



Navigating the Maze of Michigan's Sales Tax

by Dr. Gary Wolfram

Summary

Michigan's sales tax was introduced in 1933 as a seemingly straightforward, minimal tax on the retail sale of "tangible personal goods." Today, out-of-state catalog and Internet sales and exemptions for some items including food are revealing the confusing nature of the tax. A smaller and simpler government would call for a smaller and simpler tax.

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Whenever legislators need an object lesson about how their well-reasoned ideas actually work in the real world, they need look no further than Michigan's sales tax, first enacted in 1933 during the Great Depression. In those days, the idea of a minimal tax on the retail sale of "tangible personal goods" seemed straightforward as a consistent rationale for raising money for the government.

But time and change have a way of revealing the pitfalls of such complacency. Michigan's sales tax now contains some rather interesting, if not hard-to-explain, features.

Due to a 1974 amendment to the state constitution, no sales tax is to be levied on "the sale of food for human consumption except in the case of prepared food intended for immediate consumption as defined by law." What kind of food is not intended for human consumption, you ask? If I buy some hamburger to feed my dog, can I get out of paying the tax?

Suppose you go to Joe's Donut Shop. If you buy a donut and take it out of the store instead of eating it at the counter, is that sale exempt from the sales tax? No doubt, the food exemption was probably meant to reduce the effect of the sales tax on low-income families. But does it make sense that a hamburger from McDonald's is taxable, while a sirloin steak from Kroger that you take to your Bloomfield Hills mansion and cook on your expensive grill is not?

Suppose the transmission on your 1989 Ford van goes out. If you pay a mechanic to rebuild the transmission, then only the parts needed to fix the transmission are taxable, not the mechanic's labor. But if you buy a rebuilt transmission from Ford and install it yourself, then the rebuilt transmission is fully taxable.

Suppose you pay someone to program your company's computer. That is a labor service and is therefore not taxable. But if you bought that same program from a computer store, then it would be taxable. Suppose you download that same program from the Internet. If the company that you download from has a physical site or store in Michigan, then the computer program will be taxed at its retail value.

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But all that is being sent to you is electrons. Are these the “tangible goods” the sales tax was intended to cover?

When you go to the gas station and fill up your tank, you pay a Michigan gas tax of 19 cents per gallon, plus a federal tax of 18.4 cents. In addition, you pay a 6-percent sales tax on the total retail price of the gas, which *includes* the federal and the state gas tax. So you are paying a tax on a tax.

Suppose you buy a shirt from an out-of-state company’s mail-order catalog. Because of a U.S. Supreme Court ruling, you pay no sales tax on that purchase. But if the same company puts an outlet store somewhere in Michigan, then you must pay the sales tax.

On the other hand, you are obligated to pay a 6-percent “use” tax to the state of Michigan on the catalog sale. The Michigan Department of Treasury now demands that you keep track of the purchases you make via catalog and the Internet, figure the tax due on your income tax form, and pay that amount.

As confusing as Michigan’s sales tax can be, it is not as complicated as the federal income tax code, with its thousands of pages and endless forms. But both prove the wisdom of one of America’s Founding Fathers, James Madison, who wrote in The Federalist #62, more than 200 years ago:

It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood, if they be repealed or revised before they are promulgated, or [if they] undergo such incessant changes that no man who knows what the law is today can guess what it will be tomorrow.

All this is yet another reason among many to keep government small and simple, so that its taxes also will be small and simple.

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