

# HOUSE BILL No. 6039

July 22, 1992, Introduced by Reps. London, Willis Bullard, Horton and Strand and referred to the Committee on Taxation.

A bill to amend section 4 of Act No. 94 of the Public Acts of 1937, entitled as amended

"Use tax act,"

as amended by Act No. 141 of the Public Acts of 1989, being section 205.94 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4 of Act No. 94 of the Public Acts of  
2 1937, as amended by Act No. 141 of the Public Acts of 1989, being  
3 section 205.94 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 4. The tax levied ~~shall~~ DOES not apply to THE  
6 FOLLOWING:

7 (a) Property sold in this state on which transaction a tax  
8 is paid under the general sales tax act, Act No. 167 of the  
9 Public Acts of 1933, as amended, being sections 205.51 to 205.78

1 of the Michigan Compiled Laws, if the tax was due and paid on the  
2 retail sale to a consumer.

3 (b) Property, the storage, use, or other consumption of  
4 which, this state is prohibited from taxing under the constitu-  
5 tion or laws of the United States, or under the constitution of  
6 this state.

7 (c) Property purchased for resale, demonstration purposes,  
8 or lending or leasing to a public or parochial school offering a  
9 course in automobile driving except that a vehicle purchased by  
10 the school shall be certified for driving education and shall not  
11 be reassigned for personal use by the school's administrative  
12 personnel. For a dealer selling a new car or truck, exemption  
13 for demonstration purposes shall be determined by the number of  
14 new cars and trucks sold during the current calendar year or the  
15 ~~immediate prior~~ IMMEDIATELY PRECEDING year without regard to  
16 specific make or style ~~in accordance with~~ ACCORDING TO the fol-  
17 lowing schedule ~~—~~ OF 0 to 25, 2 units; 26 to 100, 7 units; 101  
18 to 500, 20 units; 501 or more, 25 units; but not to exceed 25  
19 cars and trucks in 1 calendar year for demonstration purposes.

20 (d) Property that is brought into this state by a nonresi-  
21 dent person for storage, use, or consumption while temporarily  
22 within this state, except ~~when~~ IF the property is used in this  
23 state in a nontransitory business activity for a period exceeding  
24 15 days.

25 (e) Property the sale or use of which was already subjected  
26 to a sales tax or use tax equal to, or in excess of, that imposed  
27 by this act under the law of any other state or a local

1 governmental unit within a state if the tax was due and paid on  
2 the retail sale to the consumer and the state or local governmen-  
3 tal unit within a state in which the tax was imposed accords like  
4 or complete exemption on property the sale or use of which was  
5 subjected to the sales or use tax of this state. If the sale or  
6 use of property was already subjected to a tax under the law of  
7 any other state or local governmental unit within a state in an  
8 amount less than the tax imposed by this act, this act shall  
9 apply, but at a rate measured by the difference ~~only~~ between  
10 the rate provided in this act and the rate by which the previous  
11 tax was computed.

12 (f) Property sold to a person engaged in a business enter-  
13 prise and using and consuming the property in the tilling, plant-  
14 ing, caring for, or harvesting of the things of the soil or in  
15 the breeding, raising, or caring for livestock, poultry, or  
16 horticultural products, including transfers of livestock, poul-  
17 try, or horticultural products for further growth. ~~In that~~  
18 ~~case, at~~ AT the time of the transfer of ~~the~~ THAT tangible per-  
19 sonal property, the transferee shall sign a statement, in a form  
20 approved by the department, stating that the property is to be  
21 used or consumed in connection with the production of horticul-  
22 tural or agricultural products as a business enterprise. The  
23 statement shall be accepted by the courts as prima facie evidence  
24 of the exemption. ~~Beginning January 1, 1989, this~~ THIS exemp-  
25 tion includes agricultural land tile, which means fired clay or  
26 perforated plastic tubing used as part of a subsurface drainage  
27 system for land used in the production of agricultural products

1 as a business enterprise and includes a portable grain bin, which  
2 means a structure that is used or is to be used to shelter grain  
3 and that is designed to be disassembled without significant  
4 damage to its component parts. This exemption does not include  
5 transfers of food, fuel, clothing, or similar tangible personal  
6 property for personal living or human consumption. This exemp-  
7 tion ~~shall~~ DOES not include tangible personal property per-  
8 manently affixed and becoming a structural part of real estate.

9 (g) Property sold to the following:

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

16 Industrial processing does not include receipt and storage of raw  
17 materials purchased or extracted by the user or consumer, or the  
18 preparation of food and beverages by a retailer for retail sale.

19 As used in this subdivision, "industrial processor" means a  
20 person who transforms, alters, or modifies tangible personal  
21 property by changing the form, composition, or character of the  
22 property for ultimate sale at retail or sale to another indus-  
23 trial processor to be further processed for ultimate sale at  
24 retail. Sales to a person performing a service who does not act  
25 as an industrial processor while performing the service may not  
26 be excluded under this subdivision, except as provided in  
27 subparagraph (ii).

1       (ii) ~~After December 31, 1984, a~~ A person, whether or not  
2 the person is an industrial processor, when the property is a  
3 computer used in operating industrial processing equipment;  
4 equipment used in a computer assisted manufacturing system;  
5 equipment used in a computer assisted design or engineering  
6 system integral to an industrial process; or a subunit or elec-  
7 tronic assembly comprising a component in a computer integrated  
8 industrial processing system.

9       (h) Property or services sold to the United States, an unin-  
10 corporated agency or instrumentality of the United States, an  
11 incorporated agency or instrumentality of the United States  
12 wholly owned by the United States or by a corporation wholly  
13 owned by the United States, the American red cross and its chap-  
14 ters or branches, this state, a department or institution of this  
15 state, or a political subdivision of this state.

16       (i) Property or services sold to a school ~~— OR hospital —~~  
17 ~~home for the care and maintenance of children or aged persons, or~~  
18 ~~other health, welfare, educational, cultural arts, charitable, or~~  
19 ~~benevolent institution or agency, operated by an entity of gov-~~  
20 ~~ernment, a regularly organized church, religious, or fraternal~~  
21 ~~organization, a veterans' organization, or a corporation incorpo-~~  
22 ~~rated under the laws of this state, when~~ IF not operated for  
23 profit, and ~~when~~ IF the income or benefit from the operation  
24 does not inure, in whole or in part, to an individual or private  
25 shareholder, directly or indirectly. ~~—, and when the activities~~  
26 ~~of the entity or agency are carried on exclusively for the~~  
27 ~~benefit of the public at large and are not limited to the~~

1 ~~advantage, interests, and benefits of its members or a restricted~~  
2 ~~group.~~ The tax levied ~~shall~~ DOES not apply to property or  
3 services sold to a parent cooperative preschool. As used in this  
4 subdivision, "parent cooperative preschool" means a nonprofit,  
5 nondiscriminatory educational institution, maintained as a commu-  
6 nity service and administered by parents of children currently  
7 enrolled in the preschool ~~, which~~ THAT provides an educational  
8 and developmental program for children younger than compulsory  
9 school age, ~~which~~ THAT provides an educational program for par-  
10 ents, including active participation with children in preschool  
11 activities, ~~which~~ THAT is directed by qualified preschool per-  
12 sonnel, and ~~which~~ THAT is licensed by the department of social  
13 services pursuant to Act No. 116 of the Public Acts of 1973, as  
14 amended, being sections 722.111 to 722.128 of the Michigan  
15 Compiled Laws.

16 (j) Property or services sold to a regularly organized  
17 church or house of religious worship except THE FOLLOWING:

18 (i) Sales in which the property is used in activities that  
19 are mainly commercial enterprises.

20 (ii) Sales of vehicles licensed for use on the public high-  
21 ways other than a passenger van or bus with a manufacturer's  
22 rated seating capacity of 10 or more that is used primarily for  
23 the transportation of persons for religious purposes.

24 (K) PROPERTY OR SERVICES SOLD TO AN ORGANIZATION EXEMPT FROM  
25 FEDERAL INCOME TAX UNDER SECTION 501(C)(3) OF THE INTERNAL REVE-  
26 NUE CODE IF NOT OPERATED FOR PROFIT AND IF THE INCOME OR BENEFIT  
27 FROM THE OPERATION DOES NOT INURE, IN WHOLE OR IN PART, TO AN

1 INDIVIDUAL OR PRIVATE SHAREHOLDER, DIRECTLY OR INDIRECTLY, EXCEPT  
2 THE FOLLOWING:

3 (i) SALES IN ACTIVITIES THAT ARE MAINLY COMMERCIAL  
4 ENTERPRISES.

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

10 (l) ~~(k)~~ A vessel designed for commercial use of registered  
11 tonnage of 500 tons or more, ~~when~~ IF produced upon special  
12 order of the purchaser, and bunker and galley fuel, provisions,  
13 supplies, maintenance, and repairs for the exclusive use of a  
14 vessel of 500 tons or more engaged in interstate commerce.

15 (M) ~~(L)~~ Property purchased by a person engaged in the  
16 business of constructing, altering, repairing, or improving real  
17 estate for others to the extent the property is affixed to and  
18 made a structural part of the real estate of a nonprofit hospital  
19 or a nonprofit housing entity qualified as exempt pursuant to  
20 section 15a of the state housing development authority act of  
21 1966, Act No. 346 of the Public Acts of 1966, as amended, being  
22 section 125.1415a of the Michigan Compiled Laws. A nonprofit  
23 hospital or nonprofit housing includes only the property of a  
24 nonprofit hospital or the homes or dwelling places constructed by  
25 a nonprofit housing entity, the income or property of which does  
26 not directly or indirectly inure to the benefit of an individual,  
27 private stockholder, or other private person.

1 (N) ~~(m)~~ Property purchased for use in this state where  
 2 actual personal possession is obtained outside this state, the  
 3 purchase price or actual value of which does not exceed \$10.00  
 4 during 1 calendar month.

5 (O) ~~(n)~~ A newspaper or periodical classified under federal  
 6 postal laws and regulations effective September 1, 1985 as second  
 7 class mail matter or as a controlled circulation publication or  
 8 qualified to accept legal notices for publication in this state,  
 9 as defined by law, or any other newspaper or periodical of gen-  
 10 eral circulation, established at least 2 years, and published at  
 11 least once a week, and a copyrighted motion picture film.

12 Tangible personal property used or consumed, and not becoming a  
 13 component part of a newspaper or periodical, except that portion  
 14 or percentage of tangible personal property used or consumed in  
 15 producing an advertising supplement that becomes a component part  
 16 of a newspaper or periodical ~~and a copyrighted motion picture~~  
 17 ~~film~~ is subject to tax. For purposes of this subdivision, tan-  
 18 gible personal property that becomes a component part of a news-  
 19 paper or periodical ~~and thereby~~ SO not subject to tax ~~shall include~~  
 20 INCLUDES an advertising supplement inserted into  
 21 and circulated with a newspaper or periodical ~~which~~ THAT is  
 22 otherwise exempt from tax under this subdivision, if the adver-  
 23 tising supplement is delivered directly to the newspaper or peri-  
 24 odical by a person other than the advertiser ~~or the advertis-~~  
 25 ing supplement is printed by the newspaper or periodical.

26 (P) ~~(o)~~ Property purchased by persons licensed to operate  
 27 a commercial radio or television station ~~when~~ IF the property



1 is used in the origination or integration of the various sources  
2 of program material for commercial radio or television  
3 transmission. This subdivision does not include a vehicle  
4 licensed and titled for use on public highways or property used  
5 in the transmitting to or receiving from an artificial  
6 satellite.

7 (Q) ~~(p)~~ A person who is a resident of this state who pur-  
8 chases an automobile in another state while in the military serv-  
9 ice of the United States and who pays a sales tax in the state  
10 where the automobile is purchased.

11 (R) ~~(q)~~ A vehicle for which a special registration is  
12 secured in accordance with section 226(9) of the Michigan vehicle  
13 code, Act No. 300 of the Public Acts of 1949, as amended, being  
14 section 257.226 of the Michigan Compiled Laws.

15 (S) ~~(r)~~ A hearing aid, contact lenses if prescribed for a  
16 specific disease which precludes the use of eyeglasses, or any  
17 other apparatus, device, or equipment used to replace or substi-  
18 tute for any part of the human body, or used to assist the dis-  
19 abled person to lead a reasonably normal life ~~when~~ IF the tan-  
20 gible personal property is purchased on a written prescription or  
21 order issued by a ~~licensed~~ health professional as defined by  
22 section 4 of former Act No. 264 of the Public Acts of 1974, ~~as~~  
23 ~~amended, being section 325.904 of the Michigan Compiled Laws,~~ or  
24 section 21005 of the public health code, Act No. 368 of the  
25 Public Acts of 1978, being section 333.21005 of the Michigan  
26 Compiled Laws, or eyeglasses prescribed or dispensed to correct

1 the person's vision by an ophthalmologist, optometrist, or  
2 optician.

3 (T) ~~(s)~~ Water when delivered through water mains or in  
4 bulk tanks in quantities of not less than 500 gallons.

5 (U) ~~(t)~~ The purchase of machinery and equipment for use or  
6 consumption in the rendition of a service, the use or consumption  
7 of which is taxable under section 3a(a) except that this excep-  
8 tion is limited to the tangible personal property located on the  
9 premises of the subscriber and the necessary exchange equipment.

10 (V) ~~(u)~~ A vehicle not for resale used by a nonprofit cor-  
11 poration organized exclusively to provide a community with ambu-  
12 lance or fire department services.

13 (W) ~~(v)~~ Tangible personal property purchased and installed  
14 as a component part of a water pollution control facility for  
15 which a tax exemption certificate is issued pursuant to Act  
16 No. 222 of the Public Acts of 1966, as amended, being sections  
17 323.351 to 323.358 of the Michigan Compiled Laws, or an air pol-  
18 lution control facility for which a tax exemption certificate is  
19 issued pursuant to Act No. 250 of the Public Acts of 1965, as  
20 amended, being sections 336.1 to 336.8 of the Michigan Compiled  
21 Laws.

22 (X) ~~(w)~~ Tangible real or personal property donated by a  
23 manufacturer, wholesaler, or retailer to an organization or  
24 entity exempt pursuant to subdivision (i), ~~or~~ (j), OR (K) or  
25 section 4a(a) or (b) of the general sales tax act, Act No. 167 of  
26 the Public Acts of 1933, as amended, being section 205.54a of the  
27 Michigan Compiled Laws.

1       (Y) ~~(\*)~~ The storage, use, or consumption of any aircraft  
2 owned or used by a domestic passenger air carrier operating under  
3 a certificate issued by the civil aeronautics board pursuant to  
4 section 401 of title IV of the federal aviation act of 1958,  
5 49 U.S.C. 1371, if the aircraft is used primarily in the regu-  
6 larly scheduled commercial transport of passengers.