



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 1001 (Substitute S-1 as reported)
Senate Bill 1003 (Substitute S-1 as reported)
House Bill 5463 (Substitute S-1 as reported)
House Bill 5653 (Substitute S-1 as reported)
Sponsor: Senator Bill Hardiman (S.B. 1001)
Senator Tom George (S.B. 1003)
Representative David Robertson (H.B. 5463)
Representative Mike Nofs (H.B. 5653)
Committee: Finance

Date Completed: 6-17-04

RATIONALE

Michigan residents who receive used vehicles from charities and the Family Independence Agency (FIA) free of charge are required to pay the State's use tax when the vehicles are registered to them. According to a 2001 Michigan Court of Appeals decision (*Morman v Treasury*, Docket No. 222585), the State's 6% use tax applies to gratuitous transfers unless the transfer is specifically exempt. The transfer of an automobile from a charity to a recipient is not exempt, however. Since the amount of the use tax is based upon the donated vehicle's value, the recipient of a donated car, who is usually in a difficult financial position, sometimes must come up with hundreds of dollars to cover the use tax payment. In addition, if a charitable organization sells an automobile to a person, the organization is liable for the sales tax (unless the charity is exempt). Some people believe that the donation or sale of vehicles from charitable organizations to qualified recipients should not be subject to taxation.

It also has been suggested that the State should encourage the donation of used vehicles to these organizations by providing tax relief to the individuals and businesses that donate their vehicles.

CONTENT

Senate Bills 1001 (S-1) and 1003 (S-1), and House Bills 5463 (S-1) and 5653 (S-1) would amend the Use Tax Act, the

Income Tax Act, the Single Business Tax Act, and the General Sales Tax Act, respectively, to provide for a tax exemption or credit for the donation of an "eligible automobile" to a "qualified organization" or the FIA, and for the donation or sale of an eligible automobile to a "qualified recipient".

The Senate bills and House Bill 5463 (S-1) are tie-barred to House Bill 5653.

Senate Bill 1001 (S-1)

The bill provides that, beginning January 1, 2005, the use tax would not apply to the storage, use, or consumption of an eligible automobile provided to a qualified recipient by the Family Independence Agency or by a qualified organization.

The bill would define "eligible automobile" as an automobile that: had been inspected by a mechanic certified under the Motor Vehicle Service and Repair Act; was insured as required under State law; and was registered to a qualified recipient.

"Qualified organization" would mean an organization that applied for certification by July 1 of the year in which the exemption was claimed and was certified by the Department of Treasury as meeting all of the following requirements:

- Was exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.
- Was licensed under the Charitable Organizations and Solicitations Act.
- Administered a program to provide a qualified recipient with an eligible automobile for transportation to his or her place of employment for employment-related activities.

“Qualified recipient” would mean a person certified by a qualified organization as meeting all of the following qualifications:

- Received public assistance through a program created and administered under the Social Welfare Act, or would be eligible for public assistance if he or she applied.
- Had a valid Michigan operator’s or chauffeur’s license.
- Was financially capable of meeting any loan payment, insurance payment, or other expenditure associated with the eligible vehicle.
- Had a demonstrated ability to maintain employment.

Also, if public transportation were not reasonably available to the qualified recipient, he or she would have to have no other reliable means by which to commute to his or her place of employment, and would use the eligible vehicle as his or her primary means of transportation to commute to and from his or her place of employment.

In addition, if the qualified recipient were currently employed for at least an average of 20 hours a week, he or she would have to need an automobile to retain his or her current employment or to accept a verified offer of employment in a position that was demonstrably superior to his or her current position. If the qualified recipient were not currently employed or were employed less than an average of 20 hours per week, he or she would have to need an automobile to accept a verified offer of employment of at least an average of 20 hours per week, which he or she could not begin without an automobile.

Senate Bill 1003 (S-1) & House Bill 5463 (S-1)

The bills would allow a taxpayer to claim a credit against the income tax or the single business tax, as applicable, subject to the

applicable limitations provided the bills, in an amount equal to 50% of the fair market value of an automobile donated by the taxpayer to a qualified organization that intended to provide the automobile to a qualified recipient. The credit would be available for tax years beginning after December 31, 2004, and before January 1, 2010. The value of the passenger vehicle would be determined by the qualified organization or by the value of the automobile in the appropriate guide published by the National Automobile Association Appraisal Guide, whichever was less.

Under the bills, “qualified organization” and “qualified recipient” would mean those terms as defined in Senate Bill 1001 (S-1).

For a taxpayer other than a resident estate or trust, the amount allowable as an income tax credit for a tax year could not exceed \$50, or for a husband and wife filing a joint return, \$100. The amount allowable as a single business tax credit could not exceed \$100 for a tax year. Should either credit exceed the tax liability of the taxpayer for the tax year, the excess amount could not be refunded.

House Bill 5653 (S-1)

The bill would allow a qualified organization subject to the sales tax to exclude the sale of an eligible automobile to a qualified recipient from the gross proceeds used to determine the organization’s sales tax liability, beginning January 1, 2005.

The bill would define “eligible automobile”, “qualified organization”, and “qualified recipient” in the same way the terms would be defined by Senate Bill 1001 (S-1).

- Proposed MCL 205.94y (S.B. 1001)
- Proposed MCL 206.269 (S.B. 1003)
- Proposed MCL 208.37g (H.B. 5463)
- Proposed MCL 205.54bb (H.B. 5653)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

A significant number of Michigan’s poor residents do not own cars and live in areas

that are not served by public transportation or where it is impractical to take public transportation to work. Often these individuals live in areas where jobs are available but cannot take the jobs or are unable to move to better-paying employment because they lack the necessary means to get to those jobs. Several Michigan charities have stepped in to help these residents by refurbishing donated vehicles and providing them, for little or no charge, to those who demonstrate a need, an ability to hold down a job, and the financial resources to pay for the vehicle's registration, insurance, and maintenance. By providing a use tax exemption for the transfer of an automobile donated by a qualified charity to a qualified recipient, Senate Bill 1001 (S-1) would remove one of the financial burdens associated with receiving the vehicle and make it easier for the qualified recipients to find and retain work. House Bill 5653 (S-1) also would ensure that a charity would not have to pay the sales tax on a vehicle that it sold to a qualified recipient.

Response: Most of the charities currently providing vehicles to the State's disadvantaged residents furnish them both to the working poor and to those unable to work due to health issues, who need the vehicles to get to and from their doctors' appointments or therapy. The proposed tax exemptions also should be available when vehicles are provided to residents unable to work due to health issues.

Supporting Argument

Senate Bill 1003 (S-1) and House Bill 5453 (S-1) would help to provide an incentive for individuals and businesses to donate their vehicles to a qualified charity, by giving them a credit against their State income tax or single business tax. By helping Michigan residents find work or move to better jobs, the charities also benefit the State, which receives tax revenue paid by the newly employed recipients of the vehicles.

Legislative Analyst: J.P. Finet
Suzanne Lowe

FISCAL IMPACT

Senate Bill 1001 (S-1)

This bill would reduce use tax revenue an estimated \$0.2 million in FY 2004-05 and \$0.3 million on a full-year basis beginning in FY 2005-06. This loss in use tax revenue,

on a full-year basis, would reduce General Fund/General Purpose revenue by \$0.2 million and School Aid Fund revenue by \$0.1 million. The bill would not have any direct impact on local government.

Senate Bill 1003 (S-1)

This bill would reduce income tax revenue an estimated \$0.1 million in FY 2004-05 and \$0.15 million on a full-year basis beginning in FY 2005-06. This loss in revenue would affect the General Fund/General Purpose budget. The bill would not have any direct impact on local government.

House Bill 5463 (S-1)

This bill would reduce single business tax revenue an estimated \$0.15 million in FY 2004-05 and \$0.2 million on a full-year basis beginning in FY 2005-06. This loss in revenue would affect the General Fund/General Purpose budget. The bill would not have any direct impact on local government.

House Bill 5653 (S-1)

This bill would reduce sales tax revenue an estimated \$0.15 million in FY 2004-05 and \$0.2 million on a full-year basis beginning in FY 2005-06. This loss in revenue would primarily affect the School Aid Fund and revenue sharing.

Fiscal Analyst: Jay Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.