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Senate Bill 845 (as enacted)
Sponsor: Senator Cameron S. Brown
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 148 of 2007

Date Completed: 7-24-09

CONTENT

The bill amended the Use Tax Act to do the following:

- **Prohibit a person that provides any of the services subject to the tax under former Section 3d from collecting the tax from a person that received a service subject to the tax under that section.**
- **Provide that a person is not liable for any failure to collect the use tax on services subject to the tax under Section 3d.**
- **Prohibit the Department of Treasury from collecting the use tax from a person that provides services subject to the tax under Section 3d.**

The bill took effect on December 10, 2007.

The Act imposes a specific tax for the privilege of using, storing, or consuming tangible personal property in the State at a rate of 6% of the price of property or services specified in the Act. Under Section 3d, enacted by Public Act 93 of 2007, the tax was extended to the use or consumption of certain additional services (described below in **BACKGROUND**). Public Act 145 of 2007 repealed Section 3d of the Use Tax Act immediately after it took effect on December 1, 2007.

Under the bill, beginning December 1, 2007, a person that provides one or more

of the services subject to the tax under former Section 3d may not collect the tax from any person that receives a service subject to the tax under Section 3d. Before the bill's effective date (December 10, 2007), if a person that provides one or more of the services subject to the tax under Section 3d collected the tax from a person that received a service, the tax must be returned to the person or remitted to the Department of Treasury. The person that received the service may file an application for a refund.

A person that provides one or more of the services subject to the tax under Section 3d is not liable for any failure to collect the use tax on services subject to the tax under Section 3d. If a person collected the tax before December 10, 2007, however, the tax must be remitted. If a person fails to remit any tax collected from a person that received a service subject to the tax under Section 3d before December 10, 2007, the person that collected the tax is subject to the penalties provided in Section 16 unless the tax collected was returned to the person that received the service.

(Under Section 16, if any seller fails, neglects, or refuses to comply with the Act, the seller is guilty of a misdemeanor punishable by a fine of \$100 to \$500 for a first offense and \$500 to \$5,000 for a second or subsequent offense, and/or up to one year's imprisonment.)

Under the bill, the Department of Treasury may not collect the use tax from a person that provides services subject to the tax under Section 3d. However, if a person that provides any of the services under Section 3d collected the tax from someone that received a service before December 10, 2007, and does not return or remit that tax as required by the bill, the Department must collect that tax. A person that receives a service under Section 3d and paid the tax may apply for a refund.

Except as provided above, the Department may not penalize a person that provides any of the services under Section 3d for failure to collect, return, or remit the use tax on services subject to the tax under Section 3d.

MCL 205.93e

BACKGROUND

Section 3d extended the use tax to the use or consumption of the following services, as described in the North American Industry Classification System (NAICS), 2002 as produced by the United States Office of Management and Budget:

- Carpet and upholstery cleaning.
- Business service center.
- Consulting.
- Investigation, guard, and armored car.
- Investment advice.
- Janitorial.
- Office administration.
- Landscaping.
- Travel and reservation.
- Scenic transportation.
- Skiing.
- Tour operator.
- Warehousing and storage.
- Packaging and labeling.
- Specialized design.
- Transit and ground passenger transport.
- Courier and messenger.
- Personal care, except hair care.
- Security system.
- Document preparation.
- Miniwarehouse and self-storage unit.

Section 3d also imposed the tax on the

use or consumption of the following personal services:

- Astrology.
- Baby shoe bronzing.
- Bail bonding.
- Balloon-o-gram.
- Coin-operated blood pressure testing machine.
- Bondsperson.
- Check room.
- Coin-operated personal service machine.
- Comfort station operation.
- Concierge.
- Consumer buying.
- Credit card notification.
- Dating.
- Discount buying.
- Social escort.
- Fortune-telling.
- Genealogical investigation.
- House sitting.
- Social introduction.
- Coin-operated rental locker.
- Numerology.
- Palm reading.
- Party planning.
- Pay telephone.
- Personal fitness trainer.
- Personal shopping.
- Coin-operated photographic machine.
- Phrenology.
- Porter.
- Psychic.
- Rest room operation.
- Shoeshine.
- Singing telegram.
- Wedding chapel, but not churches.
- Wedding planning.

In addition, Section 3d extended the use tax to service contract services in which the seller, in exchange for the buyer's single payment, agrees to provide repair, maintenance, or replacement of one or more items of tangible personal property during a specified period of time, which services the buyer is not required to buy in connection with the purchase of tangible personal property.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill had no net fiscal impact on State government. If any revenue was collected under the repealed expansion of the use tax on some select services, either the tax was returned to the taxpayer by the tax collector (service provider) or, if the service provider remitted any tax collected under the use tax on services to the Treasury Department, the taxpayer was able to file for a refund. The bill had no fiscal impact on local government.

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.