

SUBSTITUTE FOR
HOUSE BILL NO. 4383

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 3a (MCL 205.93a), as amended by 2004 PA 172.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3a. (1) The use or consumption of the following is taxed
2 under this act in the same manner as tangible personal property is
3 taxed under this act:

4 (a) Except as provided in section 3b, intrastate telephone,
5 telegraph, leased wire, and other similar communications, including
6 local telephone exchange and long distance telephone service that
7 both originates and terminates in Michigan, and telegraph, private
8 line, and teletypewriter service between places in Michigan, but
9 excluding telephone service by coin-operated installations,
10 switchboards, concentrator-identifiers, interoffice circuitry and

1 their accessories for telephone answering service, and directory
2 advertising proceeds.

3 (b) Rooms or lodging furnished by hotelkeepers, motel
4 operators, and other persons furnishing accommodations that are
5 available to the public on the basis of a commercial and business
6 enterprise, irrespective of whether or not membership is required
7 for use of the accommodations, except rooms and lodging rented for
8 a continuous period of more than 1 month. As used in this act,
9 "hotel" or "motel" means a building or group of buildings in which
10 the public may obtain accommodations for a consideration,
11 including, without limitation, such establishments as inns, motels,
12 tourist homes, tourist houses or courts, lodging houses, rooming
13 houses, nudist camps, apartment hotels, resort lodges and cabins,
14 camps operated by other than nonprofit organizations but not
15 including those licensed under 1973 PA 116, MCL 722.111 to 722.128,
16 and any other building or group of buildings in which
17 accommodations are available to the public, except accommodations
18 rented for a continuous period of more than 1 month and
19 accommodations furnished by hospitals or nursing homes.

20 (c) Except as provided in section 3b, interstate telephone
21 communications that either originate or terminate in this state and
22 for which the charge for the service is billed to a Michigan
23 service address or phone number by the provider either within or
24 outside this state, including calls between this state and any
25 place within or without the United States of America outside of
26 this state. ~~However, if the tax under this act is levied at a rate~~
27 ~~of 6% THIS SUBDIVISION DOES NOT APPLY TO AN 800 PREFIX SERVICE OR~~

1 **SIMILAR TYPE SERVICE. BEFORE JUNE 1, 2007,** this subdivision does
2 not apply to a wide area telecommunication service or a similar
3 type service, ~~an 800 prefix service or similar type service,~~ an
4 interstate private network and related usage charges, or an
5 international call either inbound or outbound. **BEGINNING JUNE 1,**
6 **2007, A WIDE AREA TELECOMMUNICATION SERVICE OR A SIMILAR TYPE**
7 **SERVICE, AN INTERSTATE PRIVATE NETWORK AND RELATED USAGE CHARGES,**
8 **OR AN INTERNATIONAL CALL EITHER INBOUND OR OUTBOUND IS TAXED UNDER**
9 **THIS ACT IN THE SAME MANNER AS INTERSTATE TELEPHONE COMMUNICATIONS.**

10 (d) The laundering or cleaning of textiles under a sale,
11 rental, or service agreement with a term of at least 5 days. This
12 subdivision does not apply to the laundering or cleaning of
13 textiles used by a restaurant or retail sales business. As used in
14 this subdivision, "restaurant" means a food service establishment
15 defined and licensed under the food law of 2000, 2000 PA 92, MCL
16 289.1101 to 289.8111.

17 (e) The transmission and distribution of electricity, whether
18 the electricity is purchased from the delivering utility or from
19 another provider, if the sale is made to the consumer or user of
20 the electricity for consumption or use rather than for resale.

21 (f) For a manufacturer who affixes its product to real estate
22 and maintains an inventory of its product that is available for
23 sale to others by publication or price list, the direct production
24 costs and indirect production costs of the product affixed to the
25 real estate that are incident to and necessary for production or
26 manufacturing operations or processes, as defined by the
27 department.

1 (g) For a manufacturer who affixes its product to real estate
2 but does not maintain an inventory of its product available for
3 sale to others or make its product available for sale to others by
4 publication or price list, the sum of the materials cost of the
5 property and the cost of labor to manufacture, fabricate, or
6 assemble the property, but ~~does not include~~ the cost of labor to
7 cut, bend, assemble, or attach the property at the site for
8 affixation to real estate.

9 (2) If charges for intrastate telecommunications services or
10 telecommunications services between this state and another state
11 and other billed services not subject to the tax under this act are
12 aggregated with and not separately stated from charges for
13 telecommunications services that are subject to the tax under this
14 act, the nontaxable telecommunications services and other
15 nontaxable billed services are subject to the tax under this act
16 unless the service provider can reasonably identify charges for
17 telecommunications services not subject to the tax under this act
18 from its books and records that are kept in the regular course of
19 business.

20 (3) If charges for intrastate telecommunications services or
21 telecommunications services between this state and another state
22 and other billed services not subject to the tax under this act are
23 aggregated with and not separately stated from telecommunications
24 services that are subject to the tax under this act, a customer may
25 not rely upon the nontaxability of those telecommunications
26 services and other billed services unless the customer's service
27 provider separately states the charges for nontaxable

1 telecommunications services and other nontaxable billed services
2 from taxable telecommunications services or the service provider
3 elects, after receiving a written request from the customer in the
4 form required by the provider, to provide verifiable data based
5 upon the service provider's books and records that are kept in the
6 regular course of business that reasonably identify the nontaxable
7 services.

8 (4) As used in this section:

9 (a) "Fabricate" means to modify or prepare tangible personal
10 property for affixation or assembly.

11 (b) "Manufacture" means to convert or condition tangible
12 personal property by changing the form, composition, quality,
13 combination, or character of the property.

14 (c) "Manufacturer" means a person who manufactures,
15 fabricates, or assembles tangible personal property.