

**SENATE BILL NO. 540**

May 27, 1997, Introduced by Senator BERRYMAN and referred  
to the Committee on Finance.

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending section 4 (MCL 205.94), as amended by 1996 PA 436,  
and by adding sections 4m and 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 constitution
- 9 or laws of the United States, or under the constitution of this
- 10 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. Property purchased for resale includes promo-  
14 tional merchandise transferred pursuant to a redemption offer to  
15 a person located outside this state or any packaging material,  
16 other than promotional merchandise, acquired for use in fulfill-  
17 ing a redemption offer or rebate to a person located outside this  
18 state.

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

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

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

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

1 grain and that is designed to be disassembled without significant  
2 damage to its component parts. This exemption does not include  
3 transfers of food, fuel, clothing, or similar tangible personal  
4 property for personal living or human consumption. This exemp-  
5 tion does not include tangible personal property permanently  
6 affixed and becoming a structural part of real estate.

7 ~~(g) Property sold to the following:~~

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

1       ~~(ii) A person, whether or not the person is an industrial~~  
2 ~~processor, when the property is a computer used in operating~~  
3 ~~industrial processing equipment; equipment used in a computer~~  
4 ~~assisted manufacturing system; equipment used in a computer~~  
5 ~~assisted design or engineering system integral to an industrial~~  
6 ~~process; or a subunit or electronic assembly comprising a compo-~~  
7 ~~ment in a computer integrated industrial processing system.~~

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

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

1 subdivision, "parent cooperative preschool" means a nonprofit,  
2 nondiscriminatory educational institution, maintained as a commu-  
3 nity service and administered by parents of children currently  
4 enrolled in the preschool that provides an educational and devel-  
5 opmental program for children younger than compulsory school age,  
6 that provides an educational program for parents, including  
7 active participation with children in preschool activities, that  
8 is directed by qualified preschool personnel, and that is  
9 licensed ~~by the department of consumer and industry services~~  
10 pursuant to ~~Act No. 116 of the Public Acts of 1973, being sec-~~  
11 ~~tions 722.111 to 722.128 of the Michigan Compiled Laws~~ 1973 PA  
12 116, MCL 722.111 TO 722.128.

13 (I) ~~(j)~~ Property or services sold to a regularly organized  
14 church or house of religious worship except the following:

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

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

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

26 (K) ~~(l)~~ Property purchased by a person engaged in the  
27 business of constructing, altering, repairing, or improving real

1 estate for others to the extent the property is affixed to and  
2 made a structural part of the real estate of a nonprofit hospital  
3 or a nonprofit housing entity qualified as exempt pursuant to  
4 section 15a of the state housing development authority act of  
5 1966, ~~Act No. 346 of the Public Acts of 1966, being section~~  
6 ~~125.1415a of the Michigan Compiled Laws~~ 1966 PA 346, MCL  
7 125.1415A. A nonprofit hospital or nonprofit housing includes  
8 only the property of a nonprofit hospital or the homes or dwell-  
9 ing places constructed by a nonprofit housing entity, the income  
10 or property of which does not directly or indirectly inure to the  
11 benefit of an individual, private stockholder, or other private  
12 person.

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

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

24 Tangible personal property used or consumed, and not becoming a  
25 component part of a copyrighted motion picture film, newspaper or  
26 periodical, except that portion or percentage of tangible  
27 personal property used or consumed in producing an advertising

1 supplement that becomes a component part of a newspaper or  
2 periodical is subject to tax. For purposes of this subdivision,  
3 tangible personal property that becomes a component part of a  
4 newspaper or periodical and consequently not subject to tax,  
5 includes an advertising supplement inserted into and circulated  
6 with a newspaper or periodical that is otherwise exempt from tax  
7 under this subdivision, if the advertising supplement is deliv-  
8 ered directly to the newspaper or periodical by a person other  
9 than the advertiser, or the advertising supplement is printed by  
10 the newspaper or periodical.

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

18 (O) ~~(p)~~ A person who is a resident of this state who pur-  
19 chases an automobile in another state while in the military serv-  
20 ice of the United States and who pays a sales tax in the state  
21 where the automobile is purchased.

22 (P) ~~(q)~~ A vehicle for which a special registration is  
23 secured in accordance with section 226(12) of the Michigan vehi-  
24 cle code, ~~Act No. 300 of the Public Acts of 1949, being section~~  
25 ~~257.226 of the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.226.

26 (Q) ~~(r)~~ A hearing aid, contact lenses if prescribed for a  
27 specific disease ~~which~~ THAT precludes the use of eyeglasses, or

1 any other apparatus, device, or equipment used to replace or  
2 substitute for any part of the human body, or used to assist the  
3 disabled person to lead a reasonably normal life when the tangi-  
4 ble personal property is purchased on a written prescription or  
5 order issued by a health professional as defined by section 4 of  
6 former ~~Act No. 264 of the Public Acts of 1974~~ 1974 PA 264, or  
7 section 21005 of the public health code, ~~Act No. 368 of the~~  
8 ~~Public Acts of 1978, being section 333.21005 of the Michigan~~  
9 ~~Compiled Laws~~ 1978 PA 368, MCL 333.21005, or eyeglasses pre-  
10 scribed or dispensed to correct the person's vision by an oph-  
11 thalmologist, optometrist, or optician.

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

14 (S) ~~(t)~~ The purchase of machinery and equipment for use or  
15 consumption in the rendition of any combination of services, the  
16 use 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 (T) ~~(u)~~ A vehicle not for resale used by a nonprofit cor-  
26 poration organized exclusively to provide a community with  
27 ambulance or fire department services.

1 (U) ~~(v)~~ Tangible personal property purchased and installed  
2 as a component part of a water pollution control facility for  
3 which a tax exemption certificate is issued pursuant to part 37  
4 (water pollution control facilities; tax exemption) of the natu-  
5 ral resources and environmental protection act, ~~Act No. 451 of~~  
6 ~~the Public Acts of 1994, being sections 324.3701 to 324.3708 of~~  
7 ~~the Michigan Compiled Laws~~ 1994 PA 451, MCL 324.3701 TO  
8 324.3708, or an air pollution control facility for which a tax  
9 exemption certificate is issued pursuant to part 59 (air pollu-  
10 tion control facility; tax exemption) of ~~Act No. 451 of the~~  
11 ~~Public Acts of 1994, being sections 324.5901 to 324.5908 of the~~  
12 ~~Michigan Compiled Laws~~ THE NATURAL RESOURCES AND ENVIRONMENTAL  
13 PROTECTION ACT, 1994 PA 451, MCL 324.5901 TO 324.5908.

14 (V) ~~(w)~~ Tangible real or personal property donated by a  
15 manufacturer, wholesaler, or retailer to an organization or  
16 entity exempt pursuant to subdivision ~~(i)~~ (H) or ~~(j)~~ (I) or  
17 section 4a(a) or (b) of ~~Act No. 167 of the Public Acts of 1933,~~  
18 ~~being section 205.54a of the Michigan Compiled Laws~~ THE GENERAL  
19 SALES TAX ACT, 1933 PA 167, MCL 205.54A.

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

1           (X) ~~(y)~~ The storage, use, or consumption by a domestic air  
2 carrier of an aircraft purchased after June 30, 1994 that is used  
3 solely in the regularly scheduled transport of passengers. For  
4 purposes of this subdivision, the term "domestic air carrier" is  
5 limited to entities engaged in the commercial transport for hire  
6 of cargo or entities engaged in the commercial transport of pas-  
7 sengers as a business activity.

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

18           (Z) ~~(aa)~~ Property or services sold to a health, welfare,  
19 educational, cultural arts, charitable, or benevolent organiza-  
20 tion not operated for profit that has been issued before June 13,  
21 1994 an exemption ruling letter to purchase items exempt from tax  
22 signed by the administrator of the sales, use, and withholding  
23 taxes division of the department. The department shall reissue  
24 an exemption letter to each of those organizations after June 13,  
25 1994 that shall remain in effect unless the organization fails to  
26 meet the requirements that originally entitled it to this  
27 exemption; or to an organization not operated for profit and

1 exempt from federal income tax under section 501(c)(3) or  
2 501(c)(4) of the internal revenue code. ~~of 1986, 26 U.S.C. 501.~~  
3 The exemption does not apply to sales of tangible personal prop-  
4 erty and sales of vehicles licensed for use on public highways,  
5 that are not used primarily to carry out the purposes of the  
6 organization as stated in the bylaws or articles of incorporation  
7 of the exempt organization.

8 SEC. 4M. THE TAX LEVIED UNDER THIS ACT DOES NOT APPLY TO  
9 THE STORAGE, USE, OR CONSUMPTION OF MOTOR FUELS.

10 SEC. 4o. (1) THE TAX LEVIED UNDER THIS ACT DOES NOT APPLY  
11 TO PROPERTY SOLD TO THE FOLLOWING:

12 (A) AN INDUSTRIAL PROCESSOR FOR USE OR CONSUMPTION IN INDUS-  
13 TRIAL PROCESSING.

14 (B) 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 (2) PROPERTY USED OR CONSUMED IN INDUSTRIAL PROCESSING DOES  
22 NOT INCLUDE TANGIBLE PERSONAL PROPERTY PERMANENTLY AFFIXED AND  
23 BECOMING A STRUCTURAL PART OF REAL ESTATE; OFFICE FURNITURE,  
24 OFFICE SUPPLIES, AND ADMINISTRATIVE OFFICE EQUIPMENT; OR VEHICLES  
25 LICENSED AND TITLED FOR USE ON PUBLIC HIGHWAYS, OTHER THAN A SPE-  
26 CIALY DESIGNED VEHICLE, TOGETHER WITH PARTS, USED TO MIX AND  
27 AGITATE MATERIALS ADDED AT A PLANT OR JOBSITE IN THE CONCRETE

1 MANUFACTURING PROCESS. INDUSTRIAL PROCESSING DOES NOT INCLUDE  
2 RECEIVING AND STORAGE OF RAW MATERIALS PURCHASED OR EXTRACTED BY  
3 THE USER OR CONSUMER; OR THE PREPARATION OF FOOD AND BEVERAGES BY  
4 A RETAILER FOR RETAIL SALE.

5 (3) AS USED IN THIS SECTION, "INDUSTRIAL PROCESSOR" MEANS A  
6 PERSON WHO TRANSFORMS, ALTERS, OR MODIFIES TANGIBLE PERSONAL  
7 PROPERTY BY CHANGING THE FORM, COMPOSITION, OR CHARACTER OF THE  
8 PROPERTY FOR ULTIMATE SALE AT RETAIL OR SALE TO ANOTHER INDUS-  
9 TRIAL PROCESSOR TO BE FURTHER PROCESSED FOR ULTIMATE SALE AT  
10 RETAIL. A SALE TO A PERSON PERFORMING A SERVICE WHO DOES NOT ACT  
11 AS AN INDUSTRIAL PROCESSOR WHILE PERFORMING THIS SERVICE SHALL  
12 NOT BE EXCLUDED UNDER SUBSECTION (1)(A) EXCEPT AS PROVIDED IN  
13 SUBSECTION (1)(B).