting section 2. If approved by the registered and qualified electors of this state as provided in enacting section 1, this amendatory act takes effect January 1, 2015.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor