



Echelbarger, Himebaugh, Tamm & Co., P.C.
STATE AND LOCAL TAX NEWSLETTER

Business Strategists & Certified Public Accountants

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Efforts to Repeal the Use Tax on Services Gain Steam

GRAND RAPIDS, MI – Monday, November 5, 2007 - The "Ax the Tax" Group has been putting pressure on the legislature, a ballot proposal may be next.

It was in the early morning hours of Monday, October 1st when the legislature and the administration came to an agreement on balancing the state budget. The agreement averted a partial state shutdown. Part of the agreement was an expansion of the Use Tax to a list of services. Public Act 93 of 2007 was signed by the governor that morning.

The new tax is scheduled to become effective December 1, 2007. PA 93 broadly expands the Use Tax to include a multitude of services. The new tax is estimated to bring in \$613.8 million in the portion of the current fiscal year (FY 2008) that it will be collected. The estimates balloon to \$751 million for the full fiscal year 2009.

With no Republican support in the House, the measure passed with the minimum 56 "yes" votes as two Democrats voted "no". A 19-19 tie in the Senate was broken with Lt. Governor John Cherry's "yes" vote. Three Republican Senate members joined the Democrats on final passage of this measure.

The new Use Tax on services passed both houses of the legislature with the bare minimum of votes.

The services being covered under the bill with the projected amount of revenue expected to be raised in the current fiscal year follows:

- Business Service Centers (\$9.5 million)
- Carpet/Upholstery (\$5.2 million)
- Couriers and Messengers (\$3.1 million)
- Document Prep Services (\$4.8 million)
- Investigation Guard/Armored Car (\$27.0 million)
- Janitorial (\$43.8 million)
- Investment Advice (\$16.8 million)
- Landscaping (\$40.5 million)
- Mini-warehouse and self-storage (\$3.9 million)
- Transit and Ground Passenger, limo and cab (\$10.5 million)
- Office Administration (\$79.2 million)
- Other Personal Services (\$48.2 million)
- Other Travel and Reservation (\$6.7 million)
- Personal care, no haircuts (\$14.1 million)
- Scenic Transportation (\$14.2 million)
- Security System Services (\$14.2 million)
- Service Contracts (\$23.5 million)
- Skiing (\$2.2 million)
- Interior Design (\$27.8 million)
- Tour operators (\$2.6 million)
- Consulting (\$188.2 million)
- Packaging and labeling services (\$20.8 million)
- Warehousing and storage (\$21.0 million)

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Almost simultaneously, business groups began to mobilize against the tax. An initial meeting of 30 business groups grew to almost 60, all with the intent of immediate repeal on the new tax. The repeal efforts were led by the Michigan State Chamber of Commerce along with the Detroit Chamber of Commerce and the Grand Rapids Chamber of Commerce. Initially the Governor, the Speaker of the House and the majority leader of the Senate all stated that they would not support repeal although they kept the door open to amendments.

What's Wrong with the Tax?

The unpopularity of the tax stems from two major deficiencies and a major disagreement in the business community.

Unfair

The new tax imposes the full 6% Use Tax on a very small list of services while continuing the exemptions for all other services. The tax is viewed as unfair. Ski lift tickets are taxed while golf green fees are exempt. Sightseeing tickets and travel tours are subject to tax while the rest of the entertainment industry is exempt. There are many other examples of apparent unfairness.

Complicated

PA 93 did not define the services subjected to the Use Tax. Instead, the law merely references broad NAICS codes. (North American Industry Classification System) The codes are used by the federal government for business census purposes. However, they were never intended to be used for tax classifications. Consequently, it is not clear what services will be subject to the tax.

Impact on Business

The greatest portion of the tax will be paid by the business community. The tax is imposed on a large variety of services used by the business community. This combined with the absence of a broad input exemption makes the tax hit the business community very hard.

Where are we Now?

Efforts to amend or fix the tax have given way to repeal of tax. A Michigan State Chamber of Commerce poll of members resulted in over 90% favoring repeal. Why doesn't it happen? The answer is the \$750 Million hole in the budget.

Potential ideas for replacement of the lost revenue:

- Increase the individual income tax rate
- Increase the Michigan Business Tax rates
- Increase the current sales tax rate
- Cut the budget by ¼ of a billion dollars

None of the above listed ideas have gained enough support to possibly end the tax. All of the ideas have supporters, but they all have major opposition.

A New Idea

The one idea that hasn't been mentioned may be the most logical: **Expand the sales tax to all services and cut the 6% rate back to 4%. Retain all the current exemptions along with a few more, like health care and an exemption for inputs.** The fairness problem will go away as almost all services would be subject to the tax. The classification issue would not exist because almost all services would be subject to the tax. The exemptions from the tax would be narrowly defined in the law. The lower overall rate will stimulate retail sales and make Michigan products more competitive.

The broad based tax on services does not gain popular support because of general public

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opposition to a tax on services.

Please stay tuned for more news and follow the [MichiganStateAndLocalTax Blog](#) for information as it becomes available. December 1 is less than a month away.

If you have questions please feel free to contact me. I would be happy to be of assistance.

Sincerely,

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