



HOUSE BILL No. 4661

April 27, 1993, Introduced by Reps. London, McNutt, McBryde, Walberg, Jaye, Dobronski, Dalman, DeLange, Goschka and Sikkema 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~~ MAY EXCLUDE FROM the amount of the gross proceeds
7 used for the computation of the tax, sales of tangible personal
8 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.

1 (f) To persons engaged in a business enterprise and using or
2 consuming the tangible personal property in the tilling,
3 planting, caring for, or harvesting of the things of the soil; in
4 the breeding, raising, or caring for livestock, poultry, or
5 horticultural products, including transfers of livestock, poul-
6 try, or horticultural products for further growth or in the
7 direct gathering of fish, by net, line, or otherwise, only by an
8 owner-operator of the business enterprise, not including a
9 charter fishing business enterprise. This exemption includes
10 agricultural land tile, which means fired clay or perforated
11 plastic tubing used as part of a subsurface drainage system for
12 land, and ~~beginning January 1, 1987,~~ subsurface irrigation
13 pipe, if the land tile or irrigation pipe is used in the produc-
14 tion of agricultural products as a business enterprise. At the
15 time of the transfer of this tangible personal property, the
16 transferee shall sign a statement, in a form approved by the
17 department, stating that the property is to be used or consumed
18 in connection with the production of horticultural or agricul-
19 tural products as a business enterprise, or in connection with
20 fishing as an owner-operator business enterprise. The statement
21 shall be accepted by all courts as prima facie evidence of the
22 exemption. This exemption includes a portable grain bin, which
23 means a structure that is used or is to be used to shelter grain
24 and that is designed to be disassembled without significant
25 damage to its component parts. This exemption does not include
26 transfers of food, fuel, clothing, or any similar tangible
27 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~~
10 ~~motion picture films.~~ Tangible personal property used or con-
11 sumed, and not becoming a component part of a COPYRIGHTED MOTION
12 PICTURE FILM, newspaper, or periodical, except that portion or
13 percentage of tangible personal property used or consumed in
14 producing an advertising supplement that becomes a component part
15 of a newspaper or periodical ~~, and copyrighted motion picture~~
16 ~~films are~~ IS subject to tax. For purposes of this subdivision,
17 tangible personal property that becomes a component part of a
18 newspaper or periodical, and ~~thereby~~ CONSEQUENTLY not subject
19 to tax, ~~shall include~~ INCLUDES an advertising supplement
20 inserted into and circulated with a newspaper or periodical that
21 is otherwise exempt from tax under this subdivision, if the
22 advertising supplement is delivered directly to the newspaper or
23 periodical by a person other than the advertiser, or the adver-
24 tising supplement is printed by the newspaper or periodical.

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

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

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

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

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

26 (n) To inmates in a penal or correction institution
27 purchased 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.