

# SENATE BILL No. 614

November 10, 2015, Introduced by Senator SCHMIDT and referred to the Committee on Commerce.

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending section 21 (MCL 205.111), as amended by 2014 PA 80, and  
by adding section 6c.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 6C. (1) BEGINNING WITH THE FIRST CALENDAR QUARTER  
2        FOLLOWING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
3        SECTION AND EACH CALENDAR QUARTER THEREAFTER, EVERY PERSON STORING,  
4        USING, OR CONSUMING AVIATION FUEL, THE STORAGE, USE, OR CONSUMPTION  
5        OF WHICH IS SUBJECT TO THE TAX IMPOSED BY THIS ACT WHEN THE TAX WAS  
6        NOT PAID TO A SELLER, AND EVERY SELLER COLLECTING THE TAX FROM THE  
7        PURCHASER FROM SALES OF AVIATION FUEL SHALL, ON OR BEFORE THE LAST  
8        DAY OF THE MONTH IN THE MONTH THAT IMMEDIATELY FOLLOWS THE END OF A  
9        CALENDAR QUARTER, FILE AN INFORMATIONAL REPORT WITH THE DEPARTMENT  
10       ON A FORM PRESCRIBED BY THE DEPARTMENT SHOWING ALL OF THE FOLLOWING

1 FOR THE IMMEDIATELY PRECEDING CALENDAR QUARTER:

2 (A) THE ENTIRE AMOUNT OF AVIATION FUEL SOLD OR PURCHASED, AS  
3 APPLICABLE.

4 (B) THE AMOUNT OF TAX FOR WHICH HE OR SHE IS LIABLE FROM THE  
5 PURCHASE OR SALE OF AVIATION FUEL.

6 (C) THE NUMBER OF GALLONS OF AVIATION FUEL SOLD OR PURCHASED,  
7 AS APPLICABLE, AT EACH AIRPORT AND THE PRICE FOR WHICH THOSE  
8 GALLONS OF AVIATION FUEL WERE SOLD OR PURCHASED, AS APPLICABLE.

9 (D) ANY OTHER INFORMATION THE DEPARTMENT CONSIDERS NECESSARY  
10 FOR THE PROPER ADMINISTRATION OF THIS ACT.

11 (2) THE REPORT REQUIRED UNDER THIS SECTION SHALL NOT INCLUDE  
12 ANY REMITTANCE FOR TAX AND DOES NOT CONSTITUTE A RETURN OR  
13 OTHERWISE ALLEVIATE THE PERSON'S OBLIGATIONS UNDER SECTION 6.

14 (3) A PERSON REQUIRED TO FILE THE INFORMATIONAL REPORT UNDER  
15 THIS SECTION THAT FAILS OR REFUSES TO FILE THE INFORMATIONAL REPORT  
16 WITHIN THE TIME AND IN THE MANNER SPECIFIED IN THIS SECTION SHALL  
17 BE LIABLE FOR A PENALTY OF \$10.00 PER DAY FOR EACH DAY FOR EACH  
18 SEPARATE FAILURE OR REFUSAL UP TO, BUT NOT EXCEEDING, A MAXIMUM  
19 PENALTY OF \$500.00 FOR EACH SEPARATE VIOLATION. THE DEPARTMENT MAY  
20 WAIVE THE PENALTY IF THE TAXPAYER DEMONSTRATES TO THE SATISFACTION  
21 OF THE DEPARTMENT THAT THE FAILURE TO FILE WAS DUE TO REASONABLE  
22 CAUSE.

23 (4) AS USED IN THIS SECTION, "AVIATION FUEL" MEANS FUEL AS  
24 THAT TERM IS DEFINED IN SECTION 4 OF THE AERONAUTICS CODE OF THE  
25 STATE OF MICHIGAN, 1945 PA 327, MCL 259.4.

26 Sec. 21. (1) Except as provided in subsections (2), (3), ~~and~~  
27 (4), AND (5), all money received and collected under this act shall

1 be deposited by the department of treasury in the state treasury to  
2 the credit of the general fund, to be disbursed only by  
3 appropriations by the legislature.

4 (2) ~~The~~ **SUBJECT TO SUBSECTION (5), THE** collections from the  
5 use tax imposed at the additional rate of 2% approved by the  
6 electors March 15, 1994 shall be deposited in the state school aid  
7 fund established in section 11 of article IX of the state  
8 constitution of 1963.

9 (3) From the money received and collected under this act for  
10 the state share, an amount equal to all revenue lost under the  
11 state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and  
12 all revenue lost from basic school operating mills as a result of  
13 the exemption of personal property under sections 9m, 9n, and 9o of  
14 the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and  
15 211.9o, as determined by the department, shall be deposited into  
16 the state school aid fund established by section 11 of article IX  
17 of the state constitution of 1963. Funds deposited into the state  
18 school aid fund under this subsection shall not include the portion  
19 of the state share of the use tax imposed at the additional rate of  
20 2% approved by the electors of this state on March 15, 1994 and  
21 dedicated for aid to schools under subsection (2).

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

1 stabilization share is a local tax, not a state tax, and money  
2 received and collected for the local community stabilization share  
3 is money of the authority and not money of this state.

4 (5) BEGINNING WITH THE FIRST CALENDAR QUARTER FOLLOWING THE  
5 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 6C AND EACH  
6 CALENDAR QUARTER THEREAFTER, FROM THE MONEY RECEIVED AND COLLECTED  
7 UNDER THIS ACT FOR THE STATE SHARE, AN AMOUNT EQUAL TO THE  
8 COLLECTIONS, FOR THE CALENDAR QUARTER THAT IS 2 CALENDAR QUARTERS  
9 IMMEDIATELY PRECEDING THE CURRENT CALENDAR QUARTER, OF THE TAX  
10 IMPOSED UNDER THIS ACT AT THE ADDITIONAL RATE OF 2% APPROVED BY THE  
11 ELECTORS ON MARCH 15, 1994 FROM THE USE, STORAGE, OR CONSUMPTION OF  
12 AVIATION FUEL SHALL BE DISTRIBUTED AS FOLLOWS:

13 (A) THIRTY-FIVE PERCENT OF THE COLLECTIONS OF THE TAX IMPOSED  
14 AT A RATE OF 2% ON THE USE, STORAGE, OR CONSUMPTION OF AVIATION  
15 FUEL SHALL BE DEPOSITED IN THE STATE AERONAUTICS FUND AND SHALL BE  
16 EXPENDED, ON APPROPRIATION, ONLY FOR THOSE PURPOSES AUTHORIZED IN  
17 THE AERONAUTICS CODE OF THE STATE OF MICHIGAN, 1945 PA 327, MCL  
18 259.1 TO 259.208.

19 (B) SIXTY-FIVE PERCENT OF THE COLLECTIONS OF THE TAX IMPOSED  
20 AT A RATE OF 2% ON THE USE, STORAGE, OR CONSUMPTION OF AVIATION  
21 FUEL SHALL BE DEPOSITED IN THE QUALIFIED AIRPORT FUND AND SHALL BE  
22 EXPENDED, ON APPROPRIATION, ONLY FOR THOSE PURPOSES AUTHORIZED  
23 UNDER SECTION 35(2) OF THE AERONAUTICS CODE OF THE STATE OF  
24 MICHIGAN, 1945 PA 327, MCL 259.35.

25 (6) THE DEPARTMENT SHALL, ON AN ANNUAL BASIS, RECONCILE THE  
26 AMOUNTS DISTRIBUTED UNDER SUBSECTION (5) DURING EACH FISCAL YEAR  
27 WITH THE AMOUNTS ACTUALLY COLLECTED FOR A PARTICULAR FISCAL YEAR

1 AND SHALL MAKE ANY NECESSARY ADJUSTMENTS, POSITIVE OR NEGATIVE, TO  
2 THE AMOUNTS TO BE DISTRIBUTED FOR THE NEXT SUCCESSIVE CALENDAR  
3 QUARTER.

4 (7) AS USED IN THIS SECTION:

5 (A) "AVIATION FUEL" MEANS FUEL AS THAT TERM IS DEFINED IN  
6 SECTION 4 OF THE AERONAUTICS CODE OF THE STATE OF MICHIGAN, 1945 PA  
7 327, MCL 259.4.

8 (B) "QUALIFIED AIRPORT FUND" MEANS THE QUALIFIED AIRPORT FUND  
9 CREATED IN SECTION 34(2) OF THE AERONAUTICS CODE OF THE STATE OF  
10 MICHIGAN, 1945 PA 327, MCL 259.34.

11 (C) "STATE AERONAUTICS FUND" MEANS THE STATE AERONAUTICS FUND  
12 CREATED IN SECTION 34(1) OF THE AERONAUTICS CODE OF THE STATE OF  
13 MICHIGAN, 1945 PA 327, MCL 259.34.

14 Enacting section 1. This amendatory act takes effect 90 days  
15 after the date it is enacted into law.

16 Enacting section 2. This amendatory act does not take effect  
17 unless all of the following bills of the 98th Legislature are  
18 enacted into law:

19 (a) Senate Bill No. 418.

20 (b) Senate Bill No. 425.

21 (c) Senate Bill No. 426.

22 (d) Senate Bill No. 613.

23  
24 (e) Senate Bill No. 612.