

Understanding the New Tax on Services

The Michigan budget logjam was finally resolved recently in part due to the enactment of a new tax on services. Actually, the new legislation is not a new tax at all, but rather an extension of the existing Michigan Use Tax Act to services. The Use tax has been in place for decades but has historically only applied to tangible property and a very few select services (e.g. telephone calls, hotel/motel room rental, laundering services, etc.). The new law greatly expands the list of services subject to the tax, but does so on a selective basis.

The list of new services subject to tax is identified by reference to the 2002 North American Industrial Classification System (NAICS) which is produced by the U.S. Office of Management and Budget (view the NAICS website at <http://www.census.gov/epcd/naics02/naicod02.htm>). The services subject to the tax are listed below with their applicable NAICS code designation. In some cases the reference is to a broad group of businesses (e.g. consulting services) which will include a specific list of business types that fall under that code category.

It is important to note that the legislation provides that the tax is based on the description of the service provided in the NAICS code and not the classification of the business providing the service. So, if a service that is taxable, such as Site Location Consulting (NAICS code 541611) is provided by an entity whose services are generally exempt, like an accounting firm or real estate brokerage firm, the service remains taxable. Arguably, the provision works the other way as well - a firm whose services are generally taxable may offer some services that are exempt.

The Use Tax is levied at a rate of 6% of purchase price of a taxable good or service. The tax is imposed on the buyer of the good or service and the new legislation did not include a companion sales tax bill. Thus, the new tax only applies to the use and consumption of services in Michigan and does not apply to the sale of these services outside Michigan. Sellers of taxable goods and services must collect the use tax, but if they do not the buyer remains liable for its payment. Buyers of the taxable services need to retain proof that they paid applicable use tax. The new law takes effect on December 1, 2007.

The following services are taxable. Those services most likely to affect businesses are in bold.

- Carpet and upholstery cleaning services (NAICS industry code 56174)
- **Business service center services** (NAICS industry code 56143)
- **Consulting services** (NAICS industry code 52393)
- Investigation, guard and armored car services (NAICS industry code 56161)
- **Investment advice services** (NAICS industry code 52393)
- Janitorial services (NAICS industry code 56172)
- Landscaping services (NAICS industry code 56173)
- **Office administration services** (NAICS industry code 5611)
- Astrology services
- Baby shoe bronzing services
- Bail bonding services
- Balloon-o-gram services
- Coin-operated blood pressure testing machine services
- Bondsperson services
- Check room services

- Coin-operated personal service machine services
- Comfort station operation services
- Concierge services
- Consumer buying services
- Credit card notification services
- Dating services
- Discount buying services
- Social escort services
- Fortune telling services
- Genealogical investigation services
- House sitting services
- Social introduction services
- Coin operated rental locker services
- Numerology services
- Palm reading services
- Party planning services
- Pay telephone services
- Personal fitness trainer services
- Personal shopping services
- Coin-operated photographic machine services
- Phrenology services
- Porter services
- Psychic services
- Rest room operation services
- Shoeshine services
- Singing telegram services
- Wedding chapel services (but not churches)
- Wedding planning services
- Other travel and reservations services (NAICS industry code 56159)
- Scenic transportation services (NAICS industry subsector code 487)
- Skiing services (NAICS industry code 71392)
- Tour operator services (NAICS industry code 56152)
- Warehousing and storage services (NAICS industry subsector code 4931)
- Packaging and labeling services (NAICS industry code 56191)
- Specialized design services (NAICS industry group code 5414)
- Transit and ground passenger transport services (NAICS industry group code (4853)
- Courier and messenger services (NAICS industry subsector code 492)
- Personal care services, except hair care services (NAICS industry group code 8121)
- Service contract services in which the seller agrees to provide repair, maintenance or replacement of tangible personal property during a specific period of time, which services the buyer is not required to buy in connection with the purchase of tangible personal property.
- Security system services (NAICS industry code 56162)
- Document preparation services (NAICS industry code 56141)
- Miniwarehouse services and self-storage unit services (NAICS industry code 53113)