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Senate Bill 143 (Substitute S-1 as reported)  
Sponsor: Senator Patricia L. Birkholz  
Committee: Finance

Date Completed: 6-10-04

### **RATIONALE**

Michigan residents who receive used vehicles from charities that provide them free of charge are required to pay the State's use tax when the vehicles are registered to them. According to a 2001 Michigan Court of Appeals decision (*Morman v Treasury*, Docket No. 222585), the State's 6% use tax applies to gratuitous transfers unless the transfer is specifically exempt. The transfer of an automobile from a charity to a recipient is not exempt, however. Since the amount of the use tax is based upon the donated vehicle's value, the recipient of a donated car, who is usually in a difficult financial position, sometimes must come up with hundreds of dollars to cover the use tax payment. Some people believe that the donation of vehicles from charitable organizations to qualified recipients should be exempt from the State's use tax.

### **CONTENT**

The bill would amend the Use Tax Act to provide that, beginning January 1, 2005, the use tax would not apply to the transfer of a motor vehicle, without consideration, from an organization exempt from Federal taxation under Section 501(c)(3) of the Internal Revenue Code, to a "qualified recipient". The exemption would not apply to a transfer made to a for-profit entity.

Under the bill, "qualified recipient" would mean a person who was certified by the organization as meeting the following criteria: He or she was receiving or would be eligible for public assistance under the Social Welfare Act; possessed a valid Michigan operator's or chauffeur's license; was financially capable of meeting any loan payment, insurance payment, or other expenditure associated with the vehicle; did

not have access to reasonably available public transportation, had no other reliable means to commute to his or her place of employment, and would use the vehicle for that purpose; had a demonstrated ability to maintain employment; needed a vehicle to retain his or her current employment or to accept a verified offer of employment in a position demonstrably superior to his or her current position, if the individual were working at least an average of 20 hours per week; and, needed the vehicle to accept a verified offer of employment of at least an average of 20 hours per week and could not begin employment in that position without an automobile, if the individual were not currently employed or were employed for less than an average of 20 hours per week.

Proposed MCL 205.94w

### **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**

A significant number of Michigan's poor residents do not own cars and live in areas that are not served by public transportation or where it is impractical to take public transportation to work. Often these individuals live in areas where jobs are available but cannot take the jobs or are unable to move to better-paying employment because they lack the necessary means to get to those jobs. Several Michigan charities have stepped in to help these residents by refurbishing donated vehicles and providing them, free of charge, to those who demonstrate a need, an ability to hold down a job, and the

financial resources to pay for the vehicle's registration, insurance, and maintenance. By exempting the transfer of an automobile donated by a Section 501(c)(3) organization to a "qualified recipient", the bill would remove one of the financial burdens associated with receiving the vehicle and make it easier for the qualified recipients to find and retain work.

**Response:** Most of the charities currently providing free vehicles to the State's disadvantaged residents provide them both to the working poor and to those unable to work due to health issues, who need the vehicles to get to and from their doctors' appointments or therapy. The bill should provide a use tax exemption also for residents unable to work due to health issues.

Legislative Analyst: J.P. Finet

### **FISCAL IMPACT**

This bill would reduce use tax revenue an estimated \$0.4 million in FY 2004-05 and \$0.5 million in FY 2005-06, on a full-year basis. This loss in use tax revenue, on a full-year basis, would reduce General Fund/General Purpose revenue by \$0.3 million and School Aid Fund revenue by \$0.2 million. This bill would not have any direct impact on local governments.

Fiscal Analyst: Jay 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.