HOUSE BILL NO. 4375

April 22, 2025, Introduced by Reps. Frisbie, Snyder, Rigas, Prestin, Markkanen, Cavitt, Alexander, Robinson, Kunse, Woolford, Schuette, Beson, Hoadley, Pavlov, Fox, Wozniak and St. Germaine and referred to Committee on Finance.

A bill to amend 1937 PA 94, entitled

"Use tax act,"

by amending section 2 (MCL 205.92), as amended by 2023 PA 94.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2. (1) As used in this act:

(a) "Person" means an individual, firm, partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether or not organized for profit, company, limited liability company, estate, trust, receiver, trustee, syndicate, the United States, this state, **a** county, or any other group or combination acting as a unit, and **includes** the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) "Use" means the exercise of a right or power over tangible personal property incident to the ownership of that property including transfer of the property in a transaction where possession is given. Converting tangible personal property acquired for a use exempt from the tax levied under this act to a use not exempt from the tax levied under this act is a taxable use.

(c) "Storage" means a keeping or retention of property in this state for any purpose after the property loses its interstate character.

(d) "Seller" means the person from whom a purchase is made and includes every person selling tangible personal property or services for storage, use, or other consumption in this state. If, in the opinion of the department, it is necessary for the efficient administration of this act to regard a salesperson, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates or from whom the person obtains tangible personal property or services sold by the person for storage, use, or other consumption in this state, irrespective of whether or not the person is making the sales on the person's own behalf or on behalf of the dealer, distributor, supervisor, or employer, the department may so consider the person, and may consider the dealer, distributor, supervisor, or employer as the seller for the purpose of this act.

(e) "Purchase" means to acquire for a consideration, whether the acquisition is effected by a transfer of title, of possession, or of both, or a license to use or consume; whether the transfer is absolute or conditional, and by whatever means the transfer is effected; and whether consideration is a price or rental in money, or by way of exchange or barter. Purchase includes converting tangible personal property acquired for a use exempt from the tax levied under this act to a use not exempt from the tax levied under this act.

(f) "Purchase price" or "price" means the total amount of consideration paid by the consumer to the seller, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, and applies to the measure subject to use tax. Purchase price includes the following subparagraphs (*i*) to (*vii*) and excludes subparagraphs (*viii*) to ~~(*xv*) :~~ **(*xvi*) :**

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

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

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

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

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

(*iv*) Except as otherwise provided in subparagraph (*xv*), delivery charges. A seller is not liable under this act for delivery charges allocated to the delivery of exempt property.

(*v*) Except as otherwise provided in subparagraph (*xv*), installation charges.

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

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

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

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

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

(D) One of the following criteria is met:

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

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

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

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

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

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

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

(*xii*) Beginning December 15, 2013, credit for the agreed-upon value of a motor vehicle or recreational vehicle used as part payment of the purchase price of a new motor vehicle or used motor vehicle or recreational vehicle purchased from a dealer if the agreed-upon value is separately stated on the invoice, bill of sale, or similar document given to the purchaser. This subparagraph does not apply to leases or rentals. Except as otherwise provided under subparagraph (*xiv*), for purposes of this subparagraph, the agreed-upon value of a motor vehicle or recreational vehicle used as part payment is limited as follows:

(A) Beginning December 15, 2013, subject to sub-subparagraphs (B) and (C), the lesser of the following:

(I) $2,000.00.

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

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

(C) Beginning January 1, 2019, subject to sub-subparagraphs (D) and (E), the lesser of the following:

(I) $5,000.00.

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

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

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

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

(*xiv*) Beginning January 1, 2018, credit for the agreed-upon value of a recreational vehicle used as part payment of the purchase price of a recreational vehicle purchased from a dealer if the agreed-upon value is separately stated on the invoice, bill of sale, or similar document given to the purchaser. This subparagraph does not apply to leases or rentals.

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

(*xvi*) Credit for the agreed-upon value of a portable electronic device used as part payment of the purchase price of a new or used portable electronic device purchased from a seller engaged in the business of selling portable electronic devices at retail, if the value of the credit is separately stated on the invoice, bill of sale, or similar document provided to the purchaser. As used in this subparagraph, "portable electronic device" means an electronic device that is easily carried and can store, transmit, or process data, such as smartphones, cellular phones, laptops, tablets, smartwatches, gaming consoles, digital cameras, fitness trackers, portable media players, digital audio players, personal digital assistants, pagers, cameras, and electronic readers.

(g) "Consumer" means the person who has purchased tangible personal property or services for storage, use, or other consumption in this state and includes, but is not limited to, 1 or more of the following:

(*i*) A person acquiring tangible personal property if engaged in the business of constructing, altering, repairing, or improving the real estate of others.

(*ii*) A person who has converted tangible personal property or services acquired for storage, use, or consumption in this state that is exempt from the tax levied under this act to storage, use, or consumption in this state that is not exempt from the tax levied under this act.

(h) "Business" means all activities engaged in by a person or caused to be engaged in by a person with the object of gain, benefit, or advantage, either direct or indirect.

(i) "Department" means the department of treasury.

(j) "Tax" includes all taxes, interest, or penalties levied under this act.

(k) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses and includes electricity, water, gas, steam, and prewritten computer software.

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

(m) "Interstate motor carrier" means a person who operates or causes to be operated a qualified commercial motor vehicle on a public road or highway in this state and at least 1 other state or Canadian province.

(n) "Qualified commercial motor vehicle" means that term as defined in section 1(*l*), (m), and (n) of the motor carrier fuel tax act, 1980 PA 119, MCL 207.211.

(o) "Diesel fuel" means that term as defined in section 2(q) of the motor fuel tax act, 2000 PA 403, MCL 207.1002.

(p) "Sale" means a transaction by which tangible personal property or services are purchased or rented for storage, use, or other consumption in this state.

(q) "Convert" means putting a service or tangible personal property acquired for a use exempt from the tax levied under this act at the time of acquisition to a use that is not exempt from the tax levied under this act, whether the use is in whole or in part, or permanent or not permanent. A motor vehicle purchased for resale by a new vehicle dealer licensed under section 248(8)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.248, and not registered in the name of the dealer is not considered to be converted before sale or lease by that dealer.

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

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

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

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

(v) "Utility" means either of the following:

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

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

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

(a) Not later than July 25, 2023, the department shall cancel all outstanding balances related to such delivery and installation charges on notices of intent to assess that were issued under section 21 of 1941 PA 122, MCL 205.21, for the tax levied under this act and that were issued before April 26, 2023.

(b) Not later than July 25, 2023, the department shall cancel all outstanding balances related to such delivery and installation charges on final assessments that were issued under section 22 of 1941 PA 122, MCL 205.22, for the tax levied under this act, and that were issued before April 26, 2023.

(c) Beginning April 26, 2023, the department shall not issue any new assessments for the tax levied under this act on such delivery and installation charges for any tax period before April 26, 2023, that is open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. ____ (request no. S00616'25) or House Bill No. 4376 (request no. H00616'25) of the 103rd Legislature is enacted into law.