



**House  
Legislative  
Analysis  
Section**

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**TAXES ON AIRCRAFT PURCHASED  
TO BE LEASED OR RENTED OUT**

**House Bill 4507 as enrolled  
Public Act 255 of 2002  
Second Analysis (7-11-02)**

**Sponsor: Rep. Larry DeVuyst  
House Committee: Tax Policy  
Senate Committee: Finance**

***THE APPARENT PROBLEM:***

The General Sales Tax Act and the Use Tax Act, taken together, allow a person or business entity engaged in the business of renting out or leasing tangible personal property the option of paying the sales tax on the property at the time of its purchase or paying the use tax on rental receipts. The issue of when and how this election is to be made to the Department of Treasury has reportedly been a vexing one for some time. According to testimony before the House Tax Policy Committee, in one recent case a businessperson in Michigan acquired a plane out of state to be leased for commercial use within the state. (This was said to be a first-time venture.) For a variety of reasons, however, including meeting federal licensing requirements, there was a delay in putting the plane into service and in notifying the state of the owner's intent to pay tax on the lease receipts rather than on the purchase price of the plane. The owner apparently should have notified state tax officials (and obtained a use tax registration) prior to the purchase, and the treasury department said the owner was obligated as a result to pay the tax on the purchase price of the plane. Legislation has been introduced to address this area of the tax law.

***THE CONTENT OF THE BILL:***

The bill would amend the Use Tax Act to specify that a lessor (a person or entity that conveys property by lease) could elect to pay use tax on receipts from the rental or lease of tangible personal property in lieu of paying the sales or use tax on the full cost of the property at the time of its acquisition. However, in order to make a valid election for tax years beginning after December 31, 2001, in cases in which the property was an aircraft, the lessor would have to obtain a use tax registration by the earlier of 1) the date set for the first payment of use tax under the lease or rental agreement or 2) 90 days after first bringing the aircraft into the state.

MCL 205.95

***BACKGROUND INFORMATION:***

Rule 205.132 of the General and Specific Sales and Use Tax Rules currently says: "A person engaged in the business of renting or leasing tangible personal property to others shall pay the Michigan sales or use tax at the time he purchases tangible personal property, or he may report and pay use tax on the rental receipts from the rental thereof. A person remitting tax on the purchase price as a purchaser-consumer or remitting tax on rental receipts as a lessor, shall follow one or the other methods of remitting for his entire business operation. A person remitting tax on rental receipts shall be the holder of a sales tax license, or a registration as is provided in the Use Tax Act."

The definition of "sale at retail" in the General Sales Tax Act (at MCL 205.51) exempts sales of tangible property to persons for the purpose of resale or for lease, if the rental receipts are taxable under the Use Tax Act . . . The definition of "price" in the Use Tax Act (at MCL 205.92) contains the provision that the use tax shall not be computed or collected on rental receipts if the tangible personal property rented or leased has previously been subjected to a sales or use tax when purchased by the lessor.

***FISCAL IMPLICATIONS:***

The Senate Fiscal Agency reports that the bill would have no fiscal impact on the state or on local government. (SFA floor analysis dated 3-5-02)

***ARGUMENTS:***

***For:***

The bill provides clarification regarding when a decision needs to be made regarding whether a lessor will pay sales or use tax at the time of purchasing aircraft or instead pay the use tax on the receipts from renting or leasing the aircraft. Proponents say the Department of Treasury has admitted that this has been a problem area. Except in the case of aircraft, a

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purchaser of property would have to obtain the necessary use tax registration before acquiring the property that it intends to lease. However, the bill allows a purchaser of an aircraft 90 days after bringing the aircraft into the state (or the date set for the first payment of use tax, whichever was earlier) to obtain the necessary registration. Tax specialists say aircraft are a special case because of the various federal requirements that must be met before putting a plane in service.

Analyst: C. Couch

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.