

HOUSE BILL No. 4952

June 16, 2005, Introduced by Rep. Miller and referred to the Committee on Tax Policy.

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,

1 switchboards, concentrator-identifiers, interoffice circuitry and
2 their accessories for telephone answering service, and directory
3 advertising proceeds.

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

21 (c) Except as provided in section 3b, interstate telephone
22 communications that either originate or terminate in this state and
23 for which the charge for the service is billed to a Michigan
24 service address or phone number by the provider either within or
25 outside this state, including calls between this state and any
26 place within or without the United States of America outside of
27 this state. However, ~~if the tax under this act is levied at a rate~~

1 ~~of 6%~~ **BEFORE OCTOBER 1, 2005**, this subdivision does not apply to a
2 wide area telecommunication service or a similar type service, an
3 800 prefix service or similar type service, an interstate private
4 network and related usage charges, or an international call either
5 inbound or outbound. **BEGINNING OCTOBER 1, 2005, A WIDE AREA**
6 **TELECOMMUNICATION SERVICE OR A SIMILAR TYPE SERVICE, AN 800 PREFIX**
7 **SERVICE OR SIMILAR TYPE SERVICE, AN INTERSTATE PRIVATE NETWORK AND**
8 **RELATED USAGE CHARGES, OR AN INTERNATIONAL CALL EITHER INBOUND OR**
9 **OUTBOUND IS TAXED UNDER THIS ACT IN THE SAME MANNER AS INTERSTATE**
10 **TELEPHONE COMMUNICATIONS.**

11 (d) The laundering or cleaning of textiles under a sale,
12 rental, or service agreement with a term of at least 5 days. This
13 subdivision does not apply to the laundering or cleaning of
14 textiles used by a restaurant or retail sales business. As used in
15 this subdivision, "restaurant" means a food service establishment
16 defined and licensed under the food law of 2000, 2000 PA 92, MCL
17 289.1101 to 289.8111.

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

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

1 department.

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

10 (H) BEGINNING OCTOBER 1, 2005, THE PURCHASE, LEASE, OR RENTAL
11 OF A COPYRIGHTED MOTION PICTURE FILM OR OTHER CHARGES FOR THE RIGHT
12 TO USE A COPYRIGHTED MOTION PICTURE FILM.

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

24 (3) If charges for intrastate telecommunications services or
25 telecommunications services between this state and another state
26 and other billed services not subject to the tax under this act are
27 aggregated with and not separately stated from telecommunications

1 services that are subject to the tax under this act, a customer may
2 not rely upon the nontaxability of those telecommunications
3 services and other billed services unless the customer's service
4 provider separately states the charges for nontaxable
5 telecommunications services and other nontaxable billed services
6 from taxable telecommunications services or the service provider
7 elects, after receiving a written request from the customer in the
8 form required by the provider, to provide verifiable data based
9 upon the service provider's books and records that are kept in the
10 regular course of business that reasonably identify the nontaxable
11 services.

12 (4) As used in this section:

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

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

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