

Economic Impact of PA 93 of 2007 on Supply Chain Activities in Michigan Initial Draft

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by
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Researchers

- Dr. David Closs, Chairperson and McConnell Professor, Department of Supply Chain Management, Michigan State University
- Dr. John Taylor, Associate Professor of Logistics, Grand Valley State University
- Mr. James L. Roach, J.L. Roach, Inc. (Retired MDOT)
- Mr. David Kirvan, Retired Deputy Revenue Commissioner, State of Michigan

Outline

- Background
- Research questions
- Methodology
- Results
- Conclusions
- Recommendations

Sources of Information

- Business census data
 - U.S. Census, Censtats, 2005 Business Patterns for the State of Michigan
- Interviews
- Surveys

Sources of Information Interviews

- Michigan manufacturers and shippers
- Michigan contract warehouse providers
- Parcel couriers
- Michigan Department of Treasury

Sources of Information Survey

- Completed by MSU and GVSU faculty and graduate students –November 2007
- Sample contents
 - Warehouse services operators – Members and non-members provided by International Warehouse and Logistics Association
 - Courier services – Provided by International Warehouse and Logistics Association and faculty contacts
 - Consulting services

Background

- Public Act 93 of 2007 was passed by the Michigan legislature and signed by the Governor on September 30, 2007.
- The act provides for a six percent tax on certain services and takes effect on December 1, 2007.
- The act was part of an initiative to increase state revenues and cut spending to cover an expected \$1.6 billion state deficit during the fiscal year beginning October 1, 2007.
- Total revenues associated with the new tax on services was estimated at \$613.8 million by the Senate Fiscal Agency for the final ten months of the 2008 fiscal year. Some business groups feel that this estimate understates potential revenue.
- The new six percent tax applies to certain types of supply chain management activities and, as a minimum, includes:
 - Courier and messenger services
 - Consulting services including physical distribution and logistics consulting
 - Warehousing and storage activities

Background

NAICS Code and Services

- The description of listed services is based on the 2002 Edition of the *North American Industry Classification System* (NAICS) produced by the U.S. Office of Management and Budget.
- Every business establishment in North America is classified in accordance with the major activity conducted at that location. This information is used by the U.S. Census to compile information regarding employees and payroll for the different industry groups.
- An establishment is a single physical location at which business is conducted or services or industrial operations are performed. It is not necessarily identical with a company or enterprise, which may consist of one or more establishments.
- PA 93 specifies that the service is subject to tax based on the description of the service in the applicable NAICS code and not the classification of the establishment providing the service.

Background

NAICS Code and Services

- The act specifies that services are subject to taxation based on their description in the applicable NAICS Code. Supply chain management (SCM) related services follows:
 - Courier and messenger services, as described in NAICS subsector code 492.
 - Consulting services , as described in NAICS subsector code 5416.
 - Warehousing and storage services, as described in NAICS subsector code 4931.
- It is important to understand that while the NAICS classifies business, the Use Tax Act specifically provides that service transactions are subject to the use tax based on the description of that service in the applicable NAICS Code and not on the classification of the establishment providing the service. Thus, a public warehouse in an establishment that is classified as a trucking company would be subject to taxation.

Background Use Taxes

- In Michigan, certain goods are subject to the 6 percent sales tax while certain services are subject to a 6 percent use tax imposed on the purchaser or consumer of services for the privilege of using that service in Michigan.
- A simultaneous obligation is imposed on the seller of the service to collect the 6 percent use tax from the purchaser and remit it to the State of Michigan. The purchaser/consumer is not relieved of the responsibility for the tax until it has been paid to the State.
- In some situations, a seller located outside of Michigan may be excused by federal law from collecting Michigan's 6 percent use tax, but that does not relieve the Michigan purchaser/consumer of their tax obligation. These situations often involve sales of goods or services made or delivered over the internet or by phone and catalog.
- Michigan's 6 percent use tax is applied to the purchase /sales price of a transaction in which taxable services are provided. In some instances, taxable and exempt property are combined into a single mixed transaction. When that situation occurs, the predominate nature of the transaction must be determined. The transaction will be either fully taxable or fully exempt; an all or nothing tax results.

Background

Supply Chain Management and the New Use Tax

- Warehousing and storage services, courier and messenger services, and physical distribution and consulting services establishment would be responsible for the collection, from their customers, the new 6 percent tax and its remittance to the Michigan Department of Treasury.
- In addition, these establishments would themselves be responsible for the payment of the service tax for a wide range of services provided to them such as consulting, security, janitorial, landscaping, and travel and reservation services.
- The following sections discuss, respectively, the three SCM categories. This will be followed by a discussion of possible other SCM activities which we do not believe will be subject to the tax. However, certain interpretations of the law could result in their inclusion.
- It is also important to understand that PA 93 was approved in an emergency overnight legislative session on September 30 and was not available for review or comment by interested parties. There are many questions relating to intent as well as assumptions used in developing revenue estimates.

Research Questions

- Which segments of supply chain industry will be impacted?
- What is the role of location in the application of the services tax?
- What is the responsibility of out-of-state providers in applying the tax?
- Will bundled services have to be taxed independently?
- What are the policies of neighboring states regarding SCM services taxes?
- What is the magnitude of the industry being impacted and how will they likely respond?

Which Segments of Supply Chain Industry will be Impacted?

- Warehouse and storage services
- Courier and messenger services
- Physical distribution and logistics consulting

Warehousing and Storage Services

- PA 93 states that “warehousing and storage services, as described in NAICS subsector code 4931” will be subject to the new tax on services.
 - 493. Warehousing and Storage. Industries in this sector are primarily engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other warehouse products. These establishments provide facilities to store goods. They do not sell the goods they handle. These establishments take responsibility for storing the goods and keeping them secure. They may also provide a range of services, often referred to as logistics services, related to the distribution of goods. Logistics services can include labeling, breaking bulk, inventory control and management, light assembly, order entry and fulfillment, packaging, pick and pack, price marking and ticketing, and transportation arrangement... However, establishments in this industry group always provide warehousing or storage services in addition to logistics services. Furthermore, the warehousing and storage of goods must be more than incidental to the performance of the services, such as price marking.
 - 4931. Warehousing and Storage. (no description provided)
 - 49311. General Warehousing and Storage. This industry comprises establishments primarily engaged in operating merchandise warehousing and storage facilities. These establishments generally handle goods in containers, such as boxes, barrels, and/or drums, using equipment, such as forklifts, pallets, and racks. They are not specialized in handling bulk materials of any particular type, size, or quantity of goods or products.
 - 49312. Refrigerated warehousing and storage. This industry comprises establishments primarily engaged in operating refrigerated warehousing and storage facilities. The services provided by these establishments include blast freezing, tempering, and modified atmosphere storage services.
 - 49313. Farm Product Warehousing and Storage. This industry comprises establishments primarily engaged in operating bulk farm product warehousing and storage facilities (except refrigerated). Grain elevators primarily engaged in storage are included in this industry. Storing grains and field beans (i.e., grain elevators) as an incidental activity to sales are not included in this industry.
 - 41319. Other Warehousing and Storage. This sub sector includes the following types of warehouse and storage facilities. Automobile dead storage, bonded warehouses, bulk petroleum storage, lumber storage terminals, public and private warehouses and whiskey warehousing.

Warehousing and Storage Services Assumptions and Issues

- We assume that a purchaser of warehouse services will be taxed if the warehouse is located in Michigan. The purchaser may be an instate or outstate entity. An outstate company using a Michigan warehouse would be required to pay the tax. A Michigan company using an outstate warehouse would not be taxed.
- Thus...
 - Michigan warehouse providing services for a Michigan company.....Taxable
 - Michigan warehouse providing services for an outstate company.....Taxable
 - Outstate warehouse providing services for a Michigan company.....Not Taxable
- Issues.
 - Logistics services provided by a warehouse company that are incidental to the warehouse service may be taxable. The law says that one can not go upwards in NAICS code numbers since that includes more activities. Logistics is only mentioned in the warehouse description given in 493 whereas the law includes those activities in 4931.
 - The Michigan Department of Treasury web page seems to suggest that only merchandise warehousing is included. Our analysis, based on the NAICS code, suggests that refrigerated warehouses, some farm product warehouses and other warehouses including auto dead storage, bonded warehouses, bulk petroleum storage, lumber storage terminals, and whiskey warehouses are included.

Payroll and Use Taxes from Warehousing and Storage

- The following table provides estimates of use tax revenues for the warehousing and storage industry.
- This shows that the warehouse and storage industry in Michigan....
 - Has 13,738 employees
 - An annual payroll of \$587 million
 - Estimated sales of over \$1.4 billion
 - Use tax revenues of about \$88 million annually
 - Michigan income tax revenues of \$23 million annually
- The estimates are projected using U.S. Census employment and payroll data by NAICS code.

NAICS Code	Description	Michigan Employees	Estimated 2007 Payroll (\$M)	Estimated 2007 Sales (\$M)	Estimated 2007 Use Tax (\$M)	Estimated 2007 Income Tax (\$M)
4931	Warehousing and storage	13,738	\$586.5	\$1,466.3	\$88.0	\$23.5
49311	General	9,121	\$434.2	\$1,085.4	\$65.1	\$17.4
49312	Refrigerated	369.	\$15.6	\$39.0	\$2.3	\$0.6
49313	Farm Product	55	\$2.1	\$5.3	\$0.3	\$0.1
49319	Other	4,193	\$134.6	\$336.5	\$20.2	\$5.4

Courier and Messenger Services

- PA 93 states that “Courier and messenger services, as described in NAICS subsector code 492” will be subject to the new tax on services.
 - 492. Couriers and messengers. Industries in the Couriers and Messengers subsector provide intercity and/or local delivery of parcels. These articles may be described as those that can be handled by one person without using special equipment. This allows the collection, pick-up, and delivery operations to be done with limited labor costs and minimal equipment. Sorting and transportation activities, where necessary, are generally mechanized. The restriction to small parcels partly distinguishes these establishments from those in the transportation industries. The complete network of courier services establishments also distinguishes these transportation services from local messenger and delivery establishments that, under contract to them, perform local pick-up and delivery. Messengers, which usually deliver within a metropolitan or single urban area, may use bicycle, foot, small truck, or van
 - 4921. Couriers. This industry comprises establishments primarily engaged in providing air, surface, or combined courier delivery services of parcels generally between metropolitan areas or urban centers. The establishments of this industry form a network including courier local pick-up and delivery to serve the customers needs.
 - 4922. Local messengers and delivery. This industry comprises establishments primarily engaged in providing local messenger and delivery services of small items within a single metropolitan area or within an urban center. These establishments generally provide point-to-point pick-up and delivery and do not operate as part of an intercity courier network.
- NAICS Code 492 excludes:
 - Truck transportation of palletized general freight
 - Operating the U.S.Postal Service or providing postal services on a contract basis
 - Providing the bulk transportation of mail on a contract basis to and from U.S. Postal Service establishments

Courier and Messenger Services

- The NAICS description appears to clearly include the major air and ground express operations of companies such as FedEx, UPS, DHL and others.
- Who pays the tax?
 - We assume that, under Section 20 sourcing rules, the Michigan purchaser of courier or messenger services will be taxed when that transaction occurs in Michigan.
 - Simply stated, a Michigan individual or company would pay the tax at the time the services are purchased.
 - The Michigan Department of Treasury has informally indicated that the tax would be paid at the first point of contact with a courier service.
 - An inbound parcel to Michigan from an outstate origin would not be taxed.
- Intrastate and outbound interstate parcels would represent most of the tax.

Payroll and Use Taxes from Courier Services

- The following table provides estimates of use tax revenues for the courier and messenger industry.
- This shows that the courier industry in Michigan....
 - Has 12,646 employees
 - An annual payroll of \$424 million
 - Estimated sales of over \$1 billion
 - Use tax revenues of about \$64 million annually
- The estimates are projected using U.S. Census employment and payroll data by NAICS code.

NAICS Code	Description	Michigan Employees	Estimated 2007 Payroll (\$M)	Estimated 2007 Sales (\$M)	Estimated 2007 Use Tax (\$M)	Estimated 2007 Income Tax (\$M)
492	Couriers & messengers	12,646	\$424.0	\$1,060.7	\$63.6	\$17.0
4921	Couriers	11,959	\$406.2	\$1,101.6	\$60.9	\$16.3
4922	Local messengers	687	\$18.1	\$45.1	\$2.7	\$0.7

Process, Physical Distribution and Logistics Consulting Services

- PA 93 states that “Consulting services, as described in NAICS subsector code 5416” will be subject to the new tax on services.
- NAICS code 5416 is titled “Management, Scientific and Technical Consulting Services” and covers a broad range of consulting services
- NAICS code 541614 is a subsector of 5416 titled “Process, Physical Distribution and Logistics Consulting Services.” It is described as follows:
 - This U.S. industry comprises establishments primarily engaged in providing operating advice and assistance to businesses and other organizations in area, such as: (1) manufacturing operations improvement; (2) productivity improvement; (3) production planning and control; (4) quality assurance and quality control; (5) inventory management; (6) distribution networks; (7) warehouse use, operations and utilization; (8) transportation and shipment of goods and materials; and (9) materials management and handling. It includes consulting activities relating to: customs, efficiency management, freight rate auditing and consulting, inventory planning and control, logistics management, physical distribution, tariff rate and tariff information services, transportation management consulting and others.

Process, Physical Distribution and Logistics Consulting Assumptions

- We assume that a Michigan purchaser of SCM consulting services will be taxed. The firm doing the work may be located inside or outside of Michigan. A Michigan consulting firm doing work for an outstate client would not be taxed since the purchaser of the service is outside of Michigan.
- Thus....
 - Michigan consultant doing work for Michigan client-----Taxable
 - Outstate consultant doing work for a Michigan client-----Taxable
 - Michigan consultant doing work for an outstate client-----Not Taxable
- Issue. We believe that Michigan is a net importer of SCM related consulting services so our estimate, as well as Treasury's, may understate the tax revenue attributable to this category of services.
- Impacts
 - Michigan businesses will pay more for consulting services than similar businesses in other states.
 - Competitive position in the short and long term will suffer.
 - Business is trending towards more specialization through outsourcing. This tax discourages Michigan businesses from using consulting companies that can provide high quality specialized services at less than in-house costs.

Payroll and Use Taxes from Process, Physical Distribution and Logistics Consulting Services

- The following table provides estimates of use tax revenues for the Process, Physical Distribution and Logistics Consulting Services.
- This shows that the industry in Michigan....
 - Has 3,843 employees
 - An annual payroll of \$0.204 billion
 - Estimated sales of over \$0.501 billion
 - Use tax revenues of about \$0.031 billion annually
- The estimates are projected using U.S. Census employment and payroll data by NAICS code.

NAICS Code	Description	Michigan Employees	Estimated 2007 Payroll (\$M)	Estimated 2007 Sales (\$M)	Estimated 2007 Use Tax (\$M)	Estimated 2007 Income Tax (\$M)
541614	Process, PD & Logistics Consulting	3,843	\$203.5	\$508.8	\$30.5	\$8.1

Are Logistics Services Included?

- There has been some indication that logistics services may be included in the new services tax.
- This is based on two possible theories that have been suggested informally by Department of Treasury officials:
 - Office Administrative Services (NAICS Code 5611) are subject to the new use tax and are described as follows
 - “This industry comprises establishments primarily engaged in providing a range of day-to-day office administrative services, such as financial planning; billings and recordkeeping; personnel; and physical distribution and logistics for others on a contract or fee basis. These establishments do not provide operating staff to carry out the complete operations of a business.”
 - We do not believe that logistics services are subject to the tax under this NAICS Code.
 - An important caveat under the broad Administrative and Support category is that providing only one of the support services (e.g., accounting) that establishments in this industry provide require classification in the appropriate industry according to the service provided. Logistics services tend to be provided by firms specializing in that activity and would be classified in one of the transportation related categories not subject to taxation.
 - The authors of the 2002 NAICS Code may have lacked an understanding of logistics given its inclusion with well defined office support services such as personnel and bookkeeping. This is supported by the fact that the new 2007 NAICS Code omits any reference to logistics services under Office Administrative Services.
 - Warehousing and Support Services (NAICS Code 4931) are subject to the new use tax. As discussed earlier, the definition of 493 Warehousing and Storage states that warehouses may “provide a range of services, often referred to as logistics services, related to the distribution of goods. Establishments in this group always provide warehousing or storage services in addition to any logistics services and they must be more than incidental to the performance of logistics services.
 - We believe that logistics services provided incidental to a warehouse may be subject to taxation especially if there is no separation of the functions or separate company that does the work

What is the Role of Location in the Application of the Services Tax?

- PA 93 requires every seller to source sales in accordance with Section 20 and collect the use tax from the consumer.
- Under Section 20, for sourcing a sale subject to the use tax, the following applies (note that services set forth in the bill must be sourced as products as provided in Section 20):
 - If a product is received by the purchaser at a business location of the seller, the sale is sourced to that location.
 - If a product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where the product is received by the purchaser or the purchaser's designee, including the location indicated by instructions for delivery to the purchaser, known to the seller.
 - If either of the above provisions does not apply, the sale is sourced to the purchaser's address.
- These rules are important in determining whether a service is taxable and who is responsible. Good faith clause, object of function, beneficiary, where benefit received are also considerations.

What are the Policies of Neighboring States Regarding SCM Services Taxes?

- No other Midwestern states tax courier services.
 - Six states tax intrastate courier service at rates of .384 to 5.75 percent (AZ, DE, DC, HI, NM, WA).
 - Only one state, Wyoming, taxes interstate courier service (Wyoming at 4%).
- Ohio taxes warehousing services as one element of a business tax but not a use tax.

What is the Magnitude of the Industry being Impacted and How will it likely Respond?

- Magnitude of warehousing, courier, and logistics consulting industry
- Awareness of proposed use tax
- Likely response

Magnitude of the Industry

	Employees	Revenue (\$M)	Payroll (\$M)	Use Tax (\$M)	Income Tax (\$M)
Couriers	12,646	\$1,060.7	\$424.3	\$63.6	\$17.0
Warehousing	13,738	\$1,466.3	\$586.5	\$88.0	\$23.5
Consulting	3,843	\$508.9	\$203.5	\$30.5	\$8.1
Total	30,227	\$3,035.9	\$1,214.3	\$182.1	\$48.6

Source: Based on U.S. Census employment data

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Survey Characteristics

- Sample size – 25 service providers
- Total revenue - \$263 million annually
- Total employment – 2,913
- Total payroll - \$89 million annually

Understanding of Use Tax

	Warehouse Operators	Clients of Warehouse Operators
Not aware of use tax related to PA 0093 2007	1.0	2.8
Use tax doesn't apply	1.2	3.0
Do not understand the implications of use tax	1.6	2.9

Scale: 1=Strongly Disagree; 3=Neutral; 5=Strongly Agree

Response to Use Tax

	Warehouse Operators	Clients of Warehouse Operators
Change operations in Michigan	4.0	4.6
Shift manufacturing outside of Michigan	3.3	4.0
Shift warehousing/storage outside of Michigan	3.9	4.7
Shift supply chain value-added services outside of Michigan	4.7	4.8
Shift parcel transportation services outside of Michigan	3.5	4.4
Shift supply chain consulting services outside of Michigan	3.8	4.4

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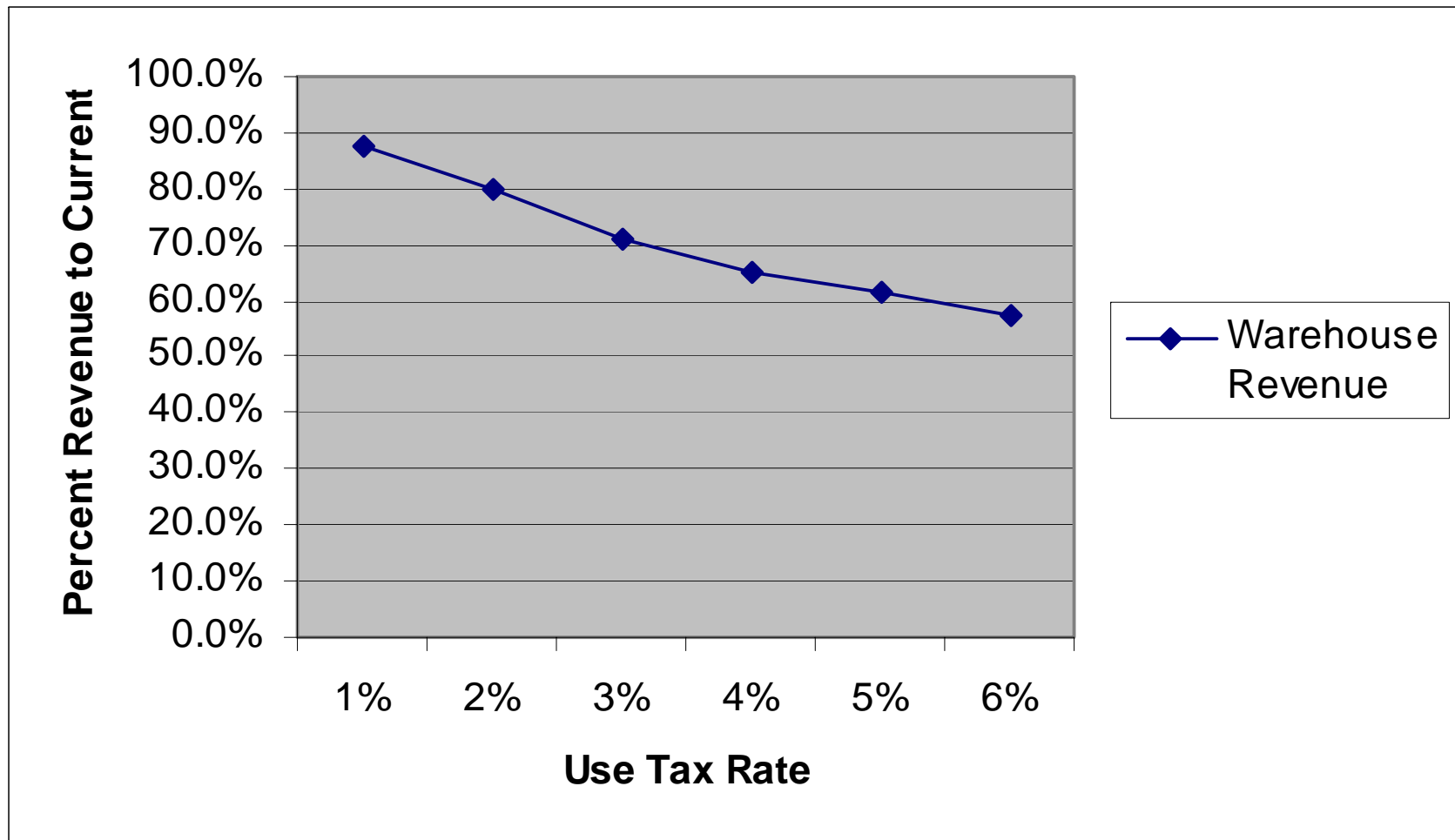
Scale: 1=Strongly Disagree; 3=Neutral; 5=Strongly Agree

Assessment of Firm's Response

Item	Response
PA 0093 will have no impact on firm's Michigan operations	1.4
PA 0093 will increase firm's willingness to invest in Michigan	1.8
PA 0093 will have no impact on our firm's customers Michigan operations	1.4

Scale: 1=Strongly Disagree; 3=Neutral; 5=Strongly Agree

Impact of Use Tax Rate on Warehousing Revenue



What is the Impact Based on Reduction in Business Activity?

		1%	2%	3%	4%	5%	6%
Reduced activity based on survey	Current Activity	12.7%	19.8%	29.2%	35.1%	38.4%	42.7%
Employees	30,227	26,398	24,232	21,411	19,631	18,623	17,313
Revenue (\$M)	3,036	2,651	2,434	2,150	1,972	1,870	1,739
Payroll (\$M)	1,214	1,060	973	860	789	748	696
Income taxes (\$M)	49	42	39	34	32	30	28
Job loss		3,829	5,995	8,816	10,596	11,604	12,914
Payroll loss (\$M)		154	241	354	426	466	519
Income tax loss (\$M)		6	10	14	17	19	21
Use Tax (Based on 6% of revenue)		159	146	129	118	112	104

What is the Impact of the Use Tax on Employment, Revenue, and Payroll?

	Current (Before Tax)	After Tax	Difference
Employment			
Warehouse	13,738	7,872	5,866
Related Transportation	3,435	1,968	1,467
Total Employment	17,173	9,840	7,333
Revenue (\$M)			
Warehouse	1,466	840	626
Related Transportation	367	210	157
Total Revenue	1,833	1,050	783
Payroll (\$M)			
Warehouse	586	336	250
Related Transportation	147	84	63
Total Payroll	733	420	313
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What is the Total Tax Impact of the Service Tax?

	Current (Before Tax)	After Tax	Difference
Employee Related Tax Impact (\$M)			
Employee Income Tax	15	9	(6)
Employee Sales Tax	15	9	(6)
Employee Property Tax	43	25	(18)
Employee Related Total Tax	73	43	(30)
Company Related Tax Impact (\$M)			
Michigan Business Tax	18	11	(7)
Property Tax	34	20	(14)
Company Related Total Tax	52	31	(21)
Total Tax	125	74	(51)
Proposed Service Tax	0	50	50
Total Tax without Multiplier	125	124	(1)
Indirect/Multiplier cost	125	72	(54)
Total Taxes Including Multiplier	250	196	(55)
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Conclusions: Total Tax Impact of Use Tax

- Michigan will lose over 7,000 warehouse and transportation related jobs.
- Employee and company related tax (not considering the use tax) will decline by \$51 million.
- Not including the multiplier impact, the \$51 million represents a breakeven with the proposed use tax.
- When the multiplier impact is considered, the State will loose approximately \$55 million in tax revenue.
- The proposed use tax will result in a net annual loss of \$55 million in tax revenues for state and local governments and over 7,000 warehouse related jobs.

Sample of Comments from Warehouse Operators

- “We will move as much business as possible to our other facility in Dayton, Ohio.”
- “Warehousing is different than other services such as lawn care or haircuts, because you can't pickup your lawn or your hair and move it out of Michigan.”
- “His \$10M business will leave MI if this tax takes effect.”
- “His business has lost money 6 years straight and this will end their commitment to doing business in Michigan.”

Sample of Comments from Warehouse Operators

- “The preliminary impact is unknown at this point. It is anticipated that our national accounts will shift storage to other states since we already struggle in justifying to our customers the added freight costs to ship in and out of Michigan. Our state, by geography, is not an ideal location for nationwide logistical operations. Adding a 6% cost to B2B storage will only add one more reason for our customers to avoid Michigan altogether.”
- “We expect a significant decrease in customers operating nationally.”

Sample of Comments from Warehouse Operators

- “I don't know why a business would choose to locate in MI.”
- “Its ridiculous that state passed this late night law without considering its real implications.”
- “I am a Member of MI Economic Growth Assoc. working to bring Ohio jobs into Michigan, but this effort is a waste of time now.”
- “Our supply chain doesn't have to be in MI, but we choose to be here because we have been loyal to our home state.”
- “My company owns 3 million sq. ft. of warehouse space in MI. We pay \$1.5M in property taxes. When we leave, there will be a severe economic impact to the communities and school districts where we operate.”

Sample of Comments from Warehouse Operators

- “Our biggest concern is that our customers will leave us and we won't be able to get new ones. From Spring Lake, it's often geographically closer for our customers to do business with Indiana service providers already, this will force them there.”
- “Two customers are already looking to move to Indiana. People want to move to Chicago if it is going to get more expensive. We all need to pitch in and not to put it on a a few.”
- “We don't think it applies to us because most of our customers are out of state but we will still probably leave because we fear a Treasury audit two years from now will find that it does.”

Conclusions

- While the warehouse operators understand the implications of the use tax, it appears that their customers and clients do not.
- The warehouse operators will likely move value added services, consulting services, and courier services outside of Michigan.
- The warehouse operators believe strongly that their customers and clients will move value-added services, warehousing/storage, transportation, consulting and manufacturing outside of Michigan.
- Strong indication that warehouse firms and their customers will sharply reduce Michigan operations.
- A 6 percent use tax is estimated to reduce warehouse operating revenue by 45 percent. The revenue reduction decreases to 12 percent at a 1 percent use tax.

Services Tax

Logistics Related Macro Impacts

- Michigan headquartered manufacturers/retailers will pay taxes on outsourced warehouse/logistics services/consulting and courier support that their out of state competitors don't pay.
- Some Michigan based firms may move out of state to avoid taxes, and cause other firms considering Michigan locations to stay away.
- Retailers with Michigan DC's/stores will be disadvantaged because their suppliers using Michigan contract warehouses to support JIT shipping to the retailer will be subject to the tax and will have to pass it on to the Michigan retail chain.
- Warehouse operators may relocate to Indiana and Ohio because warehouses located in those states are not subject to use taxes.
- Transportation related services owned and operated by these warehouse operators may also cease to exist even though they are not directly subject to the tax.

Services Tax

Logistics Related Macro Impacts (Continued)

- Logistics value added services industry developing in Michigan may be forced to consider moving to out of state locations to avoid the use tax.
- Warehouse customer/clients will divert business to Indiana/Ohio based competitors who will not owe the tax.
- Michigan's ability to capitalize on its position at the supply chain center of the U.S.-Canada corridor between Chicago-Detroit-Toronto-Montreal or with the Aerotropolis may be jeopardized.
- Manufacturers and retailers shipping/receiving large volumes by courier are less likely to place manufacturing and distribution centers in Michigan.
- Use taxes are a disincentive to outsourcing arrangements that have been at the center of SCM strategies for many firms.

Services Tax

Logistics Related Macro Impacts

(Continued)

- Use taxes reduce the potential for specialization and the resulting productivity benefits driving greater insourcing and inefficiencies due to reduced economies of scale.
- Since supply chain activities are highly outsourced to a variety of specialists these supply chains are subject to extensive pyramiding of use taxes. For instance, a payroll service does work for Fed Ex at 6 percent, Fed Ex invoices Ryder Integrated Logistics for a service for an auto company with a 6 percent use tax, Ryder invoices a fourth party logistics services provider with another 6 percent, and then the 4PL invoices the auto company for another 6 percent. The pyramid result is a 42 percent disincentive.
- Overall, unless Michigan Treasury strongly enforces the payment of the tax by Michigan beneficiaries or their out of state “logistics services” and consulting providers, in-state providers will be at a disadvantage just like in-state warehouseers are.

Legislative/Regulatory Recommendations

- The services tax on SCM related companies will drive significant numbers of both users and providers of these services out of state
 - Therefore, we recommend repeal of this tax on business to business SCM related services
- Short of a full repeal of the tax, we recommend:
 - Better defining the NAICS codes subject to the tax and clarifying the meaning of exemptions described in each NAICS
 - Better defining the specific SCM related services subject to the tax:
 - The extent to which warehouse and related sequencing centers are or are not subject to the tax
 - The extent to which “logistics services” are covered or not covered should be defined
 - The extent to which “transportation arrangements” is covered under “logistics services should be better defined
 - The extent to which interstate courier services (UPS, Fed Ex, etc.) are subject to the tax as compared to just Intrastate

Legislative/Regulatory Recommendations

- Short of a full repeal of the tax, we recommend (Continued):
 - Providing clearer guidelines regarding what state a “sale is sourced to” than currently contained in Section 20 of the Michigan Use Tax Act. These guidelines determine whether an activity is related to Michigan and hence subject to the tax:
 - Providing guidelines specifically related to services instead of applying the current guidelines related to goods.
 - Better defining which SCM services are “received at the sellers location” (test 1) vs. at the “location where the service is received by the purchaser” (test 2)
 - For instance Treasury has indicated “warehousing” will be sourced to the location where the service is provided meaning in-state providers will be subject to the tax regardless of where the client is “located” but out-of-state providers will not be subject to the tax even when serving Michigan clients.
 - For instance Treasury has indicated “logistics services” and consulting in general will be assumed to be sourced to the location where the service is received by the purchaser – so Michigan related companies will be subject to this tax regardless of whether the work is done in-state or out-of-state thereby dramatically increasing the impact on services users with a Michigan presence.
 - Better defining the “location where the service is received by the purchaser”
 - For instance when “load planning” is done for a firm with a Michigan headquarters but the particular freight movement is between two points outside of Michigan, or one point in Michigan, is this service for this trip subject to the tax
 - Providing guidelines on which types of “courier” services (intra, outbound, inbound) are subject to the tax, in a manner similar to the regulations provided for telecommunications services.
 - Possibly exempting courier services provided by firms that also own and run fleets of aircraft (ie UPS, Fed Ex, DHL, etc.)

Legislative/Regulatory Recommendations (Continued)

- Short of a full repeal of the tax, we recommend (Continued):
 - Finding a way to require more out-of-state providers to collect and remit the tax, as companies with an in-state nexus will be required to collect and remit the tax but out-of-state providers will not be required to collect the tax (note the beneficiary will be required to pay if the in-state or out-of-state provider did not remit the taxes)
 - Making it possible for in-state providers to include the tax in the price of their services instead of being required to itemize the tax, as out-of-state providers will not be collecting the tax or even itemizing it on the invoice in most cases.
 - Better defining when a “bundled service” is predominately of a nature subject to the tax, as compared to being defined as a service which is not subject to the tax – for instance transportation services are not subject to the tax but services helping manufacturers to pick the appropriate carrier appear to be subject to the tax – so when transportation is bundled with carrier assignment services is the overall bundled service under one invoice subject to the tax??
 - Providing for “apportionment” guidelines that will clarify which companies overall services or receipt of services are deemed to have a Michigan relationship, as opposed to the current Act which requires every service invoice to be individually analyzed to determine the degree to which it is subject to the tax
 - Providing that “in-house” SCM services provided by one subsidiary, for another subsidiary when both are owned by the same parent, are not subject to the tax
 - Provide enough enforcement funding to make sure Treasury can assure that services performed by out-of-state providers are taxed through collection from the Michigan beneficiary