



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4069 (as reported without amendment) Sponsor: Representative James McNutt
 House Committee: Tax
 Policy Senate Committee: Finance

Date Completed: 5-11-95

RATIONALE

Currently, under the Use Tax Act, a transfer or purchase is not subject to the 6% use tax if the transferee or purchaser is the spouse, mother, father, brother, sister, or child of the transferor. Typically, transactions between relatives involve vehicle sales. When a person buys a used car, he or she must pay the use tax. The tax is collected by the Department of State, on behalf of the Department of Treasury, when the title is transferred. Reportedly, the Treasury Department began in 1990 to insist on a strict interpretation of the statute regarding transfers between relatives, and denies exemptions in cases in which a stepparent has transferred or sold a car to a stepchild. Some family members have found that they can use a two-step process to get around the payment of use tax. For example, a grandparent could transfer a car to a grandchild by transferring it first to the appropriate parent, who would then transfer it to the grandchild. (According to the Department of State, it is the Department's practice, with Department of Treasury approval, to have branch clerks advise customers how to avoid taxes through multiple title transfers.) Some people believe that stepparents should enjoy the same exemption from the use tax as parents and that it would make sense for other close family members, such as grandparents, to be granted an exemption as well, to save them the trouble of going through the extra step.

CONTENT

The bill would amend the Use Tax Act to expand the exemption that applies to relatives of a transferor. The bill would include a stepparent, stepchild, stepbrother, stepsister, grandparent, grandchild, legal ward, or legally appointed guardian with a certified letter of guardianship.

The bill specifies an effective date of May 1, 1995.

MCL 205.93

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

It makes sense to expand the use tax exemption for transferring used motor vehicles between close family members in recognition of the realities of modern families. It seems absurd that a stepparent or stepchild would not qualify in the same manner as a parent or child. Also, it makes little sense to force grandparents through extra transactions to make a vehicle transfer exempt from the tax, particularly because the extra step is not available to every family. For example, currently a maternal grandparent could not transfer a vehicle tax-free to a grandchild who lived with her if that child's mother was dead or otherwise not available. So, to say the exemption is already available with one extra step is not fair to those who cannot take advantage of the two-step transfer.

Opposing Argument

Some people believe that the exemption should be extended to in-laws, as well. Here is another case in which an exemption can, in some situations, essentially be accomplished by making an extra step. In fact, the Department of State says that its branch clerks tell people how to use multiple title transfers to avoid the use tax. Use of multiple title transfers to avoid payment of the tax simply adds to the State's paperwork load; in addition to the

extra transfer, the Department of Treasury must send out an additional letter requesting verification of the relationship. Branch office workers in the Department of State would prefer that the bill go further and exempt in-laws, according to the Department. Taxes should not be structured so that the well-informed can avoid them while the unaware are forced to pay.

Response: The expansion of the exemption to stepparents, stepchildren, stepbrothers, and stepsisters is logical but going beyond that to include various in-laws, as some propose, seems unnecessarily expansive and potentially could lead to demands for exemptions for even less close relatives, such as nephews and nieces. The Use Tax Act cannot be expected to anticipate every variety of relationship among people. Expanding the exemption beyond that contained in the bill would lead to problems with verifying relationships. The Treasury Department already sends out 600 letters per month asking for verification of a claim for an exemption, under the current provisions. The exemptions contained in this bill are easy to track; additional exemptions would pose problems. The Department, based on its experience, says that the fraud rate would increase some 50% with an expansion of the exemption to in-laws.

Legislative Analyst: G. Towne

FISCAL IMPACT

This bill would reduce use tax revenue, but insufficient data on the number of vehicle sales that occur between grandparents and their grandchildren and step relations make it difficult to estimate the magnitude of the revenue loss. The loss in revenue probably would be less than \$500,000 a year. Any loss in use tax revenue would affect both General Fund/General Purpose (GF/GP) and School Aid Fund (SAF) revenues. For example, a \$500,000 loss in use tax revenue would reduce GF/GP revenue by \$333,000 and SAF revenue by \$167,000.

Fiscal Analyst: J. Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.