

# HOUSE BILL No. 4018

January 8, 1997, Introduced by Rep. McNutt and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending section 4 (MCL 205.94), as amended by 1996 PA 53, and  
by adding section 4o.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 4. The tax levied does not apply to the following:  
2       (a) Property sold in this state on which transaction a tax  
3 is paid under the general sales tax act, ~~Act No. 167 of the~~  
4 ~~Public Acts of 1933, being sections 205.51 to 205.78 of the~~  
5 ~~Michigan Compiled Laws~~ 1933 PA 167, MCL 205.51 TO 205.78, if the  
6 tax was due and paid on the retail sale to a consumer.  
7       (b) Property, the storage, use, or other consumption of  
8 which, this state is prohibited from taxing under the  
9 constitution or laws of the United States, or under the  
10 constitution of this state.

1 (c) Property purchased for resale, demonstration purposes,  
2 or lending or leasing to a public or parochial school offering a  
3 course in automobile driving except that a vehicle purchased by  
4 the school shall be certified for driving education and shall not  
5 be reassigned for personal use by the school's administrative  
6 personnel. For a dealer selling a new car or truck, exemption  
7 for demonstration purposes shall be determined by the number of  
8 new cars and trucks sold during the current calendar year or the  
9 immediately preceding year without regard to specific make or  
10 style according to the following schedule of 0 to 25, 2 units; 26  
11 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but  
12 not to exceed 25 cars and trucks in 1 calendar year for demon-  
13 stration purposes. ~~For tax years beginning after December 31,~~  
14 ~~1987, property~~ PROPERTY purchased for resale includes promo-  
15 tional merchandise transferred pursuant to a redemption offer to  
16 a person located outside this state.

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

22 (e) Property the sale or use of which was already subjected  
23 to a sales tax or use tax equal to, or in excess of, that imposed  
24 by this act under the law of any other state or a local govern-  
25 mental unit within a state if the tax was due and paid on the  
26 retail sale to the consumer and the state or local governmental  
27 unit within a state in which the tax was imposed accords like or

1 complete exemption on property the sale or use of which was  
2 subjected to the sales or use tax of this state. If the sale or  
3 use of property was already subjected to a tax under the law of  
4 any other state or local governmental unit within a state in an  
5 amount less than the tax imposed by this act, this act shall  
6 apply, but at a rate measured by the difference between the rate  
7 provided in this act and the rate by which the previous tax was  
8 computed.

9 (f) Property sold to a person engaged in a business enter-  
10 prise and using and consuming the property in the tilling, plant-  
11 ing, caring for, or harvesting of the things of the soil or in  
12 the breeding, raising, or caring for livestock, poultry, or  
13 horticultural products, including transfers of livestock, poul-  
14 try, or horticultural products for further growth. At the time  
15 of the transfer of that tangible personal property, the trans-  
16 feree shall sign a statement, in a form approved by the depart-  
17 ment, stating that the property is to be used or consumed in con-  
18 nection with the production of horticultural or agricultural pro-  
19 ducts as a business enterprise. The statement shall be accepted  
20 by the courts as prima facie evidence of the exemption. This  
21 exemption includes agricultural land tile, which means fired clay  
22 or perforated plastic tubing used as part of a subsurface drain-  
23 age system for land used in the production of agricultural pro-  
24 ducts as a business enterprise and includes a portable grain bin,  
25 which means a structure that is used or is to be used to shelter  
26 grain and that is designed to be disassembled without significant  
27 damage to its component parts. This exemption does not include

1 transfers of food, fuel, clothing, or similar tangible personal  
2 property for personal living or human consumption. This exemp-  
3 tion does not include tangible personal property permanently  
4 affixed and becoming a structural part of real estate.

5 (g) Property sold to the following:

6 (i) An industrial processor for use or consumption in indus-  
7 trial processing. Property used or consumed in industrial pro-  
8 cessing does not include tangible personal property permanently  
9 affixed and becoming a structural part of real estate; office  
10 furniture, office supplies, and administrative office equipment;  
11 or vehicles licensed and titled for use on public highways other  
12 than a specially designed vehicle, together with parts, used to  
13 mix and agitate materials added at a plant or jobsite in the con-  
14 crete manufacturing process. Industrial processing does not  
15 include receipt and storage of raw materials purchased or  
16 extracted by the user or consumer, or the preparation of food and  
17 beverages by a retailer for retail sale. As used in this subdi-  
18 vision, "industrial processor" means a person who transforms,  
19 alters, or modifies tangible personal property by changing the  
20 form, composition, or character of the property for ultimate sale  
21 at retail or sale to another industrial processor to be further  
22 processed for ultimate sale at retail. Sales to a person per-  
23 forming a service who does not act as an industrial processor  
24 while performing the service may not be excluded under this sub-  
25 division, except as provided in subparagraph (ii).

26 (ii) A person, whether or not the person is an industrial  
27 processor, when the property is a computer used in operating

1 industrial processing equipment; equipment used in a computer  
2 assisted manufacturing system; equipment used in a computer  
3 assisted design or engineering system integral to an industrial  
4 process; or a subunit or electronic assembly comprising a compo-  
5 nent in a computer integrated industrial processing system.

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

13 (i) Property or services sold to a school, hospital, or home  
14 for the care and maintenance of children or aged persons, oper-  
15 ated by an entity of government, a regularly organized church,  
16 religious, or fraternal organization, a veterans' organization,  
17 or a corporation incorporated under the laws of this state, if  
18 not operated for profit, and if the income or benefit from the  
19 operation does not inure, in whole or in part, to an individual  
20 or private shareholder, directly or indirectly, and if the activ-  
21 ities of the entity or agency are carried on exclusively for the  
22 benefit of the public at large and are not limited to the advan-  
23 tage, interests, and benefits of its members or a restricted  
24 group. The tax levied ~~shall~~ DOES not apply to property or  
25 services sold to a parent cooperative preschool. As used in this  
26 subdivision, "parent cooperative preschool" means a nonprofit,  
27 nondiscriminatory educational institution, maintained as a

1 community service and administered by parents of children  
2 currently enrolled in the preschool that provides an educational  
3 and developmental program for children younger than compulsory  
4 school age, that provides an educational program for parents,  
5 including active participation with children in preschool activi-  
6 ties, that is directed by qualified preschool personnel, and that  
7 is licensed by the department of social services pursuant to ~~Act~~  
8 ~~No. 116 of the Public Acts of 1973, being sections 722.111 to~~  
9 ~~722.128 of the Michigan Compiled Laws~~ 1973 PA 116, MCL 722.111  
10 TO 722.128.

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

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

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

19 (k) A vessel designed for commercial use of registered ton-  
20 nage of 500 tons or more, if produced upon special order of the  
21 purchaser, and bunker and galley fuel, provisions, supplies,  
22 maintenance, and repairs for the exclusive use of a vessel of 500  
23 tons or more engaged in interstate commerce.

24 (l) Property purchased by a person engaged in the business  
25 of constructing, altering, repairing, or improving real estate  
26 for others to the extent the property is affixed to and made a  
27 structural part of the real estate of a nonprofit hospital or a

1 nonprofit housing entity qualified as exempt pursuant to section  
2 15a of the state housing development authority act of 1966, ~~Act~~  
3 ~~No. 346 of the Public Acts of 1966, being section 125.1415a of~~  
4 ~~the Michigan Compiled Laws 1966 PA 346, MCL 125.1415A. -A-~~  
5 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, A nonprofit  
6 hospital or nonprofit housing includes only the property of a  
7 nonprofit hospital or the homes or dwelling places constructed by  
8 a nonprofit housing entity, the income or property of which does  
9 not directly or indirectly inure to the benefit of an individual,  
10 private stockholder, or other private person. FOR TAX YEARS  
11 ENDING AFTER DECEMBER 31, 1990, NONPROFIT HOUSING INCLUDES A  
12 MULTIPLE UNIT DWELLING OWNED BY A CITY, VILLAGE, TOWNSHIP, OR  
13 COUNTY, THE INCOME OR PROPERTY OF WHICH DOES NOT DIRECTLY OR  
14 INDIRECTLY INURE TO THE BENEFIT OF AN INDIVIDUAL, PRIVATE STOCK-  
15 HOLDER, OR OTHER PRIVATE PERSON.

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

20 (n) A newspaper or periodical classified under federal  
21 postal laws and regulations effective September 1, 1985 as second  
22 class mail matter or as a controlled circulation publication or  
23 qualified to accept legal notices for publication in this state,  
24 as defined by law, or any other newspaper or periodical of gen-  
25 eral circulation, established at least 2 years, and published at  
26 least once a week, and a copyrighted motion picture film.  
27 Tangible personal property used or consumed, and not becoming a

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

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

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

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

1 ~~Act No. 300 of the Public Acts of 1949, being section 257.226 of~~  
2 ~~the Michigan Compiled Laws 1949 PA 300, MCL 257.226.~~

3 (r) A hearing aid, contact lenses if prescribed for a spe-  
4 cific disease ~~which~~ THAT precludes the use of eyeglasses, or  
5 any other apparatus, device, or equipment used to replace or sub-  
6 stitute for any part of the human body, or used to assist the  
7 disabled person to lead a reasonably normal life when the tangi-  
8 ble personal property is purchased on a written prescription or  
9 order issued by a health professional as defined by section 4 of  
10 former ~~Act No. 264 of the Public Acts of 1974~~ 1974 PA 264, or  
11 section 21005 of the public health code, ~~Act No. 368 of the~~  
12 ~~Public Acts of 1978, being section 333.21005 of the Michigan~~  
13 ~~Compiled Laws~~ 1978 PA 368, MCL 333.21005, or eyeglasses pre-  
14 scribed or dispensed to correct the person's vision by an oph-  
15 thalmologist, optometrist, or optician.

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

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

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

26 (v) Tangible personal property purchased and installed as a  
27 component part of a water pollution control facility for which a

1 tax exemption certificate is issued pursuant to part 37 (water  
2 pollution control facilities; tax exemption) of the natural  
3 resources and environmental protection act, ~~Act No. 451 of the~~  
4 ~~Public Acts of 1994, being sections 324.3701 to 324.3708 of the~~  
5 ~~Michigan Compiled Laws~~ 1994 PA 451, MCL 324.3701 TO 324.3708, or  
6 an air pollution control facility for which a tax exemption cer-  
7 tificate is issued pursuant to part 59 (air pollution control  
8 facility; tax exemption) of ~~Act No. 451 of the Public Acts of~~  
9 ~~1994, being sections 324.5901 to 324.5908 of the Michigan~~  
10 ~~Compiled Laws~~ THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION  
11 ACT, 1994 PA 451, MCL 324.5901 TO 324.5908.

12 (w) Tangible real or personal property donated by a manufac-  
13 turer, wholesaler, or retailer to an organization or entity  
14 exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b)  
15 of the general sales tax act, ~~Act No. 167 of the Public Acts of~~  
16 ~~1933, being section 205.54a of the Michigan Compiled Laws~~.

17 (x) The storage, use, or consumption by a domestic air car-  
18 rier of an aircraft purchased after December 31, 1992 for use  
19 solely in the transport of air cargo that has a maximum certifi-  
20 cated takeoff weight of at least 12,500 pounds. For purposes of  
21 this subdivision, the term "domestic air carrier" is limited to  
22 entities engaged in the commercial transport for hire of cargo or  
23 entities engaged in the commercial transport of passengers as a  
24 business activity.

25 (y) The storage, use, or consumption by a domestic air car-  
26 rier of an aircraft purchased after June 30, 1994 that is used  
27 solely in the regularly scheduled transport of passengers. For

1 purposes of this subdivision, the term "domestic air carrier" is  
2 limited to entities engaged in the commercial transport for hire  
3 of cargo or entities engaged in the commercial transport of pas-  
4 sengers as a business activity.

5 (z) The storage, use, or consumption by a domestic air car-  
6 rier of an aircraft, other than an aircraft described under  
7 subdivision (y), purchased after December 31, 1994, that has a  
8 maximum certificated takeoff weight of at least 12,500 pounds and  
9 that is designed to have a maximum passenger seating configura-  
10 tion of more than 30 seats and used solely in the transport of  
11 passengers. For purposes of this subdivision, the term "domestic  
12 air carrier" is limited to entities engaged in the commercial  
13 transport for hire of cargo or entities engaged in the commercial  
14 transport of passengers as a business activity.

15 (aa) Property or services sold to a health, welfare, educa-  
16 tional, cultural arts, charitable, or benevolent organization not  
17 operated for profit that has been issued before June 13, 1994 an  
18 exemption ruling letter to purchase items exempt from tax signed  
19 by the administrator of the sales, use, and withholding taxes  
20 division of the department. The department shall reissue an  
21 exemption letter to each of those organizations after June 13,  
22 1994 that shall remain in effect unless the organization fails to  
23 meet the requirements that originally entitled it to this exemp-  
24 tion; or to an organization not operated for profit and exempt  
25 from federal income tax under section 501(c)(3) or 501(c)(4) of  
26 the internal revenue code of 1986, 26 U.S.C. 501. The exemption  
27 does not apply to sales of tangible personal property and sales

1 of vehicles licensed for use on public highways, that are not  
2 used primarily to carry out the purposes of the organization as  
3 stated in the bylaws or articles of incorporation of the exempt  
4 organization.

5       SEC. 4o. A CITY, VILLAGE, TOWNSHIP, OR COUNTY THAT PAID THE  
6 TAX LEVIED UNDER THIS ACT IN TAX YEARS ENDING AFTER DECEMBER 31,  
7 1990 ON PROPERTY AFFIXED TO AND MADE A STRUCTURAL PART OF NON-  
8 PROFIT HOUSING THAT IS A MULTIPLE UNIT DWELLING OWNED BY THAT  
9 CITY, VILLAGE, TOWNSHIP, OR COUNTY, THE INCOME OR PROPERTY OF  
10 WHICH DOES NOT DIRECTLY OR INDIRECTLY INURE TO THE BENEFIT OF AN  
11 INDIVIDUAL, PRIVATE STOCKHOLDER, OR OTHER PRIVATE PERSON, MAY  
12 FILE A CLAIM FOR A REFUND OF THAT TAX WITH THE DEPARTMENT OF  
13 TREASURY WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY  
14 ACT THAT ADDED THIS SECTION.