

# HOUSE BILL No. 5164

September 13, 2005, Introduced by Reps. Robertson, Taub, Marleau, Green, David Law, Gosselin, Shaffer, Nitz, Baxter, Amos, Rocca, Hoogendyk, Gonzales, Garfield, Kahn and Vander Veen and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending section 1 (MCL 205.51), as amended by 2004 PA 173.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. (1) As used in this act:  
2           (a) "Person" means an individual, firm, partnership, joint  
3 venture, association, social club, fraternal organization,  
4 municipal or private corporation whether organized for profit or  
5 not, company, estate, trust, receiver, trustee, syndicate, the  
6 United States, this state, county, or any other group or  
7 combination acting as a unit, and includes the plural as well as  
8 the singular number, unless the intention to give a more limited  
9 meaning is disclosed by the context.

1 (b) "Sale at retail" or "retail sale" means a sale, lease, or  
2 rental of tangible personal property for any purpose other than for  
3 resale, sublease, or subrent.

4 (c) "Gross proceeds" means ~~sales price~~. **THE FOLLOWING:**

5 (i) **EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (ii), THE SALES**  
6 **PRICE.**

7 (ii) **IF A MOTOR VEHICLE IS USED AS PART PAYMENT IN A TAXABLE**  
8 **SALE AT RETAIL OF ANOTHER MOTOR VEHICLE, THE GROSS PROCEEDS ARE THE**  
9 **DIFFERENCE BETWEEN THE AGREED-UPON VALUE OF THE MOTOR VEHICLE USED**  
10 **AS PART PAYMENT OF THE PURCHASE PRICE AND THE FULL RETAIL PRICE OF**  
11 **THE MOTOR VEHICLE BEING PURCHASED.**

12 (d) "Sales price" means the total amount of consideration,  
13 including cash, credit, property, and services, for which tangible  
14 personal property or services are sold, leased, or rented, valued  
15 in money, whether received in money or otherwise, and applies to  
16 the measure subject to sales tax. Sales price includes the  
17 following subparagraphs (i) through (vi) and excludes subparagraphs  
18 (vii) through (viii):

19 (i) Seller's cost of the property sold.

20 (ii) Cost of materials used, labor or service cost, interest,  
21 losses, costs of transportation to the seller, taxes imposed on the  
22 seller other than taxes imposed by this act, and any other expense  
23 of the seller.

24 (iii) Charges by the seller for any services necessary to  
25 complete the sale, other than the following:

26 (A) An amount received or billed by the taxpayer for  
27 remittance to the employee as a gratuity or tip, if the gratuity or

1 tip is separately identified and itemized on the guest check or  
2 billed to the customer.

3 (B) Labor or service charges involved in maintenance and  
4 repair work on tangible personal property of others if separately  
5 itemized.

6 (iv) Delivery charges incurred or to be incurred before the  
7 completion of the transfer of ownership of tangible personal  
8 property from the seller to the purchaser.

9 (v) Installation charges incurred or to be incurred before the  
10 completion of the transfer of ownership of tangible personal  
11 property from the seller to the purchaser.

12 (vi) Credit for any trade-in.

13 (vii) Interest, financing, or carrying charges from credit  
14 extended on the sale of personal property or services, if the  
15 amount is separately stated on the invoice, bill of sale, or  
16 similar document given to the purchaser.

17 (viii) Any taxes legally imposed directly on the consumer that  
18 are separately stated on the invoice, bill of sale, or similar  
19 document given to the purchaser.

20 (e) "Business" includes an activity engaged in by a person or  
21 caused to be engaged in by that person with the object of gain,  
22 benefit, or advantage, either direct or indirect.

23 (f) "Tax year" or "taxable year" means the fiscal year of the  
24 state or the taxpayer's fiscal year if permission is obtained by  
25 the taxpayer from the department to use the taxpayer's fiscal year  
26 as the tax period instead.

27 (g) "Department" means the department of treasury.

1 (h) "Taxpayer" means a person subject to a tax under this act.

2 (i) "Tax" includes a tax, interest, or penalty levied under  
3 this act.

4 (j) "Textiles" means goods that are made of or incorporate  
5 woven or nonwoven fabric, including, but not limited to, clothing,  
6 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,  
7 pillows, pillow cases, tablecloths, napkins, aprons, linens, floor  
8 mops, floor mats, and thread. Textiles also include materials used  
9 to repair or construct textiles, or other goods used in the rental,  
10 sale, or cleaning of textiles.

11 (2) If the department determines that it is necessary for the  
12 efficient administration of this act to regard an unlicensed  
13 person, including a salesperson, representative, peddler, or  
14 canvasser as the agent of the dealer, distributor, supervisor, or  
15 employer under whom the unlicensed person operates or from whom the  
16 unlicensed person obtains the tangible personal property sold by  
17 the unlicensed person, irrespective of whether the unlicensed  
18 person is making sales on the unlicensed person's own behalf or on  
19 behalf of the dealer, distributor, supervisor, or employer, the  
20 department may so regard the unlicensed person and may regard the  
21 dealer, distributor, supervisor, or employer as making sales at  
22 retail at the retail price for the purposes of this act.