

# HOUSE BILL No. 5750

April 9, 1992, Introduced by Reps. London, Bartnik, Gnodtke, Hoffman, Van Singel, Gernaat, Willis Bullard, Strand, Stopczynski, Dalman, Nye, Munsell, Shugars, Dobb, Brackenridge, DeLange, Kosteva, Dobronski, Bennett and Middleton and referred to the Committee on Taxation,

A bill to amend section 4a of Act No. 167 of the Public Acts of 1933, entitled as amended

"General sales tax act,"

as amended by Act No. 87 of the Public Acts of 1991, being section 205.54a of the Michigan Compiled Laws; and to add section 4m.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4a of Act No. 167 of the Public Acts of  
2 1933, as amended by Act No. 87 of the Public Acts of 1991, being  
3 section 205.54a of the Michigan Compiled Laws, is amended and  
4 section 4m is added to read as follows:

5 Sec. 4a. A person subject to tax under this act need not  
6 include in the amount of the gross proceeds used for the  
7 computation of the tax, sales of tangible personal property:

1 (a) Not for resale, and when not operated for profit, to a  
2 school ~~OR hospital, home for the care and maintenance of~~  
3 ~~children or aged persons, or other health, welfare, educational,~~  
4 ~~cultural arts, charitable, or benevolent institution or agency,~~  
5 ~~operated by an entity of government, a regularly organized~~  
6 ~~church, religious, or fraternal organization, a veterans' organi-~~  
7 ~~zation, or a corporation incorporated under the laws of the~~  
8 ~~state,~~ if the income or benefit from the operation does not  
9 inure, in whole or in part, to an individual or private share-  
10 holder, directly or indirectly. ~~, and if the activities of the~~  
11 ~~entity or agency are carried on exclusively for the benefit of~~  
12 ~~the public at large and are not limited to the advantage, inter-~~  
13 ~~ests, and benefits of its members or any restricted group.~~ At  
14 the time of the transfer of this tangible personal property, the  
15 transferee shall sign a statement, in a form approved by the  
16 department, stating that the property is to be used or consumed  
17 in connection with the operation of the institution or agency and  
18 that the institution or agency qualifies as an exempt entity  
19 under this subdivision. The statement shall be accepted by all  
20 courts as prima facie evidence of the exemption and the statement  
21 shall provide that if the claim for tax exemption is disallowed,  
22 the transferee will reimburse the transferor for the amount of  
23 tax involved. A sale of tangible personal property to a parent  
24 cooperative preschool is exempt from taxation under this act. As  
25 used in this subdivision, "parent cooperative preschool" means a  
26 nonprofit, nondiscriminatory educational institution, maintained  
27 as a community service and administered by parents of children

1 currently enrolled in the preschool, that provides an educational  
2 and developmental program for children younger than compulsory  
3 school age, that provides an educational program for parents,  
4 including active participation with children in preschool activi-  
5 ties, that is directed by qualified preschool personnel, and that  
6 is licensed by the department of social services pursuant to Act  
7 No. 116 of the Public Acts of 1973, as amended, being sections  
8 722.111 to 722.128 of the Michigan Compiled Laws.

9 (b) Not for resale to a regularly organized church or house  
10 of religious worship, except:

11 (i) Sales in activities that are mainly commercial  
12 enterprises.

13 (ii) Sales of vehicles licensed for use on public highways  
14 other than a passenger van or bus with a manufacturer's rated  
15 seating capacity of 10 or more that is used primarily for the  
16 transportation of persons for religious purposes.

17 (c) To bona fide enrolled students, of food by a school or  
18 other educational institution not operated for profit.

19 (d) Affixed to and made a structural part of real estate  
20 excepted from the definition of "sale at retail" under section  
21 1(1)(c).

22 (e) To persons, of a vessel designated for commercial use of  
23 registered tonnage of 500 tons or more, if produced upon special  
24 order of the purchaser, and bunker and galley fuel, provisions,  
25 supplies, maintenance, and repairs for the exclusive use of the  
26 vessel engaged in interstate commerce.

(f) To persons engaged in a business enterprise and using or consuming the tangible personal property in the tilling, planting, caring for, or harvesting of the things of the soil; in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth or in the direct gathering of fish, by net, line, or otherwise, only by an owner-operator of the business enterprise, not including a charter fishing business enterprise. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land, and ~~, beginning January 1, 1987,~~ subsurface irrigation pipe, if the land tile or irrigation pipe is used in the production of agricultural products as a business enterprise. At the time of the transfer of this tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that the property is to be used or consumed in connection with the production of horticultural or agricultural products as a business enterprise, or in connection with fishing as an owner-operator business enterprise. The statement shall be accepted by all courts as prima facie evidence of the exemption. This exemption includes a portable grain bin, which means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts. This exemption does not include transfers of food, fuel, clothing, or any similar tangible personal property for personal living or human consumption. This

1 exemption does not include tangible personal property permanently  
2 affixed and becoming a structural part of real estate.

3 (g) To the following:

4 (i) An industrial processor for use or consumption in indus-  
5 trial processing. Property used or consumed in industrial pro-  
6 cessing does not include tangible personal property permanently  
7 affixed and becoming a structural part of real estate; office  
8 furniture, office supplies, and administrative office equipment;  
9 or vehicles licensed and titled for use on public highways.

10 Industrial processing does not include receiving and storage of  
11 raw materials purchased or extracted by the user or consumer; or  
12 the preparation of food and beverages by a retailer for retail  
13 sale. As used in this subdivision, "industrial processor" means  
14 a person who transforms, alters, or modifies tangible personal  
15 property by changing the form, composition, or character of the  
16 property for ultimate sale at retail or sale to another indus-  
17 trial processor to be further processed for ultimate sale at  
18 retail. Sales to a person performing a service who does not act  
19 as an industrial processor while performing this service shall  
20 not be excluded under this subdivision except as provided in sub-  
21 paragraph (ii).

22 (ii) ~~After December 31, 1984, a~~ A person, whether or not  
23 the person is an industrial processor, if the tangible personal  
24 property is a computer used in operating industrial processing  
25 equipment; equipment used in a computer assisted manufacturing  
26 system; equipment used in a computer assisted design or  
27 engineering system integral to an industrial process; or a

1 subunit or electronic assembly comprising a component in a  
2 computer integrated industrial processing system.

3 (h) To persons, of a newspaper or periodical admitted under  
4 federal postal laws and regulations effective September 1, 1985  
5 as second-class mail matter or as a controlled circulation publi-  
6 cation or qualified to accept legal notices for publication in  
7 this state, as defined by law, or any other newspaper or periodi-  
8 cal of general circulation, established not less than 2 years,  
9 and published not less than once a week, and copyrighted motion  
10 picture films. Tangible personal property used or consumed, and  
11 not becoming a component part of a newspaper or periodical,  
12 except that portion or percentage of tangible personal property  
13 used or consumed in producing an advertising supplement that  
14 becomes a component part of a newspaper or periodical, and copy-  
15 righted motion picture films are subject to tax. For purposes of  
16 this subdivision, tangible personal property that becomes a com-  
17 ponent part of a newspaper or periodical, and thereby not subject  
18 to tax, shall include an advertising supplement inserted into and  
19 circulated with a newspaper or periodical that is otherwise  
20 exempt from tax under this subdivision, if the advertising sup-  
21 plement is delivered directly to the newspaper or periodical by a  
22 person other than the advertiser, or the advertising supplement  
23 is printed by the newspaper or periodical.

24 (i) To persons licensed to operate commercial radio or tele-  
25 vision stations if the property is used in the origination or  
26 integration of the various sources of program material for  
27 commercial radio or television transmission. This subdivision

1 does not include a vehicle licensed and titled for use on public  
2 highways or property used in the transmission to or receiving  
3 from an artificial satellite.

4 (k) A hearing aid, contact lenses if prescribed for a spe-  
5 cific disease that precludes the use of eyeglasses, or any other  
6 apparatus, device, or equipment used to replace or substitute for  
7 a part of the human body, or used to assist the disabled person  
8 to lead a reasonably normal life if the tangible personal prop-  
9 erty is purchased on a written prescription or order issued by a  
10 licensed health professional as defined by section 21005 of the  
11 public health code, Act No. 368 of the Public Acts of 1978, being  
12 section 333.21005 of the Michigan Compiled Laws, or eyeglasses  
13 prescribed or dispensed to correct the person's vision by an oph-  
14 thalmologist, optometrist, or optician.

15 (l) To persons for use or consumption in the rendition of a  
16 service, the use or consumption of which is taxable under section  
17 3a(a) of the use tax act, Act No. 94 of the Public Acts of 1937,  
18 as amended, being section 205.93a of the Michigan Compiled Laws,  
19 except that this exemption shall be limited to the tangible per-  
20 sonal property located on the premises of the subscriber and the  
21 necessary exchange equipment.

22 (m) Not for resale of a vehicle to a Michigan nonprofit cor-  
23 poration organized exclusively to provide a community with ambu-  
24 lance or fire department services.

25 (n) To inmates in a penal or correction institution pur-  
26 chased with scrip issued and redeemed by the institution.

1 (o) To or for the use of students enrolled in any part of a  
2 kindergarten through twelfth grade program, of textbooks sold by  
3 a public or nonpublic school.

4 (p) Installed as a component part of a water pollution con-  
5 trol facility for which a tax exemption certificate is issued  
6 pursuant to Act No. 222 of the Public Acts of 1966, as amended,  
7 being sections 323.351 to 323.358 of the Michigan Compiled Laws,  
8 or an air pollution control facility for which a tax exemption  
9 certificate is issued pursuant to Act No. 250 of the Public Acts  
10 of 1965, as amended, being sections 336.1 to 336.8 of the  
11 Michigan Compiled Laws.

12 (q) To a purchaser of a new motor vehicle purchased before  
13 January 1, 1993 if the purchaser qualifies for a special regis-  
14 tration under section 226(12) of the Michigan vehicle code, Act  
15 No. 300 of the Public Acts of 1949, being section 257.226 of the  
16 Michigan Compiled Laws, and the vehicle is purchased through a  
17 country determined by the department to be providing a like or  
18 complete exemption for the purchase of a new motor vehicle to be  
19 removed from that country.

20 SEC. 4M. (1) A PERSON SUBJECT TO TAX UNDER THIS ACT MAY  
21 EXCLUDE FROM THE GROSS PROCEEDS USED FOR THE COMPUTATION OF THIS  
22 TAX, SALES OF TANGIBLE PERSONAL PROPERTY NOT FOR RESALE TO AN  
23 ORGANIZATION NOT OPERATED FOR PROFIT AND EXEMPT FROM FEDERAL  
24 INCOME TAX UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE  
25 IF THE INCOME OR BENEFIT FROM THE OPERATION DOES NOT INURE, IN  
26 WHOLE OR IN PART, TO AN INDIVIDUAL OR PRIVATE SHAREHOLDER,  
27 DIRECTLY OR INDIRECTLY, EXCEPT FOR THE FOLLOWING:



1 (A) SALES IN ACTIVITIES THAT ARE MAINLY COMMERCIAL  
2 ENTERPRISES.

3 (B) SALES OF VEHICLES LICENSED FOR USE ON PUBLIC HIGHWAYS  
4 OTHER THAN A PASSENGER VAN OR BUS WITH A MANUFACTURER'S RATED  
5 SEATING CAPACITY OF 10 OR MORE THAT IS USED PRIMARILY TO CARRY  
6 OUT THE PURPOSES OF THE ORGANIZATION AS STATED IN THE BY-LAWS OR  
7 ARTICLES OF INCORPORATION OF THE EXEMPT ENTITY.

8 (2) AT THE TIME OF THE TRANSFER OF THE TANGIBLE PERSONAL  
9 PROPERTY EXEMPT UNDER SUBSECTION (1), THE TRANSFEREE SHALL SIGN A  
10 STATEMENT, ON A FORM APPROVED BY THE DEPARTMENT, STATING THAT THE  
11 PROPERTY IS TO BE USED OR CONSUMED IN CONNECTION WITH THE OPERA-  
12 TION OF THE ORGANIZATION AND THAT THE ORGANIZATION QUALIFIES AS  
13 AN EXEMPT ENTITY UNDER THIS SECTION. THE TRANSFEREE SHALL ALSO  
14 PROVIDE TO THE TRANSFEROR A COPY OF THE FEDERAL EXEMPTION  
15 LETTER. THE STATEMENT WITH THE ACCOMPANYING LETTER SHALL BE  
16 ACCEPTED BY ALL COURTS AS PRIMA FACIE EVIDENCE OF THE EXEMPTION  
17 AND THE STATEMENT SHALL PROVIDE THAT IF THE CLAIM FOR TAX EXEMP-  
18 TION IS DISALLOWED, THE TRANSFEREE WILL REIMBURSE THE TRANSFEROR  
19 FOR THE AMOUNT OF TAX INVOLVED.