

SENATE BILL No. 186

March 14, 1991, Introduced by Senator V. SMITH and referred to the Committee on Finance.

A bill to amend sections 4 and 4a of Act No. 167 of the Public Acts of 1933, entitled as amended "General sales tax act," section 4 as amended by Act No. 219 of the Public Acts of 1981 and section 4a as amended by Act No. 143 of the Public Acts of 1990, being sections 205.54 and 205.54a of the Michigan Compiled Laws; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4 and 4a of Act No. 167 of the Public
2 Acts of 1933, section 4 as amended by Act No. 219 of the Public
3 Acts of 1981 and section 4a as amended by Act No. 143 of the
4 Public Acts of 1990, being sections 205.54 and 205.54a of the
5 Michigan Compiled Laws, are amended to read as follows:

1 Sec. 4. ~~(1) In computing the amount of tax levied under~~
2 ~~the provisions of this act for any month, the taxpayer may deduct~~
3 ~~the following amounts from the tax due under this act:~~

4 ~~(a) For monthly tax payments for periods ending after~~
5 ~~January 1, 1983 and before January 1, 1984, the amount provided~~
6 ~~by subparagraph (i) or (ii), whichever is greater:~~

7 ~~(i) If the tax that accrued to the state from the sales at~~
8 ~~retail during the preceding month is remitted to the department~~
9 ~~on or before the seventh day of the month in which remittance is~~
10 ~~due, 0.50% of the tax due for the preceding monthly period, but~~
11 ~~not to exceed \$15,000.00 of the tax due for that month. If the~~
12 ~~tax that accrued to the state from the sales at retail during the~~
13 ~~preceding month is remitted to the department after the seventh~~
14 ~~day and on or before the fifteenth day of the month in which~~
15 ~~remittance is due, 0.25% of the tax due for the preceding monthly~~
16 ~~period, but not to exceed \$10,000.00 of the tax due for that~~
17 ~~month.~~

18 ~~(ii) The tax due on \$100.00 of taxable gross proceeds for~~
19 ~~the preceding monthly period, or a prorated portion of \$100.00 of~~
20 ~~the taxable gross proceeds for the preceding month if the tax-~~
21 ~~payer engaged in business for less than a month.~~

22 ~~(b) For monthly tax payments for periods ending on or after~~
23 ~~January 1, 1984, the amount provided by subparagraph (i) or (ii),~~
24 ~~whichever is greater:~~

25 ~~(i) If the tax that accrued to the state from the sales at~~
26 ~~retail during the preceding month is remitted to the department~~
27 ~~on or before the seventh day of the month in which remittance is~~

~~1 due, 0.75% of the tax due for the preceding monthly period, but
2 not to exceed \$20,000.00 of the tax due for that month. If the
3 tax that accrued to the state from the sales at retail during the
4 preceding month is remitted to the department after the seventh
5 day and on or before the fifteenth day of the month in which
6 remittance is due, 0.50% of the tax due for the preceding monthly
7 period, but not to exceed \$15,000.00 of the tax due for that
8 month.~~

~~9 (ii) The tax due on \$150.00 of taxable gross proceeds for
10 the preceding monthly period, or a prorated portion of \$150.00 of
11 the taxable gross proceeds for the preceding month if the tax-
12 payer engaged in business for less than a month.~~

~~13 (2) A deduction shall not be allowed under this section for
14 payments of taxes made to the department after the day the tax-
15 payer is required to pay, pursuant to section 6, the tax imposed
16 by this act.~~

~~17 (3) If, pursuant to section 6(4), the commissioner of reve-
18 nue prescribes the filing of returns and the payment of the tax
19 for periods in excess of 1 month, a taxpayer shall be entitled to
20 a deduction from the tax collections remitted to the department
21 for the extended payment period that is equivalent to the deduc-
22 tion allowed under subsection (1) for monthly periods. If por-
23 tions of the extended payment period prescribed by the commis-
24 sioner of revenue occurs in both 1983 and 1984, the deduction
25 shall be computed using the applicable percentage or fixed deduc-
26 tion prescribed in subsection (1)(a) for taxes accruing to the
27 state in 1983 and the applicable percentage or fixed deduction~~

1 ~~prescribed in subsection (1)(b) for taxes accruing to the state~~
2 ~~in 1984.~~

3 ~~(4) The commissioner may prescribe the filing of estimated~~
4 ~~returns and annual periodic reconciliations as necessary to carry~~
5 ~~out the purposes of this section.~~

6 ~~(5)~~ A person subject to a tax under this act shall not
7 include in the amount of his or her gross proceeds used for the
8 computation of the tax any proceeds of his or her business
9 derived from sales to the United States — AND its unincorpor-
10 ated agencies and instrumentalities, any incorporated agency or
11 instrumentality of the United States wholly owned by the United
12 States or by a corporation wholly owned by the United States, the
13 American Red Cross and its chapters and branches, and this state
14 or its departments and institutions or any of its political
15 subdivisions.

16 Sec. 4a. A person subject to tax under this act need not
17 include in the amount of the gross proceeds used for the computa-
18 tion of the tax, sales of tangible personal property:

19 (a) Not for resale, and when not operated for profit, to a
20 school, hospital, home for the care and maintenance of children
21 or aged persons, or other health, welfare, educational, cultural
22 arts, charitable, or benevolent institution or agency, operated
23 by an entity of government, a regularly organized church, reli-
24 gious, or fraternal organization, a veterans' organization, or a
25 corporation incorporated under the laws of the state, if the
26 income or benefit from the operation does not inure, in whole or
27 in part, to an individual or private shareholder, directly or

1 indirectly, and if the activities of the entity or agency are
2 carried on exclusively for the benefit of the public at large and
3 are not limited to the advantage, interests, and benefits of its
4 members or any restricted group. At the time of the transfer of
5 this tangible personal property, the transferee shall sign a
6 statement, in a form approved by the department, stating that the
7 property is to be used or consumed in connection with the opera-
8 tion of the institution or agency and that the institution or
9 agency qualifies as an exempt entity under this subdivision. The
10 statement shall be accepted by all courts as prima facie evidence
11 of the exemption and the statement shall provide that if the
12 claim for tax exemption is disallowed the transferee will reim-
13 burse the transferor for the amount of tax involved. A sale of
14 tangible personal property to a parent cooperative preschool is
15 exempt from taxation under this act. As used in this subdivi-
16 sion, "parent cooperative preschool" means a nonprofit, nondis-
17 criminatory educational institution, maintained as a community
18 service and administered by parents of children currently
19 enrolled in the preschool, that provides an educational and
20 developmental program for children younger than compulsory school
21 age, that provides an educational program for parents, including
22 active participation with children in preschool activities, that
23 is directed by qualified preschool personnel, and that is
24 licensed by the department of social services pursuant to Act
25 No. 116 of the Public Acts of 1973, as amended, being sections
26 722.111 to 722.128 of the Michigan Compiled Laws.

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

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 for the~~
8 ~~transportation of persons for religious purposes.~~

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

11 (d) Affixed to and made a structural part of real estate
12 excepted from the definition of "sale at retail" under section
13 1(1)(c).

14 ~~-(e) To persons, of a vessel designated for commercial use~~
15 ~~of registered tonnage of 500 tons or more, if produced upon spe-~~
16 ~~cial order of the purchaser, and bunker and galley fuel, provi-~~
17 ~~sions, supplies, maintenance, and repairs for the exclusive use~~
18 ~~of the vessel engaged in interstate commerce.~~

19 (f) To persons engaged in a business enterprise and using or
20 consuming the tangible personal property in the tilling, plant-
21 ing, caring for, or harvesting of the things of the soil; in the
22 breeding, raising, or caring for livestock, poultry, or horticul-
23 tural products, including transfers of livestock, poultry, or
24 horticultural products for further growth or in the direct gath-
25 ering of fish, by net, line, or otherwise, only by an
26 owner-operator of the business enterprise, not including a
27 charter fishing business enterprise. This exemption includes

1 agricultural land tile, which means fired clay or perforated
2 plastic tubing used as part of a subsurface drainage system for
3 land used in the production of agricultural products as a busi-
4 ness enterprise. At the time of the transfer of this tangible
5 personal property, the transferee shall sign a statement, in a
6 form approved by the department, stating that the property is to
7 be used or consumed in connection with the production of horti-
8 cultural or agricultural products as a business enterprise, or in
9 connection with fishing as an owner-operator business
10 enterprise. The statement shall be accepted by all courts as
11 prima facie evidence of the exemption. This exemption includes a
12 portable grain bin, which means a structure that is used or is to
13 be used to shelter grain and that is designed to be disassembled
14 without significant damage to its component parts. This exemp-
15 tion does not include transfers of food, fuel, clothing, or any
16 similar tangible personal property for personal living or human
17 consumption. This exemption does not include tangible personal
18 property permanently affixed and becoming a structural part of
19 real estate.

20 (g) To the following:

21 (i) An industrial processor for use or consumption in indus-
22 trial processing. Property used or consumed in industrial pro-
23 cessing does not include tangible personal property permanently
24 affixed and becoming a structural part of real estate; office
25 furniture, office supplies, and administrative office equipment;
26 or vehicles licensed and titled for use on public highways.
27 Industrial processing does not include receiving and storage of

1 raw materials purchased or extracted by the user or consumer; or
2 the preparation of food and beverages by a retailer for retail
3 sale. As used in this subdivision, "industrial processor" means
4 a person who transforms, alters, or modifies tangible personal
5 property by changing the form, composition, or character of the
6 property for ultimate sale at retail or sale to another indus-
7 trial processor to be further processed for ultimate sale at
8 retail. Sales to a person performing a service who does not act
9 as an industrial processor while performing this service shall
10 not be excluded under this subdivision except as provided in sub-
11 paragraph (ii).

12 (ii) After December 31, 1984, a person, whether or not the
13 person is an industrial processor, if the tangible personal prop-
14 erty is a computer used in operating industrial processing equip-
15 ment; equipment used in a computer assisted manufacturing system;
16 equipment used in a computer assisted design or engineering
17 system integral to an industrial process; or a subunit or elec-
18 tronic assembly comprising a component in a computer integrated
19 industrial processing system.

20 (h) To persons, of a newspaper or periodical admitted under
21 federal postal laws and regulations effective September 1, 1985
22 as second-class mail matter or as a controlled circulation publi-
23 cation or qualified to accept legal notices for publication in
24 this state, as defined by law, or any other newspaper or periodi-
25 cal of general circulation, established not less than 2 years,
26 and published not less than once a week, and copyrighted motion
27 picture films. Tangible personal property used or consumed, and

1 not becoming a component part of a newspaper or periodical,
2 except that portion or percentage of tangible personal property
3 used or consumed in producing an advertising supplement that
4 becomes a component part of a newspaper or periodical, and copy-
5 righted motion picture films are subject to tax. For purposes of
6 this subdivision, tangible personal property that becomes a com-
7 ponent part of a newspaper or periodical, and thereby not subject
8 to tax, shall include an advertising supplement inserted into and
9 circulated with a newspaper or periodical that is otherwise
10 exempt from tax under this subdivision, if the advertising sup-
11 plement is delivered directly to the newspaper or periodical by a
12 person other than the advertiser, or the advertising supplement
13 is printed by the newspaper or periodical.

14 (i) To persons licensed to operate commercial radio or tele-
15 vision stations if the property is used in the origination or
16 integration of the various sources of program material for com-
17 mercial radio or television transmission. This subdivision does
18 not include a vehicle licensed and titled for use on public high-
19 ways or property used in the transmission to or receiving from an
20 artificial satellite.

21 (k) A hearing aid, contact lenses if prescribed for a spe-
22 cific disease that precludes the use of eyeglasses, or any other
23 apparatus, device, or equipment used to replace or substitute for
24 a part of the human body, or used to assist the disabled person
25 to lead a reasonably normal life if the tangible personal prop-
26 erty is purchased on a written prescription or order issued by a
27 licensed health professional as defined by section 21005 of the

1 public health code, Act No. 368 of the Public Acts of 1978, being
2 section 333.21005 of the Michigan Compiled Laws, or eyeglasses
3 prescribed or dispensed to correct the person's vision by an oph-
4 thalmologist, optometrist, or optician.

5 ~~(l) To persons for use or consumption in the rendition of a~~
6 ~~service, the use or consumption of which is taxable under section~~
7 ~~3a(a) of the use tax act, Act No. 94 of the Public Acts of 1937,~~
8 ~~as amended, being section 205.93a of the Michigan Compiled Laws,~~
9 ~~except that this exemption shall be limited to the tangible per-~~
10 ~~sonal property located on the premises of the subscriber and the~~
11 ~~necessary exchange equipment.~~

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

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

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

20 (p) Installed as a component part of a water pollution con-
21 trol facility for which a tax exemption certificate is issued
22 pursuant to Act No. 222 of the Public Acts of 1966, as amended,
23 being sections 323.351 to 323.358 of the Michigan Compiled Laws,
24 or an air pollution control facility for which a tax exemption
25 certificate is issued pursuant to Act No. 250 of the Public Acts
26 of 1965, as amended, being sections 336.1 to 336.8 of the
27 Michigan Compiled Laws.

1 (q) To a purchaser of a new motor vehicle purchased before
2 January 1, 1993 if the purchaser qualifies for a special regis-
3 tration under section 226(11) of the Michigan vehicle code, Act
4 No. 300 of the Public Acts of 1949, being section 257.226 of the
5 Michigan Compiled Laws, and the vehicle is purchased through a
6 country determined by the department to be providing a like or
7 complete exemption for the purchase of a new motor vehicle to be
8 removed from that country.

9 Section 2. Section 4i of Act No. 167 of the Public Acts of
10 1933, being section 205.54i of the Michigan Compiled Laws, is
11 repealed.

12 Section 3. This amendatory act shall not take effect unless
13 Senate Joint Resolution G
14 of the 86th Legislature becomes part of
15 the constitution as provided in section 1 of article XII of the
16 state constitution of 1963.