



HOUSE BILL No. 5451

March 24 1994 Introduced by Reps Profit Alley Shugars Martin and Kaza 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 34 of the Public Acts of 1994 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 34 of the Public Acts of 1994 being
3 section 205 94 of the Michigan Compiled Laws is amended to read
4 as follows

5 Sec 4 The tax levied does not apply to the following

6 (a) Property sold in this state on which transaction a tax
7 is paid under the general sales tax act, Act No 167 of the
8 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 immediately preceding year without regard to specific make or
16 style according to the following schedule of 0 to 25 2 units 26
17 to 100 7 units 101 to 500 20 units 501 or more 25 units but
18 not to exceed 25 cars and trucks in 1 calendar year for demon-
19 stration purposes For tax years beginning after December 31
20 1987 property purchased for resale includes promotional merchan-
21 dise transferred pursuant to a redemption offer to a person
22 located outside this state

23 (d) Property that is brought into this state by a nonresi-
24 dent person for storage, use, or consumption while temporarily
25 within this state, except if the property is used in this state
26 in a nontransitory business activity for a period exceeding 15
27 days

1 (e) Property the sale or use of which was already subjected
2 to a sales tax or use tax equal to or in excess of that imposed
3 by this act under the law of any other state or a local govern-
4 mental unit within a state if the tax was due and paid on the
5 retail sale to the consumer and the state or local governmental
6 unit within a state in which the tax was imposed accords like or
7 complete exemption on property the sale or use of which was sub-
8 jected to the sales or use tax of this state If the sale or use
9 of property was already subjected to a tax under the law of any
10 other state or local governmental unit within a state in an
11 amount less than the tax imposed by this act, this act shall
12 apply but at a rate measured by the difference between the rate
13 provided in this act and the rate by which the previous tax was
14 computed

15 (f) Property sold to a person engaged in a business enter-
16 prise and using and consuming the property in the tilling plant-
17 ing caring for, or harvesting of the things of the soil or in
18 the breeding raising or caring for livestock poultry or
19 horticultural products including transfers of livestock poul-
20 try or horticultural products for further growth At the time
21 of the transfer of that tangible personal property the trans-
22 feree shall sign a statement in a form approved by the depart-
23 ment stating that the property is to be used or consumed in con-
24 nection with the production of horticultural or agricultural
25 products as a business enterprise The statement shall be
26 accepted by the courts as prima facie evidence of the exemption
27 This exemption includes agricultural land tile which means fired

1 clay or perforated plastic tubing used as part of a subsurface
 2 drainage system for land used in the production of agricultural
 3 products as a business enterprise and includes a portable grain
 4 bin which means a structure that is used or is to be used to
 5 shelter grain and that is designed to be disassembled without
 6 significant damage to its component parts This exemption does
 7 not include transfers of food fuel clothing, or similar tangi-
 8 ble personal property for personal living or human consumption
 9 This exemption does not include tangible personal property per-
 10 manently affixed and becoming a structural part of real estate

11 (g) Property sold to the following

12 (1) An industrial processor for use or consumption in indus-
 13 trial processing Property used or consumed in industrial pro-
 14 cessing does not include tangible personal property permanently
 15 affixed and becoming a structural part of real estate office
 16 furniture office supplies and administrative office equipment
 17 or vehicles licensed and titled for use on public highways other
 18 than a specially designed vehicle together with parts used to
 19 mix and agitate materials added at a plant or jobsite in the con-
 20 crete manufacturing process Industrial processing does not
 21 include receipt and storage of raw materials purchased or
 22 extracted by the user or consumer, or the preparation of food and
 23 beverages by a retailer for retail sale As used in this subdi-
 24 vision industrial processor means a person who transforms,
 25 alters or modifies tangible personal property by changing the
 26 form composition, or character of the property for ultimate sale
 27 at retail or sale to another industrial processor to be further

1 processed for ultimate sale at retail Sales to a person
2 performing a service who does not act as an industrial processor
3 while performing the service may not be excluded under this sub-
4 division except as provided in subparagraph (11)

5 (11) A person, whether or not the person is an industrial
6 processor when the property is a computer used in operating
7 industrial processing equipment equipment used in a computer
8 assisted manufacturing system equipment used in a computer
9 assisted design or engineering system integral to an industrial
10 process or a subunit or electronic assembly comprising a compo-
11 nent in a computer integrated industrial processing system

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

19 (i) Property or services sold to a school hospital home
20 for the care and maintenance of children or aged persons or
21 other health welfare educational cultural arts charitable or
22 benevolent institution or agency operated by an entity of gov-
23 ernment a regularly organized church religious, or fraternal
24 organization a veterans organization or a corporation incorpo-
25 rated under the laws of this state, if not operated for profit,
26 and if the income or benefit from the operation does not inure,
27 in whole or in part to an individual or private shareholder

1 directly or indirectly and if the activities of the entity or
2 agency are carried on exclusively for the benefit of the public
3 at large and are not limited to the advantage interests, and
4 benefits of its members or a restricted group The tax levied
5 shall not apply to property or services sold to a parent coopera-
6 tive preschool As used in this subdivision parent cooperative
7 preschool means a nonprofit nondiscriminatory educational
8 institution maintained as a community service and administered
9 by parents of children currently enrolled in the preschool that
10 provides an educational and developmental program for children
11 younger than compulsory school age, that provides an educational
12 program for parents including active participation with children
13 in preschool activities, that is directed by qualified preschool
14 personnel and that is licensed by the department of social serv-
15 ices pursuant to Act No 116 of the Public Acts of 1973 as
16 amended being sections 722 111 to 722 128 of the Michigan
17 Compiled Laws

18 (j) Property or services sold to a regularly organized
19 church or house of religious worship except

20 (i) Sales in which the property is used in activities that
21 are mainly commercial enterprises

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

26 (k) A vessel designed for commercial use of registered
27 tonnage of 500 tons or more if produced upon special order of

1 the purchaser and bunker and galley fuel, provisions, supplies,
2 maintenance and repairs for the exclusive use of a vessel of 500
3 tons or more engaged in interstate commerce

4 (l) Property purchased by a person engaged in the business
5 of constructing, altering, repairing, or improving real estate
6 for others to the extent the property is affixed to and made a
7 structural part of the real estate of a nonprofit hospital or a
8 nonprofit housing entity qualified as exempt pursuant to section
9 15a of the state housing development authority act of 1966 Act
10 No 346 of the Public Acts of 1966, as amended, being section
11 125 1415a of the Michigan Compiled Laws A nonprofit hospital or
12 nonprofit housing includes only the property of a nonprofit hos-
13 pital or the homes or dwelling places constructed by a nonprofit
14 housing entity the income or property of which does not directly
15 or indirectly inure to the benefit of an individual, private
16 stockholder or other private person

17 (m) Property purchased for use in this state where actual
18 personal possession is obtained outside this state the purchase
19 price or actual value of which does not exceed \$10 00 during 1
20 calendar month

21 (n) A newspaper or periodical classified under federal
22 postal laws and regulations effective September 1, 1985 as second
23 class mail matter or as a controlled circulation publication or
24 qualified to accept legal notices for publication in this state,
25 as defined by law or any other newspaper or periodical of gen-
26 eral circulation established at least 2 years, and published at
27 least once a week, and a copyrighted motion picture film

1 Tangible personal property used or consumed and not becoming a
2 component part of a copyrighted motion picture film, newspaper or
3 periodical, except that portion or percentage of tangible per-
4 sonal property used or consumed in producing an advertising sup-
5 plement that becomes a component part of a newspaper or periodi-
6 cal is subject to tax For purposes of this subdivision, tangi-
7 ble personal property that becomes a component part of a newspa-
8 per or periodical and consequently not subject to tax, includes
9 an advertising supplement inserted into and circulated with a
10 newspaper or periodical that is otherwise exempt from tax under
11 this subdivision, if the advertising supplement is delivered
12 directly to the newspaper or periodical by a person other than
13 the advertiser or the advertising supplement is printed by the
14 newspaper or periodical

15 (o) Property purchased by persons licensed to operate a com-
16 mercial radio or television station if the property is used in
17 the origination or integration of the various sources of program
18 material for commercial radio or television transmission This
19 subdivision does not include a vehicle licensed and titled for
20 use on public highways or property used in the transmitting to or
21 receiving from an artificial satellite

22 (p) A person who is a resident of this state who purchases
23 an automobile in another state while in the military service of
24 the United States and who pays a sales tax in the state where the
25 automobile is purchased

26 (q) A vehicle for which a special registration is secured in
27 accordance with section 226(12) of the Michigan vehicle code Act

1 No 300 of the Public Acts of 1949, as amended being section
2 257 226 of the Michigan Compiled Laws

3 (r) A hearing aid, contact lenses if prescribed for a spe-
4 cific disease which precludes the use of eyeglasses, or any other
5 apparatus device or equipment used to replace or substitute for
6 any part of the human body, or used to assist the disabled person
7 to lead a reasonably normal life when the tangible personal prop-
8 erty is purchased on a written prescription or order issued by a
9 health professional as defined by section 4 of former Act No 264
10 of the Public Acts of 1974, or section 21005 of the public health
11 code Act No 368 of the Public Acts of 1978, being section
12 333 21005 of the Michigan Compiled Laws, or eyeglasses prescribed
13 or dispensed to correct the person s vision by an ophthalmolo-
14 gist optometrist or optician

15 (s) Water when delivered through water mains or in bulk
16 tanks in quantities of not less than 500 gallons

17 (t) The purchase of machinery and equipment for use or con-
18 sumption in the rendition of a service the use or consumption of
19 which is taxable under section 3a(a) except that this exception
20 is limited to the tangible personal property located on the
21 premises of the subscriber and the necessary exchange equipment

22 (u) A vehicle not for resale used by a nonprofit corporation
23 organized exclusively to provide a community with ambulance or
24 fire department services

25 (v) Tangible personal property purchased and installed as a
26 component part of a water pollution control facility for which a
27 tax exemption certificate is issued pursuant to Act No 222 of

1 the Public Acts of 1966 as amended being sections 323 351 to
 2 323 358 of the Michigan Compiled Laws, or an air pollution con-
 3 trol facility for which a tax exemption certificate is issued
 4 pursuant to Act No 250 of the Public Acts of 1965, as amended,
 5 being sections 336 1 to 336 8 of the Michigan Compiled Laws

6 (w) Tangible real or personal property donated by a manufac-
 7 turer, wholesaler or retailer to an organization or entity
 8 exempt pursuant to subdivision (1) or (j) or section 4a(a) or (b)
 9 of the general sales tax act, Act No 167 of the Public Acts of
 10 1933 as amended being section 205 54a of the Michigan Compiled
 11 Laws

12 (x) The storage use or consumption of any aircraft owned
 13 or used by a domestic passenger air carrier OR ALL-CARGO AIR
 14 SERVICE CARRIER operating under a certificate issued by the
 15 United States department of transportation pursuant to section
 16 401 of title IV of the federal aviation act of 1958, ~~Public Law~~
 17 ~~85-726,~~ 49 U S C APPX 1371 if the aircraft is used primarily
 18 IN THE TRANSPORT OF AIR CARGO OR in the regularly scheduled com-
 19 mercial transport of passengers

20 Section 2 The exemption for all-cargo air service carriers
 21 provided for in this amendatory act is effective beginning
 22 January 1 1989