

SENATE BILL No. 546

June 4, 2003, Introduced by Senator GARCIA and referred to the Committee on Local, Urban and State Affairs.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 3 and 4g (MCL 205.93 and 205.94g), section 3
as amended by 2002 PA 669 and section 4g as added by 1985 PA 66.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) There is levied upon and there shall be
2 collected from every person in this state a specific tax for the
3 privilege of using, storing, or consuming tangible personal
4 property in this state at a rate equal to 6% of the price of the
5 property or services specified in section 3a or 3b. Penalties
6 and interest shall be added to the tax if applicable as provided
7 in this act. For the purpose of the proper administration of
8 this act and to prevent the evasion of the tax, it is presumed
9 that tangible personal property purchased is subject to the tax
10 if brought into the state within 90 days of the purchase date and

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1 is considered as acquired for storage, use, or other consumption
2 in this state. Beginning April 1, 2003, as used in this
3 subsection and section 4(1)(a), the term "price" means, with
4 respect to diesel fuel used by interstate motor carriers in a
5 qualified commercial motor vehicle, the statewide average retail
6 price of a gallon of self-serve diesel fuel as determined and
7 certified quarterly by the department, rounded down to the
8 nearest 1/10 of a cent. This use tax on diesel fuel used by
9 interstate motor carriers in a qualified commercial motor vehicle
10 shall be collected under the international fuel tax agreement.

11 (2) The tax imposed by this section for the privilege of
12 using, storing, or consuming a vehicle, ORV, manufactured
13 housing, aircraft, snowmobile, or watercraft shall be collected
14 before the transfer of the vehicle, ORV, manufactured housing,
15 aircraft, snowmobile, or watercraft, except a transfer to a
16 licensed dealer or retailer for purposes of resale that arises by
17 reason of a transaction made by a person who does not transfer
18 vehicles, ORVs, manufactured housing, aircraft, snowmobiles, or
19 watercraft in the ordinary course of his or her business done in
20 this state. The tax on a vehicle, ORV, snowmobile, and
21 watercraft shall be collected by the secretary of state before
22 the transfer of the vehicle, ORV, snowmobile, or watercraft
23 registration. The tax on manufactured housing shall be collected
24 by the department of consumer and industry services, ~~mobile~~
25 ~~home~~ **manufactured housing** commission, or its agent before the
26 transfer of the certificate of title. The tax on an aircraft
27 shall be collected by the department of treasury.

1 Notwithstanding any limitation contained in section 2 and except
2 as provided in this subsection, the price tax base of any
3 vehicle, ORV, manufactured housing, aircraft, snowmobile, or
4 watercraft subject to taxation under this act shall be not less
5 than its retail dollar value at the time of acquisition as fixed
6 pursuant to rules promulgated by the department. The price tax
7 base of a new or previously owned car or truck held for resale by
8 a dealer and that is not exempt under section 4(1)(c) is the
9 purchase price of the car or truck multiplied by 2.5% plus \$30.00
10 per month beginning with the month that the dealer uses the car
11 or truck in a nonexempt manner.

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

14 (a) A transaction or a portion of a transaction if the
15 transferee or purchaser is the **transferor's** spouse, mother,
16 father, brother, sister, child, stepparent, stepchild,
17 stepbrother, stepsister, grandparent, grandchild, legal ward, or
18 ~~a~~ legally appointed guardian with a certified letter of
19 guardianship. ~~—, of the transferor.~~

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

23 (c) If a vehicle, ORV, manufactured housing, aircraft,
24 snowmobile, or watercraft that has once been subjected to the
25 Michigan sales or use tax is transferred in connection with the
26 organization, reorganization, dissolution, or partial liquidation
27 of an incorporated or unincorporated business and the beneficial

1 ownership is not changed.

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

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

15 Sec. 4g. (1) The tax levied ~~shall~~ **does** not apply to
16 property purchased from a seller or transferor if the property is
17 part of the purchase or transfer of a business.

18 (2) The exemption provided by this section ~~shall~~ **does** not
19 apply to all of the following:

20 (a) The purchase or transfer of tangible personal property
21 that is stock-in-trade or other property of a kind ~~which~~ **that**
22 would properly be included in the inventory of the seller or
23 transferor if on hand at the close of the seller's or
24 transferor's tax period or property held by the seller or
25 transferor for sale to customers in the ordinary course of its
26 trade or business.

27 (b) The purchase or transfer of a motor vehicle, ORV, ~~mobile~~

1 ~~home-~~ **manufactured housing**, aircraft, snowmobile, or watercraft.

2 (3) As used in this section, "purchase or transfer of a
3 business" means 1 or more of the following:

4 (a) The purchaser or transferee has acquired and intends to
5 use the seller's or transferor's trade name or good will.

6 (b) The purchaser or transferee intends to continue all or
7 part of the business of the seller or transferor at the same
8 location or at another location.

9 (c) The purchaser or transferee acquired at least 75% of the
10 seller's or transferor's tangible personal property at 1 or more
11 of the seller's or transferor's business locations.

12 Enacting section 1. This amendatory act does not take
13 effect unless Senate Bill No. 544

14 of the 92nd Legislature is enacted into
15 law.