

HOUSE BILL No. 6248

November 5, 1998, Introduced by Rep. Profit 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 1997 PA 194.

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, 1933 PA 167, MCL 205.51
- 4 to 205.78, if the tax was due and paid on the retail sale to a
- 5 consumer.
- 6 (b) Property, the storage, use, or other consumption of
- 7 which this state is prohibited from taxing under the constitution
- 8 or laws of the United States, or under the constitution of this
- 9 state.
- 10 (c) Property purchased for resale, demonstration purposes,
- 11 or lending or leasing to a public or parochial school offering a

1 course in automobile driving except that a vehicle purchased by
2 the school shall be certified for driving education and shall not
3 be reassigned for personal use by the school's administrative
4 personnel. For a dealer selling a new car or truck, exemption
5 for demonstration purposes shall be determined by the number of
6 new cars and trucks sold during the current calendar year or the
7 immediately preceding year without regard to specific make or
8 style according to the following schedule of 0 to 25, 2 units; 26
9 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but
10 not to exceed 25 cars and trucks in 1 calendar year for demon-
11 stration purposes. Property purchased for resale includes promo-
12 tional merchandise transferred pursuant to a redemption offer to
13 a person located outside this state or any packaging material,
14 other than promotional merchandise, acquired for use in fulfill-
15 ing a redemption offer or rebate to a person located outside this
16 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 THE receipt and storage of raw materials purchased or
16 extracted by the user or consumer ~~—, or~~ BUT DOES INCLUDE MOVING,
17 HANDLING, AND TRANSPORTING RAW MATERIALS FROM A LOCATION AT AN
18 INDUSTRIAL PROCESSOR'S FACILITY WHERE RAW MATERIALS ARE RECEIVED
19 OR STORED TO AN INDUSTRIAL PROCESSING OPERATION LOCATED IN THE
20 INDUSTRIAL PROCESSOR'S FACILITY, AND MOVING, HANDLING, AND TRANS-
21 PORTING PROCESSED PROPERTY FROM THE INDUSTRIAL PROCESSING OPERA-
22 TION AT AN INDUSTRIAL PROCESSOR'S FACILITY TO A LOCATION AT THE
23 INDUSTRIAL PROCESSOR'S FACILITY WHERE PROCESSED PROPERTY IS
24 STORED OR SHIPPED. INDUSTRIAL PROCESSING DOES NOT INCLUDE the
25 preparation of food and beverages by a retailer for retail sale.
26 As used in this subdivision, "industrial processor" means a
27 person who transforms, alters, or modifies tangible personal

1 property by changing the form, composition, or character of the
2 property for ultimate sale at retail or sale to another indus-
3 trial processor to be further processed for ultimate sale at
4 retail. Sales to a person performing a service who does not act
5 as an industrial processor while performing the service may not
6 be excluded under this subdivision, except as provided in sub-
7 paragraph (ii).

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

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

22 (i) Property or services sold to a school, hospital, or home
23 for the care and maintenance of children or aged persons, oper-
24 ated by an entity of government, a regularly organized church,
25 religious, or fraternal organization, a veterans' organization,
26 or a corporation incorporated under the laws of this state, if
27 not operated for profit, and if the income or benefit from the

1 operation does not inure, in whole or in part, to an individual
2 or private shareholder, directly or indirectly, and if the activ-
3 ities of the entity or agency are carried on exclusively for the
4 benefit of the public at large and are not limited to the advan-
5 tage, interests, and benefits of its members or a restricted
6 group. The tax levied does not apply to property or services
7 sold to a parent cooperative preschool. As used in this subdivi-
8 sion, "parent cooperative preschool" means a nonprofit, nondis-
9 criminatory educational institution, maintained as a community
10 service and administered by parents of children currently
11 enrolled in the preschool that provides an educational and devel-
12 opmental program for children younger than compulsory school age,
13 that provides an educational program for parents, including
14 active participation with children in preschool activities, that
15 is directed by qualified preschool personnel, and that is
16 licensed by the department of consumer and industry services pur-
17 suant to 1973 PA 116, MCL 722.111 to 722.128.

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

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, 1966
10 PA 346, MCL 125.1415a. A nonprofit hospital or nonprofit housing
11 includes only the property of a nonprofit hospital or the homes
12 or dwelling places constructed by a nonprofit housing entity, the
13 income or property of which does not directly or indirectly inure
14 to the benefit of an individual, private stockholder, or other
15 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,
27 1949 PA 300, MCL 257.226.

1 (r) A hearing aid, contact lenses if prescribed for a
2 specific disease that precludes the use of eyeglasses, or any
3 other apparatus, device, or equipment used to replace or substi-
4 tute for any part of the human body, or used to assist the dis-
5 abled person to lead a reasonably normal life when the tangible
6 personal property is purchased on a written prescription or order
7 issued by a health professional as defined by ~~section 4 of~~
8 ~~former 1974 PA 264, or~~ section 21005 of the public health code,
9 1978 PA 368, MCL 333.21005, or eyeglasses prescribed or dispensed
10 to correct the person's vision by an ophthalmologist, optome-
11 trist, or optician.

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

14 (t) The purchase of machinery and equipment for use or con-
15 sumption in the rendition of any combination of services, the use
16 or consumption of which is taxable under section 3a(a) or (c)
17 except that this exemption is limited to the tangible personal
18 property located on the premises of the subscriber and to central
19 office equipment or wireless equipment, directly used or consumed
20 in transmitting, receiving, or switching or the monitoring of
21 switching of a 2-way interactive communication. As used in this
22 subdivision, central office equipment or wireless equipment does
23 not include distribution equipment including cable or wire
24 facilities.

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

1 (v) Tangible personal property purchased and installed as a
2 component part of a water pollution control facility for which a
3 tax exemption certificate is issued pursuant to part 37 ~~—(water~~
4 ~~pollution control facilities; tax exemption)~~ of the natural
5 resources and environmental protection act, 1994 PA 451, MCL
6 324.3701 to 324.3708, or an air pollution control facility for
7 which a tax exemption certificate is issued pursuant to part 59
8 ~~—(air pollution control facility; tax exemption)~~ of the natural
9 resources and environmental protection act, 1994 PA 451, MCL
10 324.5901 to 324.5908.

11 (w) Tangible real or personal property donated by a manufac-
12 turer, wholesaler, or retailer to an organization or entity
13 exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b)
14 of the general sales tax act, 1933 PA 167, MCL 205.54a.

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

23 (y) The storage, use, or consumption by a domestic air car-
24 rier of an aircraft purchased after June 30, 1994 that is used
25 solely in the regularly scheduled transport of passengers. For
26 purposes of this subdivision, the term "domestic air carrier" is
27 limited to entities engaged in the commercial transport for hire

1 of cargo or entities engaged in the commercial transport of
2 passengers as a business activity.

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

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

1 stated in the bylaws or articles of incorporation of the exempt
2 organization.

3 (bb) The use or consumption of service described in section
4 3a(a) or (c) by means of a prepaid telephone calling card, a pre-
5 paid authorization number for telephone use, or a charge for
6 internet access.