

March 9, 2015

Hon. Jack Brandenburg
Chairman, Tax Policy Committee
Michigan Senate Finance Committee
P.O. Box 30036
Lansing, MI 48909

Re: SB 0082 and SB 0083

Dear Chairman Brandenburg:

On behalf of Kelly Services, Inc. ("Kelly"), I am writing in support of two bills pending in your committee, SB 0082 and SB 0083. This legislation clarifies that remote access to computer software via Software as a Service ("SaaS") transactions is a service not subject to Michigan's sales and use tax. I urge you to favorably report these bills out of committee at the earliest opportunity.

As a consumer of SaaS, a service supplied remotely over the internet, Kelly faces uncertainty regarding the proper Michigan sales and use tax treatment of these remote access transactions. In SaaS transactions, the customer never downloads any software and never has possession or control of the software. The provider of the service has full possession and control of the software and uses the software to provide a service to its customer. As such, these transactions are clearly outside the Michigan sales and use tax statutes.

While Michigan courts have found SaaS transactions non-taxable on three occasions¹, the Michigan Department of Treasury ("Treasury") continues to assess sales and use tax on SaaS transactions. Treasury has also assessed Michigan headquartered companies on all SaaS transactions globally, effectively creating a new "headquarters tax" for Michigan based companies. SB 0082 and SB 0083 will end this uncertainty by clarifying that SaaS transactions are not subject to sales and use tax.

Further to providing clarity, this legislation would enhance Michigan's economic climate. With the growing demand for SaaS, this legislation would establish a clear, pro-business tax environment that companies will view favorably when making expansion decisions.

Kelly Services supports SB 0082 and SB 0083 and urges that you report them favorably at the earliest opportunity. I can be reached at (248)244-4381 or orsinmf@kellyservices.com with any questions.

Respectfully submitted:



Michael F. Orsini
Vice President, Tax & Treasurer

CC: Senator Robertson, Vice-Chair
Senator Bieda, Minority Vice-Chair
Senator Proos

¹ *Thomson Reuters Inc. v. Department of Treasury, Auto Owners Insurance Co. v. Department of Treasury, and Rhemann Robson & Co., P.C. v. Department of Treasury*