

USE TAX ACT (EXCERPT)
Act 94 of 1937

***** 205.93.amended[2] THIS AMENDED SECTION IS EFFECTIVE WHEN THE CONDITIONS APPLIED BY ENACTING SECTION 1 OF ACT 81 OF 2014 ARE MET: See enacting section 1 of Act 81 of 2014 *****

205.93.amended[2] Total tax rate; applicability to tangible personal property or services; conversion to taxable use; penalties and interest; presumption; collection; price tax base; exemptions; services, information, or records; state component tax; metropolitan areas component tax; rates; total combined rate; limitation.

Sec. 3. (1) There is levied upon and there shall be collected from every person in this state a specific tax for the privilege of using, storing, or consuming tangible personal property in this state at a total 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 component tax levied by this state and a metropolitan areas component tax levied by the authority at the following rates in each of the following state fiscal years:

(a) For fiscal year 2015-2016, the metropolitan areas component rate is that rate calculated by the department of treasury sufficient to generate \$41,700,000.00 in revenue and the state component rate is that rate determined by subtracting the metropolitan areas component rate from 6%.

(b) For fiscal year 2016-2017, the metropolitan areas component rate is that rate calculated by the department of treasury sufficient to generate \$257,500,000.00 in revenue and the state component rate is that rate determined by subtracting the metropolitan areas component rate from 6%.

(c) For fiscal year 2017-2018, the metropolitan areas component rate is that rate calculated by the department of treasury sufficient to generate \$277,100,000.00 in revenue and the state component rate is that rate determined by subtracting the metropolitan areas component rate from 6%.

(d) For fiscal year 2018-2019, the metropolitan areas component rate is that rate calculated by the department of treasury sufficient to generate \$293,800,000.00 in revenue and the state component rate is that rate determined by subtracting the metropolitan areas component rate from 6%.

(e) For fiscal year 2019-2020, the metropolitan areas component rate is that rate calculated by the department of treasury sufficient to generate \$311,300,000.00 in revenue and the state component rate is that rate determined by subtracting the metropolitan areas component rate from 6%.

(f) For fiscal year 2020-2021, the metropolitan areas component rate is that rate calculated by the department of treasury sufficient to generate \$326,800,000.00 in revenue and the state component rate is that rate determined by subtracting the metropolitan areas component rate from 6%.

(g) For fiscal year 2021-2022, the metropolitan areas component rate is that rate calculated by the department of treasury sufficient to generate \$345,200,000.00 in revenue and the state component rate is that rate determined by subtracting the metropolitan areas component rate from 6%.

(h) For fiscal year 2022-2023, the metropolitan areas component rate is that rate calculated by the department of treasury sufficient to generate \$362,400,000.00 in revenue and the state component rate is that rate determined by subtracting the metropolitan areas component rate from 6%.

(i) For fiscal year 2023-2024 and each fiscal year thereafter, the metropolitan areas component rate is that rate calculated by the department of treasury sufficient to generate the amount distributed under this section in the immediately preceding year adjusted by an industrial and commercial personal property growth factor calculated by the department of treasury and the state component rate is that rate determined by subtracting the metropolitan areas component rate from 6%.

(6) The state component 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 metropolitan areas component 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 component and the metropolitan areas component, shall not exceed 6%.

History: 1937, Act 94, Eff. Oct. 29, 1937;—Am. 1949, Act 273, Eff. July 1, 1949;—Am. 1953, Act 211, Eff. Oct. 2, 1953;—Am. 1957, Act 167, Imd. Eff. May 29, 1957;—Am. 1959, Act 263, Eff. Sept. 1, 1959;—Am. 1959, Act 272, Eff. Jan. 1, 1960;—Am. 1960, 2nd Ex. Sess., Act 2, Eff. Jan. 1, 1961;—Am. 1962, Act 219, Eff. July 1, 1962;—Am. 1964, Act 48, Eff. Aug. 28, 1964;—Am. 1971, Act 51, Eff. Sept. 1, 1971;—Am. 1982, Act 219, Eff. Jan. 1, 1984;—Am. 1982, Act 478, Imd. Eff. Dec. 30, 1982;—Am. 1984, Act 178, Imd. Eff. July 3, 1984;—Am. 1990, Act 86, Eff. June 6, 1990;—Am. 1993, Act 326, Eff. May 1, 1994;—Am. 1995, Act 67, Imd. Eff. May 31, 1995;—Am. 1999, Act 117, Imd. Eff. July 14, 1999;—Am. 2002, Act 110, Imd. Eff. Mar. 27, 2002;—Am. 2002, Act 456, Imd. Eff. June 21, 2002;—Am. 2002, Act 511, Imd. Eff. July 23, 2002;—Am. 2002, Act 669, Eff. Mar. 31, 2003;—Am. 2003, Act 27, Eff. Mar. 30, 2004;—Am. 2004, Act 172, Eff. Sept. 1, 2004;—Am. 2007, Act 103, Eff. Sept. 30, 2002;—Am. 2012, Act 408, Eff. (pending).

Compiler's note: Enacting section 1 of Act 117 of 1999 provides:

"Enacting section 1. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, the tax levied does not apply to the price of property or services to the extent that the property or services are stored, used, or consumed for exempt purposes. For telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides for a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

Enacting sections 1 and 2 of 2007 PA 103 provide:

"Enacting section 1. It is the intent of the legislature that this amendatory act clarify that a person who acquires tangible personal property for a purpose exempt under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, who subsequently converts that property to a use taxable under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, is liable for the tax levied under the use tax act, 1937 PA 94,

MCL 205.91 to 205.111.

"Enacting section 2. This amendatory act is curative and intended to prevent any misinterpretation of the ability of a taxpayer to claim an exemption from the tax levied under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, based on the purchase of tangible personal property or services for resale that may result from the decision of the Michigan court of appeals in Betten Auto Center, Inc v Department of Treasury, No. 265976, as affirmed by the Michigan Supreme Court. This amendatory act is retroactive and is effective beginning September 30, 2002 and for all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

Enacting section 1 of Act 408 of 2012 provides:

"Enacting section 1. This amendatory act does not take effect unless approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014. This amendatory act shall be submitted to the qualified electors of this state at that election as provided by the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. When submitted to the qualified electors of this state, this amendatory act shall be presented with the following question:

"APPROVAL OR DISAPPROVAL OF THE AMENDATORY ACT DEDICATING A PORTION OF USE TAX REVENUE TO BENEFIT METROPOLITAN AREAS THROUGHOUT THIS STATE

The amendatory act adopted by the Legislature would:

1. Dedicate a portion of the existing state use tax as a local tax levied by a new metropolitan areas authority.
2. Distribute revenue from that local tax throughout the state for local purposes, including police and fire protection.
3. Increase that portion of the state use tax currently dedicated for aid to schools.
4. Prohibit the total use tax rate from exceeding the constitutional limit of 6%.

Should this amendatory act be approved?

YES []

NO []"

Enacting section 2 of Act 408 of 2012 provides:

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

Enacting section 1 of Act 81 of 2014 provides:

"Enacting section 1. This amendatory act, 2012 PA 408, does not take effect unless approved by a majority of the qualified electors of this state voting on the question at an election. If Senate Bill No. 822 of the 97th Legislature is enacted and submitted to the qualified electors of this state at the August regular election date in 2014, this amendatory act, 2012 PA 408, shall not be submitted to the qualified electors of this state. If Senate Bill No. 822 of the 97th Legislature is not enacted and not submitted to the qualified electors of this state at the August regular election date in 2014, this amendatory act, 2012 PA 408, shall be submitted to the qualified electors of this state at that election as provided by the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. When submitted to the qualified electors of this state, this amendatory act, 2012 PA 408, shall be presented with the following question:

"APPROVAL OR DISAPPROVAL OF 2012 PA 408, AN AMENDATORY ACT DEDICATING A PORTION OF USE TAX REVENUE TO BENEFIT METROPOLITAN AREAS THROUGHOUT THIS STATE

2012 PA 408 would:

1. Dedicate a portion of the existing state use tax as a local tax levied by a new metropolitan areas authority.
2. Distribute revenue from that local tax throughout the state for local purposes, including police and fire protection.
3. Increase that portion of the state use tax currently dedicated for aid to schools.
4. Prohibit the total use tax rate from exceeding the constitutional limit of 6%.

Should this amendatory act be approved?

YES []

NO []"

Enacting 2 of Act 81 of 2014 provides:

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