

USE TAX ACT (EXCERPT)
Act 94 of 1937

205.97 Liability for tax.

Sec. 7.

(1) Each person storing, using, or consuming in this state tangible personal property or services is liable for the tax levied under this act, and that liability shall not be extinguished until the tax levied under this act has been paid to the department.

(2) A person who acquires tangible personal property or services for any tax-exempt use who subsequently converts the tangible personal property or service to a taxable use, including an interim taxable use, is liable for the tax levied under this act. If tangible personal property or services are converted to a taxable use, the tax levied under this act shall be imposed without regard to any subsequent tax-exempt use. The payment to the department of the tax, interest, and any penalty assessed by the department relieves the seller, who sold the property or services with regard to the storing, use, or consumption on which the tax was paid from the payment of the amount of the tax that he or she may be required under this act to collect from the purchaser.

(3) Beginning January 1, 2009, except as limited by subsection (4), a consumer is relieved from liability, including liability for tax, penalty, and interest, for having failed to pay the correct amount of tax imposed under this act in the following circumstances:

(a) The consumer's seller or the seller's certified service provider, as defined in the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833, relied on erroneous data contained in the taxability matrix.

(b) The consumer relied on erroneous data contained in the taxability matrix.

(4) Liability relief under subsection (3) is limited to the erroneous classification in the taxability matrix of terms included in the streamlined sales and use tax agreement's library of definitions as taxable or exempt, included in sales price, excluded from sales price, or excluded from the definition.

(5) As used in this section:

(a) "Penalty" means an amount imposed for noncompliance that is not fraudulent, willful, or intentional and that is in addition to the correct amount of tax imposed under this act and in addition to interest.

(b) "Taxability matrix" means the taxability matrix published by the department pursuant to the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833.

History: 1937, Act 94, Eff. Oct. 29, 1937 ;-- CL 1948, 205.97 ;-- Am. 1949, Act 273, Eff. July 1, 1949 ;-- Am. 1959, Act 263, Eff. Sept. 1, 1959 ;-- Am. 2007, Act 103, Eff. Sept. 30, 2002 ;-- Am. 2008, Act 439, Imd. Eff. Jan. 9, 2009

Compiler's Notes: Enacting sections 1 and 2 of 2007 PA 103 provide: "Enacting section 1. It is the intent of the legislature that this amendatory act clarify that a person who acquires tangible personal property for a purpose exempt under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, who subsequently converts that property to a use taxable under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, is liable for the tax levied under the use tax act, 1937 PA 94, MCL 205.91 to 205.111." Enacting section 2. This amendatory act is curative and intended to prevent any misinterpretation of the ability of a taxpayer to claim an exemption from the tax levied under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, based on the purchase of tangible personal property or services for resale that may result from the decision of the Michigan court of appeals in *Betten Auto Center, Inc v Department of Treasury*, No. 265976, as affirmed by the Michigan Supreme Court. This amendatory act is retroactive and is effective beginning September 30, 2002 and for all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."