

# SENATE BILL NO. 777

March 12, 2024, Introduced by Senators LINDSEY, BUMSTEAD, DALEY, RUNESTAD, VICTORY, MCBROOM, DAMOOSE, HUIZENGA, NESBITT, LAUWERS, BELLINO, WEBBER, HAUCK, OUTMAN, JOHNSON and ALBERT and referred to the Committee on Finance, Insurance, and Consumer Protection.

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending section 1 (MCL 205.51), as amended by 2023 PA 20.

## 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 **or not** organized for  
5 profit, ~~or not,~~ company, limited liability company, estate, trust,  
6 receiver, trustee, syndicate, the United States, this state,  
7 county, or any other group or combination acting as a unit, and

1 includes the plural as well as the singular number, unless the  
2 intention to give a more limited meaning is disclosed by the  
3 context.

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

7 (c) "Gross proceeds" means sales price.

8 (d) "Sales price" means the total amount of consideration,  
9 including cash, credit, property, and services, for which tangible  
10 personal property or services are sold, leased, or rented, valued  
11 in money, whether received in money or otherwise, and applies to  
12 the measure subject to sales tax. Sales price includes the  
13 following subparagraphs (i) to (vii) and excludes subparagraphs (viii)  
14 to ~~(xv)~~ **(xiv)** :

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

16 (ii) Cost of materials used, labor or service cost, interest,  
17 losses, costs of transportation to the seller, taxes imposed on the  
18 seller other than taxes imposed by this act, and any other expense  
19 of the seller.

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

22 (A) An amount received or billed by the taxpayer for  
23 remittance to the employee as a gratuity or tip, if the gratuity or  
24 tip is separately identified and itemized on the guest check or  
25 billed to the customer.

26 (B) Labor or service charges involved in maintenance and  
27 repair work on tangible personal property of others if separately  
28 itemized.

29 (iv) Except as otherwise provided in subparagraph ~~(xv)~~ **(xiv)** ,

1 delivery charges. A seller is not liable under this act for  
2 delivery charges allocated to the delivery of exempt property.

3 (v) Except as otherwise provided in subparagraph ~~(xv)~~, ~~(xiv)~~,  
4 installation charges.

5 (vi) Except as otherwise provided in subparagraphs (xi) ~~and~~  
6 (xii), ~~and (xiv)~~, credit for any trade-in.

7 (vii) Except as otherwise provided in subparagraph (x),  
8 consideration received by the seller from third parties if all of  
9 the following conditions are met:

10 (A) The seller actually receives consideration from a party  
11 other than the purchaser and the consideration is directly related  
12 to a price reduction or discount on the sale.

13 (B) The seller has an obligation to pass the price reduction  
14 or discount through to the purchaser.

15 (C) The amount of the consideration attributable to the sale  
16 is fixed and determinable by the seller at the time of the sale of  
17 the item to the purchaser.

18 (D) One of the following criteria is met:

19 (I) The purchaser presents a coupon, certificate, or other  
20 documentation to the seller to claim a price reduction or discount  
21 where the coupon, certificate, or documentation is authorized,  
22 distributed, or granted by a third party with the understanding  
23 that the third party will reimburse any seller to whom the coupon,  
24 certificate, or documentation is presented.

25 (II) The purchaser identifies himself or herself to the seller  
26 as a member of a group or organization entitled to a price  
27 reduction or discount. A preferred customer card that is available  
28 to any patron does not constitute membership in a group or  
29 organization.

1 (III) The price reduction or discount is identified as a third  
2 party price reduction or discount on the invoice received by the  
3 purchaser or on a coupon, certificate, or other documentation  
4 presented by the purchaser.

5 (viii) Interest, financing, or carrying charges from credit  
6 extended on the sale of personal property or services, if the  
7 amount is separately stated on the invoice, bill of sale, or  
8 similar document given to the purchaser.

9 (ix) Any taxes legally imposed directly on the consumer that  
10 are separately stated on the invoice, bill of sale, or similar  
11 document given to the purchaser.

12 (x) Beginning January 1, 2000, employee discounts that are  
13 reimbursed by a third party on sales of motor vehicles.

14 (xi) Beginning November 15, 2013, credit for the agreed-upon  
15 value of a titled watercraft used as part payment of the purchase  
16 price of a new titled watercraft or used titled watercraft  
17 purchased from a watercraft dealer if the agreed-upon value is  
18 separately stated on the invoice, bill of sale, or similar document  
19 given to the purchaser. This subparagraph does not apply to leases  
20 or rentals.

21 (xii) Beginning ~~December 15, 2013,~~ **on the effective date of the**  
22 **amendatory act that deleted former sub-subparagraphs (A) to (E),**  
23 credit for the agreed-upon value of a motor vehicle or recreational  
24 vehicle used as part payment of the purchase price of a new motor  
25 vehicle or used motor vehicle or recreational vehicle purchased  
26 from a dealer if the agreed-upon value is separately stated on the  
27 invoice, bill of sale, or similar document given to the purchaser.  
28 This subparagraph does not apply to leases or rentals. ~~Except as~~  
29 ~~otherwise provided under subparagraph (xiv), for purposes of this~~

1 ~~subparagraph, the agreed-upon value of a motor vehicle or~~  
2 ~~recreational vehicle used as part payment is limited as follows:~~

3 ~~(A) Beginning December 15, 2013, subject to sub-subparagraphs~~

4 ~~(B) and (C), the lesser of the following:~~

5 ~~(I) \$2,000.00.~~

6 ~~(II) The agreed-upon value of the motor vehicle or~~  
7 ~~recreational vehicle used as part payment.~~

8 ~~(B) Beginning January 1, 2015 and each January 1 thereafter~~  
9 ~~through December 31, 2018, the amount under sub-subparagraph (A) (I)~~  
10 ~~is increased by an additional \$500.00 each year.~~

11 ~~(C) Beginning January 1, 2019, subject to sub-subparagraphs~~

12 ~~(D) and (E), the lesser of the following:~~

13 ~~(I) \$5,000.00.~~

14 ~~(II) The agreed-upon value of the motor vehicle used as part~~  
15 ~~payment.~~

16 ~~(D) Beginning January 1, 2020 and each January 1 thereafter,~~  
17 ~~the amount under sub-subparagraph (C) (I) is increased by an~~  
18 ~~additional \$1,000.00 each year.~~

19 ~~(E) Beginning on January 1 in the year in which the amount~~  
20 ~~under sub-subparagraph (C) (I) exceeds \$14,000.00 and each January 1~~  
21 ~~thereafter, there is no limitation on the agreed-upon value of the~~  
22 ~~motor vehicle used as part payment.~~

23 ~~(xiii) Beginning January 1, 2017, credit for the core charge~~  
24 ~~attributable to a recycling fee, deposit, or disposal fee for a~~  
25 ~~motor vehicle or recreational vehicle part or battery if the~~  
26 ~~recycling fee, deposit, or disposal fee is separately stated on the~~  
27 ~~invoice, bill of sale, or similar document given to the purchaser.~~

28 ~~(xiv) Beginning January 1, 2018, credit for the agreed-upon~~  
29 ~~value of a recreational vehicle used as part payment of the~~

1 ~~purchase price of a recreational vehicle purchased from a dealer if~~  
2 ~~the agreed-upon value is separately stated on the invoice, bill of~~  
3 ~~sale, or similar document given to the purchaser. This subparagraph~~  
4 ~~does not apply to leases or rentals.~~

5       (xiv) ~~(xv)~~ Delivery or installation charges if such charges are  
6 separately stated on the invoice, bill of sale, or similar document  
7 provided to the purchaser, and the seller maintains its books and  
8 records to show separately the transactions used to determine the  
9 tax levied by this act. This subdivision does not apply to delivery  
10 or installation charges involving or relating to the sale of  
11 electricity, natural gas, or artificial gas by a utility.

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

15       (f) "Tax year" or "taxable year" means the fiscal year of the  
16 state or the taxpayer's fiscal year if permission is obtained by  
17 the taxpayer from the department to use the taxpayer's fiscal year  
18 as the tax period instead.

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

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

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

23       (j) "Textiles" means goods that are made of or incorporate  
24 woven or nonwoven fabric, including, but not limited to, clothing,  
25 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,  
26 pillows, ~~pillow cases,~~ **pillowcases**, tablecloths, napkins, aprons,  
27 linens, floor mops, floor mats, and thread. Textiles also include  
28 materials used to repair or construct textiles, or other goods used  
29 in the rental, sale, or cleaning of textiles.

1           (k) "New motor vehicle" means that term as defined in section  
2 33a of the Michigan vehicle code, 1949 PA 300, MCL 257.33a.

3           (l) "Recreational vehicle" means that term as defined in  
4 section 49a of the Michigan vehicle code, 1949 PA 300, MCL 257.49a.

5           (m) "Dealer" means that term as defined in section 11 of the  
6 Michigan vehicle code, 1949 PA 300, MCL 257.11.

7           (n) "Watercraft dealer" means a dealer as that term is defined  
8 in section 80102 of the natural resources and environmental  
9 protection act, 1994 PA 451, MCL 324.80102.

10          (o) "Utility" means either of the following:

11           (i) A person regulated by the Michigan public service  
12 commission as a utility.

13           (ii) A person that operates equipment or facilities for  
14 producing, generating, transmitting, delivering, or furnishing  
15 electricity within this state for the public for compensation,  
16 regardless of the person's owner, ownership structure, or  
17 regulation by the Michigan public service commission.

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

1           (3) Notwithstanding anything to the contrary in this act, the  
2 following applies only to delivery and installation charges  
3 described in subsection (1) (d) (iv) or (v), except that this  
4 subsection does not apply to delivery and installation charges  
5 involving or relating to the sale of electricity, natural gas, or  
6 artificial gas by a utility:

7           (a) ~~Not later than 90 days after the effective date of the~~  
8 ~~amendatory act that added this subsection, **July 25, 2023,** the~~  
9 department shall cancel all outstanding balances related to such  
10 delivery and installation charges on notices of intent to assess  
11 that were issued under section 21 of 1941 PA 122, MCL 205.21, for  
12 the tax levied under this act and that were issued before ~~the~~  
13 ~~effective date of the amendatory act that added this~~  
14 ~~subsection.~~**April 26, 2023.**

15           (b) ~~Not later than 90 days after the effective date of the~~  
16 ~~amendatory act that added this subsection, **July 25, 2023,** the~~  
17 department shall cancel all outstanding balances related to such  
18 delivery and installation charges on final assessments that were  
19 issued under section 22 of 1941 PA 122, MCL 205.22, for the tax  
20 levied under this act, and that were issued before ~~the effective~~  
21 ~~date of the amendatory act that added this subsection.~~**April 26,**  
22 **2023.**

23           (c) ~~After the effective date of the amendatory act that added~~  
24 ~~this subsection, **Beginning April 26, 2023,** the department shall not~~  
25 issue any new assessments for the tax levied under this act on such  
26 delivery and installation charges for any tax period before ~~the~~  
27 ~~effective date of the amendatory act that added this subsection~~  
28 **April 26, 2023,** that is open under the statute of limitations  
29 provided in section 27a of 1941 PA 122, MCL 205.27a.



1           Enacting section 1. This amendatory act does not take effect  
2 unless Senate Bill No. 776 of the 102nd Legislature is enacted into  
3 law.