

HOUSE BILL No. 5709

March 19, 1998, Introduced by Reps. Profit, Palamara, Mans, McBryde and Dalman and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4a (MCL 205.54a), as amended by 1996 PA 435.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4a. A person subject to tax under this act may exclude
2 from the amount of the gross proceeds used for the computation of
3 the tax, a sale of tangible personal property:
4 (a) Not for resale to a nonprofit school, nonprofit hospi-
5 tal, or nonprofit home for the care and maintenance of children
6 or aged persons operated by an entity of government, a regularly
7 organized church, religious, or fraternal organization, a
8 veterans' organization, or a corporation incorporated under the
9 laws of the state, if the income or benefit from the operation
10 does not inure, in whole or in part, to an individual or private
11 shareholder, directly or indirectly, and if the activities of the

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

1 (b) Not for resale to a regularly organized church or house
2 of religious worship, except ~~the following: (i) Sales~~ SALES in
3 activities that are mainly commercial enterprises.

4 ~~(ii) Sales of vehicles licensed for use on public highways~~
5 ~~other than a passenger van or bus with a manufacturer's rated~~
6 ~~seating capacity of 10 or more that is used primarily for the~~
7 ~~transportation of persons for religious purposes.~~

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

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

13 (e) That is a vessel designated for commercial use of regis-
14 tered tonnage of 500 tons or more, if produced upon special order
15 of the purchaser, and bunker and galley fuel, provisions, sup-
16 plies, maintenance, and repairs for the exclusive use of the
17 vessel engaged in interstate commerce.

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

1 plastic tubing used as part of a subsurface drainage system for
2 land, and subsurface irrigation pipe, if the land tile or irriga-
3 tion pipe is used in the production of agricultural products as a
4 business enterprise. At the time of the transfer of this tangi-
5 ble personal property, the transferee shall sign a statement, in
6 a form approved by the department, stating that the property is
7 to be used or consumed in connection with the production of
8 horticultural or agricultural products as a business enterprise,
9 or in 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, other
27 than a specially designed vehicle, together with parts, used to

1 mix and agitate materials added at a plant or jobsite in the
2 concrete manufacturing process. Industrial processing does not
3 include receiving and storage of raw materials purchased or
4 extracted by the user or consumer; or the preparation of food and
5 beverages by a retailer for retail sale. As used in this subdi-
6 vision, "industrial processor" means a person who transforms,
7 alters, or modifies tangible personal property by changing the
8 form, composition, or character of the property for ultimate sale
9 at retail or sale to another industrial processor to be further
10 processed for ultimate sale at retail. Sales to a person per-
11 forming a service who does not act as an industrial processor
12 while performing this service shall not be excluded under this
13 subdivision except as provided in subparagraph (ii).

14 (ii) A person, whether or not the person is an industrial
15 processor, if the tangible personal property is a computer used
16 in operating industrial processing equipment; equipment used in a
17 computer assisted manufacturing system; equipment used in a com-
18 puter assisted design or engineering system integral to an indus-
19 trial process; or a subunit or electronic assembly comprising a
20 component in a computer integrated industrial processing system.

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

1 Tangible personal property used or consumed, and not becoming a
2 component part of a copyrighted motion picture film, newspaper,
3 or 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 an
9 advertising supplement inserted into and circulated with a news-
10 paper or periodical that is otherwise exempt from tax under this
11 subdivision, if the advertising supplement is delivered directly
12 to the newspaper or periodical by a person other than the adver-
13 tiser, or the advertising supplement is printed by the newspaper
14 or periodical.

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

22 (j) That is a hearing aid, contact lenses if prescribed for
23 a specific disease that precludes the use of eyeglasses, or any
24 other apparatus, device, or equipment used to replace or substi-
25 tute for a part of the human body, or used to assist the disabled
26 person to lead a reasonably normal life if the tangible personal
27 property is purchased on a written prescription or order issued

1 by a health professional as defined by section 21005 of the
2 public health code, ~~Act No. 368 of the Public Acts of 1978,~~
3 ~~being section 333.21005 of the Michigan Compiled Laws~~ 1978
4 PA 368, MCL 333.21005; a hearing aid battery; or eyeglasses pre-
5 scribed or dispensed to correct the person's vision by an oph-
6 thalmologist, optometrist, or optician.

7 (k) To persons for use or consumption in the rendition of
8 any combination of services, the use or consumption of which is
9 taxable under section 3a(a) or (c) of the use tax act, ~~Act~~
10 ~~No. 94 of the Public Acts of 1937, being section 205.93a of the~~
11 ~~Michigan Compiled Laws~~ 1937 PA 94, MCL 205.93A, except that this
12 exemption is limited to the tangible personal property located on
13 the premises of the subscriber and to central office equipment or
14 wireless equipment, directly used or consumed in transmitting,
15 receiving, or switching or the monitoring of switching of a 2-way
16 interactive communication. As used in this subdivision, central
17 office equipment or wireless equipment does not include distribu-
18 tion equipment including cable or wire facilities.

19 (l) That is a vehicle not for resale to a Michigan nonprofit
20 corporation organized exclusively to provide a community with
21 ambulance or fire department services.

22 (m) To inmates in a penal or correctional institution pur-
23 chased with scrip issued and redeemed by the institution.

24 (n) To or for the use of students enrolled in any part of a
25 kindergarten through twelfth grade program, of textbooks sold by
26 a public or nonpublic school.

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

13 (p) To a purchaser of a new motor vehicle purchased before
14 January 1, 1993 if the purchaser qualifies for a special regis-
15 tration under section 226(12) of the Michigan vehicle code, ~~Act~~
16 ~~No. 300 of the Public Acts of 1949, being section 257.226 of the~~
17 ~~Michigan Compiled Laws~~ 1949 PA 300, MCL 257.226, and the vehicle
18 is purchased through a country determined by the department to be
19 providing a like or complete exemption for the purchase of a new
20 motor vehicle to be removed from that country.