

**SENATE SUBSTITUTE FOR HOUSE SUBSTITUTE FOR
SENATE BILL NO. 544**

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending sections 1, 4a, 4g, 4j, and 4q (MCL 205.51, 205.54a,
205.54g, 205.54j, and 205.54q), section 1 as amended by 1998 PA
451, section 4a as amended by 1998 PA 490, section 4g as amended
by 1998 PA 60, section 4j as added by 1985 PA 225, and section 4q
as added by 1998 PA 258, and by adding sections 4r, 4t, 4u,
4v, 4w, 4y, and 4z.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. (1) As used in this act:
- 2 (a) "Person" means an individual, firm, partnership, joint
- 3 venture, association, social club, fraternal organization, munic-
- 4 ipal or private corporation whether organized for profit or not,
- 5 company, estate, trust, receiver, trustee, syndicate, the United
- 6 States, this state, county, or any other group or combination

1 acting as a unit, and includes the plural as well as the singular
2 number, unless the intention to give a more limited meaning is
3 disclosed by the context.

4 (b) "Sale at retail" means a transaction by which the owner-
5 ship of tangible personal property is transferred for considera-
6 tion, if the transfer is made in the ordinary course of the
7 transferor's business and is made to the transferee for consump-
8 tion or use, or for any purpose other than for resale, or for
9 lease, if the rental receipts are taxable under the use tax act,
10 1937 PA 94, MCL 205.91 to 205.111, in the form of tangible per-
11 sonal property to a person licensed under this act, or for demon-
12 stration purposes or lending or leasing to a public or parochial
13 school offering a course in automobile driving. However, a vehi-
14 cle purchased by the school shall be certified for driver educa-
15 tion and shall not be reassigned for personal use of the school's
16 administrative personnel. For a dealer selling a new car or
17 truck, the exemption for demonstration purposes shall be deter-
18 mined by the number of new cars and trucks sold during the cur-
19 rent calendar year or the immediately preceding year without
20 regard to specific make or style in accordance with the following
21 schedule of 0 to 25, 2 units; 26 to 100, 7 units; 101 to 500, 20
22 units; 501 or more, 25 units; but not to exceed 25 cars and
23 trucks in a calendar year for demonstration purposes.

24 ~~-(c) "Sale at retail" includes the sale of tangible personal~~
25 ~~property to persons directly engaged in the business of con-~~
26 ~~structing, altering, repairing, or improving real estate for~~
27 ~~others except property affixed to and made a structural part of~~

1 ~~the real estate of a nonprofit hospital or nonprofit housing. A~~
2 ~~nonprofit hospital or nonprofit housing includes only the prop-~~
3 ~~erty of a nonprofit hospital or the homes or dwelling places con-~~
4 ~~structed by a nonprofit housing entity qualified as exempt pursu-~~
5 ~~ant to section 15a of the state housing development authority act~~
6 ~~of 1966, 1966 PA 346, MCL 125.1415a, the income or property of~~
7 ~~which does not directly or indirectly inure to the benefit of an~~
8 ~~individual, private stockholder, or other private person. For~~
9 ~~taxes assessed after December 31, 1990 and before January 1,~~
10 ~~1996, as used in this subdivision, "hospital" includes, but is~~
11 ~~not limited to, an entity that meets all of the following~~
12 ~~qualifications:~~

13 ~~(i) Is a separately organized entity, or a group of entities~~
14 ~~sufficiently related to be considered a single employer for pur-~~
15 ~~poses of section 414 of the internal revenue code of 1986, the~~
16 ~~primary purpose of which is to provide medical, obstetrical, psy-~~
17 ~~chiatric, or surgical care or nursing. Nursing includes care~~
18 ~~provided by skilled nurses in a long-term care facility.~~

19 ~~(ii) Prior to January 1, 1996, initiated an appeal of taxes~~
20 ~~assessed under this act on tangible personal property used to~~
21 ~~construct a facility after December 31, 1990 and before January~~
22 ~~1, 1996, the primary purpose of which is to provide medical,~~
23 ~~obstetrical, psychiatric, or surgical care or nursing. Nursing~~
24 ~~includes a long-term care facility.~~

25 ~~(C) -(d)-~~ "Sale at retail" includes a conditional sale,
26 installment lease sale, or other transfer of property if title is

1 retained as security for the purchase price but is intended to be
2 transferred later.

3 (D) ~~—(e)—~~ "Sale at retail" includes the sale of electricity,
4 natural or artificial gas, or steam if the sale is made to the
5 consumer or user for consumption or use rather than for resale.
6 Sale at retail also includes the sale of a prepaid telephone
7 calling card or a prepaid authorization number for telephone use,
8 rather than for resale. Sale at retail also includes the reau-
9 thorization of a prepaid telephone calling card or a prepaid
10 authorization number. Sale at retail does not include the sale
11 of water through water mains or the sale of water delivered in
12 bulk tanks in quantities of not less than 500 gallons.

13 (E) ~~—(f)—~~ "Sale at retail" includes computer software
14 offered for general sale to the public or software modified or
15 adapted to the user's needs or equipment by the seller, only if
16 the software is available for sale from a seller of software on
17 an as is basis or as an end product without modification or
18 adaptation. Sale at retail does not include specific charges for
19 technical support or for adapting or modifying prewritten, stan-
20 dard, or canned computer software programs to a purchaser's needs
21 or equipment if those charges are separately stated and
22 identified. Sale at retail does not include computer software
23 originally designed for the exclusive use and special needs of
24 the purchaser. As used in this subdivision, "computer software"
25 means a set of statements or instructions that when incorporated
26 in a machine usable medium is capable of causing a machine or

1 device having information processing capabilities to indicate,
2 perform, or achieve a particular function, task, or result.

3 (F) ~~-(g)-~~ "Sale at retail" includes the sale of tangible
4 personal property by an industrial laundry under a sale, rental,
5 or service agreement with a term of at least 5 days.

6 (G) ~~-(h)-~~ "Sale at retail" does not include an isolated
7 transaction by a person not licensed or required to be licensed
8 under this act, in which tangible personal property is offered
9 for sale, sold, transferred, and delivered by the owner.

10 (H) ~~-(i)-~~ "Sale at retail" does not include a commercial
11 advertising element if the commercial advertising element is used
12 to create or develop a print, radio, television, or other adver-
13 tisement, the commercial advertising element is discarded or
14 returned to the provider after the advertising message is com-
15 pleted, and the commercial advertising element is custom devel-
16 oped by the provider for the purchaser. As used in this subdivi-
17 sion, "commercial advertising element" means a negative or posi-
18 tive photographic image, an audiotape or videotape master, a
19 layout, a manuscript, writing of copy, a design, artwork, an
20 illustration, retouching, and mechanical or keyline
21 instructions. Sale at retail includes black and white or full
22 color process separation elements, an audiotape reproduction, or
23 a videotape reproduction.

24 (I) ~~-(j)-~~ "Gross proceeds" means the amount received in
25 money, credits, subsidies, property, or other money's worth in
26 consideration of a sale at retail within this state, without a
27 deduction for the cost of the property sold, the cost of material

1 used, the cost of labor or service purchased, an amount paid for
2 interest or a discount, a tax paid on cigarettes or tobacco pro-
3 ducts at the time of purchase, a tax paid on beer or liquor at
4 the time of purchase or other expenses. Also, a deduction is not
5 allowed for losses. Gross proceeds do not include an amount
6 received or billed by the taxpayer for remittance to the employee
7 as a gratuity or tip, if the gratuity or tip is separately iden-
8 tified and itemized on the guest check or billed to the
9 customer. In a taxable sale at retail of a motor vehicle, if
10 another motor vehicle is used as part payment of the purchase
11 price, the value of the motor vehicle used as part payment of the
12 purchase price shall be that value agreed to by the parties to
13 the sale as evidenced by the signed statement executed pursuant
14 to section 251 of the Michigan vehicle code, 1949 PA 300,
15 MCL 257.251. A credit or refund for returned goods or a refund
16 less an allowance for use made for a motor vehicle returned under
17 1986 PA 87, MCL 257.1401 to 257.1410, as certified by the manu-
18 facturer on a form provided by the department of treasury, may be
19 deducted.

20 (J) ~~-(K)-~~ "Business" includes an activity engaged in by a
21 person or caused to be engaged in by that person with the object
22 of gain, benefit, or advantage, either direct or indirect.

23 (K) ~~-(I)-~~ "Tax year" or "taxable year" means the fiscal year
24 of the state or the taxpayer's fiscal year if permission is
25 obtained by the taxpayer from the department to use the
26 taxpayer's fiscal year as the tax period instead.

1 (1) ~~(m)~~ "Department" means the revenue division of the
2 department of treasury.

3 (M) ~~(n)~~ "Taxpayer" means a person subject to a tax under
4 this act.

5 (N) ~~(o)~~ "Tax" includes a tax, interest, or penalty levied
6 under this act.

7 (O) ~~(p)~~ "Textiles" means goods that are made of or incor-
8 porate woven or nonwoven fabric, including, but not limited to,
9 clothing, shoes, hats, gloves, handkerchiefs, curtains, towels,
10 sheets, pillows, pillow cases, tablecloths, napkins, aprons,
11 linens, floor mops, floor mats, and thread. Textiles also
12 include materials used to repair or construct textiles, or other
13 goods used in the rental, sale, or cleaning of textiles.

14 (2) If the department determines that it is necessary for
15 the efficient administration of this act to regard an unlicensed
16 person, including a salesperson, representative, peddler, or can-
17 vasser as the agent of the dealer, distributor, supervisor, or
18 employer under whom the unlicensed person operates or from whom
19 the unlicensed person obtains the tangible personal property sold
20 by the unlicensed person, irrespective of whether the unlicensed
21 person is making sales on the unlicensed person's own behalf or
22 on behalf of the dealer, distributor, supervisor, or employer,
23 the department may so regard the unlicensed person and may regard
24 the dealer, distributor, supervisor, or employer as making sales
25 at retail at the retail price for the purposes of this act.

26 Sec. 4a. (1) A person subject to tax under this act may
27 exclude from the amount of the gross proceeds used for the

1 computation of the tax, a sale of tangible personal property,

2 SUBJECT TO SUBSECTION (2):

3 (a) Not for resale to a nonprofit school, nonprofit hospi-
4 tal, or nonprofit home for the care and maintenance of children
5 or aged persons operated by an entity of government, a regularly
6 organized church, religious, or fraternal organization, a
7 veterans' organization, or a corporation incorporated under the
8 laws of the state, if the income or benefit from the operation
9 does not inure, in whole or in part, to an individual or private
10 shareholder, directly or indirectly, and if the activities of the
11 entity or agency are carried on exclusively for the benefit of
12 the public at large and are not limited to the advantage, inter-
13 ests, and benefits of its members or any restricted group. At
14 the time of the transfer of this tangible personal property, the
15 transferee shall sign a statement, in a form approved by the
16 department, stating that the property is to be used or consumed
17 in connection with the operation of the institution or agency and
18 that the institution or agency qualifies as an exempt entity
19 under this subdivision. The statement shall be accepted by all
20 courts as prima facie evidence of the exemption and the statement
21 shall provide that if the claim for tax exemption is disallowed
22 the transferee will reimburse the transferor for the amount of
23 tax involved. A sale of tangible personal property to a parent
24 cooperative preschool is exempt from taxation under this act. As
25 used in this subdivision, "parent cooperative preschool" means a
26 nonprofit, nondiscriminatory educational institution, maintained
27 as a community service and administered by parents of children

1 currently enrolled in the preschool, that provides an educational
2 and developmental program for children younger than compulsory
3 school age, that provides an educational program for parents,
4 including active participation with children in preschool activi-
5 ties, that is directed by qualified preschool personnel, and that
6 is licensed by the department of consumer and industry services
7 pursuant to 1973 PA 116, MCL 722.111 to 722.128.

8 (b) Not for resale to a regularly organized church or house
9 of religious worship, except the following:

10 (i) Sales in activities that are mainly commercial
11 enterprises.

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

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

18 ~~-(d) Affixed to and made a structural part of real estate~~
19 ~~excepted from the definition of "sale at retail" under section~~
20 ~~1(1)(c).-~~

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

26 (E) ~~-(f)-~~ To persons engaged in a business enterprise and
27 using or consuming the tangible personal property in the tilling,

1 planting, caring for, or harvesting of the things of the soil; in
2 the breeding, raising, or caring for livestock, poultry, or
3 horticultural products, including transfers of livestock, poul-
4 try, or horticultural products for further growth; or in the
5 direct gathering of fish, by net, line, or otherwise only by an
6 owner-operator of the business enterprise, not including a
7 charter fishing business enterprise. This exemption includes
8 agricultural land tile, which means fired clay or perforated
9 plastic tubing used as part of a subsurface drainage system for
10 land, and subsurface irrigation pipe, if the land tile or irriga-
11 tion pipe is used in the production of agricultural products as a
12 business enterprise. At the time of the transfer of this tangi-
13 ble personal property, the transferee shall sign a statement, in
14 a form approved by the department, stating that the property is
15 to be used or consumed in connection with the production of
16 horticultural or agricultural products as a business enterprise,
17 or in connection with fishing as an owner-operator business
18 enterprise. The statement shall be accepted by all courts as
19 prima facie evidence of the exemption. This exemption includes a
20 portable grain bin, which means a structure that is used or is to
21 be used to shelter grain and that is designed to be disassembled
22 without significant damage to its component parts. This exemp-
23 tion also includes grain drying equipment and natural or propane
24 gas used to fuel that equipment for agricultural purposes. This
25 exemption does not include transfers of food, fuel, clothing, or
26 any similar tangible personal property for personal living or
27 human consumption. This exemption does not include tangible

1 personal property permanently affixed and becoming a structural
2 part of real estate.

3 ~~-(g) To the following:~~

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

24 ~~-(ii) A person, whether or not the person is an industrial~~
25 ~~processor, if the tangible personal property is a computer used~~
26 ~~in operating industrial processing equipment; equipment used in a~~
27 ~~computer assisted manufacturing system; equipment used in a~~

1 ~~computer assisted design or engineering system integral to an~~
2 ~~industrial process; a subunit or electronic assembly comprising a~~
3 ~~component in a computer integrated industrial processing system;~~
4 ~~or computer equipment used in connection with the computer~~
5 ~~assisted production, storage, and transmission of data if the~~
6 ~~equipment would have been exempt had the data transfer been made~~
7 ~~using tapes, disks, CD-ROMS, or similar media by a company whose~~
8 ~~business includes publishing doctoral dissertations and informa-~~
9 ~~tion archiving, and that sells the majority of the company's pro-~~
10 ~~ducts to nonprofit organizations exempt under section 4q.~~

11 (F) ~~(h)~~ That is a copyrighted motion picture film or a
12 newspaper or periodical admitted under federal postal laws and
13 regulations effective September 1, 1985 as second-class mail
14 matter or as a controlled circulation publication or qualified to
15 accept legal notices for publication in this state, as defined by
16 law, or any other newspaper or periodical of general circulation,
17 established not less than 2 years, and published not less than
18 once a week. Tangible personal property used or consumed in
19 producing a copyrighted motion picture film, a newspaper pub-
20 lished more than 14 times per year, or a periodical published
21 more than 14 times per year, and not becoming a component part of
22 that film, newspaper, or periodical is subject to the tax. After
23 December 31, 1993, tangible personal property used or consumed in
24 producing a newspaper published 14 times or less per year or a
25 periodical published 14 times or less per year and that portion
26 or percentage of tangible personal property used or consumed in
27 producing an advertising supplement that becomes a component part

1 of a newspaper or periodical is exempt from the tax under this
2 subdivision. A claim for a refund for taxes paid before January
3 1, 1999, under this subdivision shall be made before June 30,
4 1999. For purposes of this subdivision, tangible personal prop-
5 erty that becomes a component part of a newspaper or periodical
6 and consequently not subject to tax includes an advertising sup-
7 plement inserted into and circulated with a newspaper or periodi-
8 cal that is otherwise exempt from tax under this subdivision, if
9 the advertising supplement is delivered directly to the newspaper
10 or periodical by a person other than the advertiser, or the
11 advertising supplement is printed by the newspaper or
12 periodical.

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

20 (H) ~~-(j)-~~ That is a hearing aid, contact lenses if pre-
21 scribed for a specific disease that precludes the use of eye-
22 glasses, or any other apparatus, device, or equipment used to
23 replace or substitute for a part of the human body, or used to
24 assist the disabled person to lead a reasonably normal life if
25 the tangible personal property is purchased on a written pre-
26 scription or order issued by a health professional as defined by
27 section 21005 of the public health code, 1978 PA 368,

1 MCL 333.21005; a hearing aid battery; or eyeglasses prescribed or
2 dispensed to correct the person's vision by an ophthalmologist,
3 optometrist, or optician.

4 ~~-(k) To persons for use or consumption in the rendition of~~
5 ~~any combination of services, the use or consumption of which is~~
6 ~~taxable under section 3a(a) or (c) of the use tax act, 1937~~
7 ~~PA 94, MCL 205.93a, except that this exemption is limited to the~~
8 ~~tangible personal property located on the premises of the sub-~~
9 ~~scriber and to central office equipment or wireless equipment,~~
10 ~~directly used or consumed in transmitting, receiving, or switch-~~
11 ~~ing or the monitoring of switching of a 2-way interactive~~
12 ~~communication. As used in this subdivision, central office~~
13 ~~equipment or wireless equipment does not include distribution~~
14 ~~equipment including cable or wire facilities.~~

15 (I) ~~-(i)~~ That is a vehicle not for resale to a Michigan
16 nonprofit corporation organized exclusively to provide a commu-
17 nity with ambulance or fire department services.

18 (J) ~~-(m)~~ To inmates in a penal or correctional institution
19 purchased with scrip issued and redeemed by the institution.

20 (K) ~~-(n)~~ To or for the use of students enrolled in any part
21 of a kindergarten through twelfth grade program, of textbooks
22 sold by a public or nonpublic school.

23 (l) ~~-(o)~~ Installed as a component part of a water pollution
24 control facility for which a tax exemption certificate is issued
25 pursuant to part 37 of the natural resources and environmental
26 protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air
27 pollution control facility for which a tax exemption certificate

1 is issued pursuant to part 59 of the natural resources and
2 environmental protection act, 1994 PA 451, MCL 324.5901 to
3 324.5908.

4 (M) ~~-(p)-~~ To a purchaser of a new motor vehicle purchased
5 before January 1, 1993 if the purchaser qualifies for a special
6 registration under section 226(12) of the Michigan vehicle code,
7 1949 PA 300, MCL 257.226, and the vehicle is purchased through a
8 country determined by the department to be providing a like or
9 complete exemption for the purchase of a new motor vehicle to be
10 removed from that country.

11 (N) ~~-(q)-~~ That is the following sold or leased to an indus-
12 trial laundry after December 31, 1997:

13 (i) Textiles and disposable products including, but not
14 limited to, soap, paper, chemicals, tissues, deodorizers and dis-
15 pensers, and all related items such as packaging, supplies, hang-
16 ers, name tags, and identification tags.

17 (ii) Equipment, whether owned or leased, used to repair and
18 dispense textiles including, but not limited to, roll towel cabi-
19 nets, slings, hardware, lockers, mop handles and frames, and
20 carts.

21 (iii) Machinery, equipment, parts, lubricants, and repair
22 services used to clean, process, and package textiles and related
23 items, whether owned or leased.

24 (iv) Utilities such as electric, gas, water, or oil.

25 (v) Production washroom equipment and mending and packaging
26 supplies and equipment.

1 (vi) Material handling equipment including, but not limited
2 to, conveyors, racks, and elevators and related control
3 equipment.

4 (vii) Wastewater pretreatment equipment and supplies and
5 related maintenance and repair services.

6 (0) TO A PERSON HOLDING A DIRECT PAYMENT PERMIT UNDER
7 SECTION 8 OF THE USE TAX ACT, 1937 PA 94, MCL 205.98.

8 (2) THE TANGIBLE PERSONAL PROPERTY UNDER SUBSECTION (1) IS
9 EXEMPT ONLY TO THE EXTENT THAT THAT PROPERTY IS USED FOR THE
10 EXEMPT PURPOSE IF ONE IS STATED IN SUBSECTION (1). THE EXEMPTION
11 IS LIMITED TO THE PERCENTAGE OF EXEMPT USE TO TOTAL USE DETER-
12 MINED BY A REASONABLE FORMULA OR METHOD APPROVED BY THE
13 DEPARTMENT.

14 Sec. 4g. (1) A person subject to tax under this act may
15 exclude from the amount of the gross proceeds used for the compu-
16 tation of the tax 1 or more of the following:

17 (a) Sales of prescription drugs for human use or food for
18 human consumption, except prepared food intended for immediate
19 consumption.

20 (b) The deposit on a returnable container for a beverage or
21 the deposit on a carton or case that is used for returnable
22 containers.

23 (c) Food or tangible personal property purchased with fed-
24 eral food stamps.

25 (d) Fruit or vegetable seeds and fruit or vegetable plants
26 if purchased at a place of business authorized to accept food
27 stamps by the food and nutrition service of the United States

1 department of agriculture or a place of business that has made a
2 complete and proper application for authorization to accept food
3 stamps but has been denied authorization and provides proof of
4 denial to the department of treasury.

5 ~~(e) The product of the out-of-state usage percentage and~~
6 ~~the gross proceeds otherwise taxable under this act from the sale~~
7 ~~of a qualified truck or a trailer designed to be drawn behind a~~
8 ~~qualified truck, purchased after December 31, 1996 and before~~
9 ~~May 1, 1999 by an interstate motor carrier and used in interstate~~
10 ~~commerce. As used in this subdivision:~~

11 ~~(i) "Interstate motor carrier" means a person engaged in the~~
12 ~~business of carrying persons or property, other than themselves,~~
13 ~~their employees, or their own property, for hire across state~~
14 ~~lines, whose fleet mileage was driven at least 10% outside of~~
15 ~~this state in the immediately preceding tax year.~~

16 ~~(ii) "Out-of-state usage percentage" is a fraction, the~~
17 ~~numerator of which is the number of miles driven outside of this~~
18 ~~state in the immediately preceding tax year by qualified trucks~~
19 ~~used by the interstate motor carrier and the denominator of which~~
20 ~~is the total miles driven in the immediately preceding tax year~~
21 ~~by qualified trucks used by the interstate motor carrier. Miles~~
22 ~~driven by qualified trucks used solely in intrastate commerce~~
23 ~~shall not be included in calculating the out-of-state usage~~
24 ~~percentage.~~

25 ~~(iii) "Qualified truck" means a commercial motor vehicle~~
26 ~~power unit that has 2 axles and a gross vehicle weight rating in~~

~~1 excess of 10,000 pounds or a commercial motor vehicle power unit
2 that has 3 or more axles.~~

3 (2) "Prescription drugs for human use" means insulin or a
4 drug dispensed by a licensed pharmacist pursuant to a written
5 prescription prescribed by a licensed physician or other health
6 professional as defined by section 21005 of the public health
7 code, 1978 PA 368, MCL 333.21005, for the use of a designated
8 person, or oxygen dispensed pursuant to a written prescription or
9 order issued by a licensed physician or other health professional
10 as defined in section 21005 of the public health code, 1978
11 PA 368, MCL 333.21005.

12 (3) "Food for human consumption" means all food and drink
13 items, including bottled water, intended primarily for human con-
14 sumption except beverages with an alcohol content of 1/2 of 1% or
15 more by volume, tobacco and tobacco products, and prepared food
16 intended for immediate consumption. Food for human consumption
17 includes live animals purchased with the intent to be slaughtered
18 for human consumption.

19 (4) "Prepared food intended for immediate consumption" means
20 a retail sale of 1 or more of the following:

21 (a) Food or drink prepared and served for immediate consump-
22 tion at or near the premises or ordinarily sold on a takeout
23 basis for immediate consumption either on or off the premises.
24 For the purposes of this section premises includes the total
25 space and facilities in or on which a retailer conducts his or
26 her business, including, but not limited to, parking areas for

1 the convenience of in-car consumption, outdoor tables, benches,
2 chairs, and similar conveniences.

3 (b) Food or drink furnished, prepared, or served for immedi-
4 ate consumption at a table, chair, or counter or from a tray,
5 glass, dish, container, or other tableware.

6 (c) Food or drink arranged on a plate or platter, whether
7 intended for individual or multiple servings and whether sold by
8 the pound or by the serving; a sandwich, either hot or cold; or a
9 combination of taxable and nontaxable items when sold as a plate
10 or packaged as a meal, even though intended for more than 1
11 serving.

12 (d) Food that is cooked to the order of the purchaser, or
13 that is cooked and maintained at a temperature higher than the
14 surrounding air temperature before sale, or prepared food that is
15 sold by the piece rather than by weight or measure.

16 (e) After December 31, 1994, carbonated beverages sold from
17 a mobile facility or vending machine, or food or drink heated or
18 cooled mechanically, electrically, or by other artificial means
19 to an average temperature above 75 degrees fahrenheit or below 65
20 degrees fahrenheit before sale and sold from a mobile facility or
21 vending machine, except milk, noncarbonated beverages containing
22 10% or more juice content, and fresh fruit. A refund shall not
23 be made for any taxes paid after December 31, 1994 and before
24 January 16, 1997 for food or drink otherwise exempt under this
25 subdivision. The tax due under this act on the sale of food or
26 drink from a vending machine selling both taxable items and items
27 exempt under this subsection shall be calculated under this act

1 after December 31, 1994 based on 1 of the following as determined
2 by the taxpayer:

3 (i) Actual gross proceeds from sales at retail.

4 (ii) The sum of proceeds from carbonated beverages and 45%
5 of proceeds from the sale of items subject to tax under this act
6 or exempt from the tax levied under this act, other than from the
7 sale of carbonated beverages.

8 (5) Prepared food intended for immediate consumption does
9 not include bakery products for off-premises consumption, such as
10 doughnuts, pastry, bread, and cakes or meals eligible to be pur-
11 chased with federal food stamps.

12 Sec. 4j. (1) A person subject to tax under this act ~~need~~
13 ~~not include in the amount of~~ MAY EXCLUDE FROM the gross proceeds
14 used for the computation of the tax a sale of tangible personal
15 property ~~for use~~ TO THE EXTENT THE TANGIBLE PERSONAL PROPERTY
16 IS USED in a qualified business activity of the purchaser.

17 (2) As used in this section, "qualified business activity"
18 means that term as defined in the enterprise zone act.

19 Sec. 4q. (1) A person subject to THE tax under this act may
20 exclude from the gross proceeds used for the computation of this
21 tax, sales of tangible personal property not for resale to the
22 following SUBJECT TO SUBSECTION (5):

23 (a) A health, welfare, educational, cultural arts, charita-
24 ble, or benevolent organization not operated for profit that has
25 been issued an exemption ruling letter to purchase items exempt
26 from tax before the effective date of this section signed by the

1 administrator of the sales, use, and withholding taxes division
2 of the department.

3 (b) An organization not operated for profit and exempt from
4 federal income tax under section 501(c)(3) or 501(c)(4) of the
5 internal revenue code OF 1986.

6 (2) The exemptions provided for in subsection (1) do not
7 apply to sales of tangible personal property and sales of vehi-
8 cles licensed for use on public highways, that are not used pri-
9 marily to carry out the purposes of the organization as stated in
10 the bylaws or articles of incorporation of the exempt entity.

11 (3) At the time of the transfer of the tangible personal
12 property exempt under subsection (1), the transferee shall do 1
13 of the following:

14 (a) Present the exemption ruling letter signed by the admin-
15 istrator of the sales, use, and withholding taxes division of the
16 department certifying that the property is to be used or consumed
17 in connection with the operation of the organization.

18 (b) Present a signed statement, on a form approved by the
19 department, stating that the property is to be used or consumed
20 in connection with the operation of the organization and that the
21 organization qualifies as an exempt organization under this
22 section. The transferee shall also provide to the transferor a
23 copy of the federal exemption letter.

24 (4) The letter provided under subsection (3)(a) and the
25 statement with the accompanying letter provided under subsection
26 (3)(b) shall be accepted by all courts as prima facie evidence of
27 the exemption and the statement shall provide that if the claim

1 for tax exemption is disallowed, the transferee will reimburse
2 the transferor for the amount of tax involved.

3 (5) THE TANGIBLE PERSONAL PROPERTY UNDER SUBSECTION (1) IS
4 EXEMPT ONLY TO THE EXTENT THAT THE PROPERTY IS USED TO CARRY OUT
5 THE PURPOSES OF THE ORGANIZATION AS STATED IN THE ORGANIZATION'S
6 BYLAWS OR ARTICLES OF INCORPORATION. THE EXEMPTION IS LIMITED TO
7 THE PERCENTAGE OF EXEMPT USE TO TOTAL USE DETERMINED BY A REASON-
8 ABLE FORMULA OR METHOD APPROVED BY THE DEPARTMENT.

9 SEC. 4R. (1) A PERSON SUBJECT TO TAX UNDER THIS ACT MAY
10 EXCLUDE FROM THE AMOUNT OF THE GROSS PROCEEDS USED FOR THE COMPU-
11 TATION OF THE TAX 1 OR MORE OF THE FOLLOWING:

12 (A) THE PRODUCT OF THE OUT-OF-STATE USAGE PERCENTAGE AND THE
13 GROSS PROCEEDS OTHERWISE TAXABLE UNDER THIS ACT FROM THE SALE OF
14 A QUALIFIED TRUCK OR A TRAILER DESIGNED TO BE DRAWN BEHIND A
15 QUALIFIED TRUCK, PURCHASED AFTER DECEMBER 31, 1996 AND BEFORE
16 MAY 1, 1999 BY AN INTERSTATE MOTOR CARRIER AND USED IN INTERSTATE
17 COMMERCE.

18 (B) A SALE OF ROLLING STOCK PURCHASED BY AN INTERSTATE MOTOR
19 CARRIER OR FOR RENTAL OR LEASE TO AN INTERSTATE MOTOR CARRIER AND
20 USED IN INTERSTATE COMMERCE.

21 (2) AS USED IN THIS SECTION:

22 (A) "INTERSTATE MOTOR CARRIER" MEANS A PERSON ENGAGED IN THE
23 BUSINESS OF CARRYING PERSONS OR PROPERTY, OTHER THAN THEMSELVES,
24 THEIR EMPLOYEES, OR THEIR OWN PROPERTY, FOR HIRE ACROSS STATE
25 LINES, WHOSE FLEET MILEAGE WAS DRIVEN AT LEAST 10% OUTSIDE OF
26 THIS STATE IN THE IMMEDIATELY PRECEDING TAX YEAR.

1 (B) "OUT-OF-STATE USAGE PERCENTAGE" IS A FRACTION, THE
2 NUMERATOR OF WHICH IS THE NUMBER OF MILES DRIVEN OUTSIDE OF THIS
3 STATE IN THE IMMEDIATELY PRECEDING TAX YEAR BY QUALIFIED TRUCKS
4 USED BY THE INTERSTATE MOTOR CARRIER AND THE DENOMINATOR OF WHICH
5 IS THE TOTAL MILES DRIVEN IN THE IMMEDIATELY PRECEDING TAX YEAR
6 BY QUALIFIED TRUCKS USED BY THE INTERSTATE MOTOR CARRIER. MILES
7 DRIVEN BY QUALIFIED TRUCKS USED SOLELY IN INTRASTATE COMMERCE
8 SHALL NOT BE INCLUDED IN CALCULATING THE OUT-OF-STATE USAGE
9 PERCENTAGE.

10 (C) "QUALIFIED TRUCK" MEANS A COMMERCIAL MOTOR VEHICLE POWER
11 UNIT THAT HAS 2 AXLES AND A GROSS VEHICLE WEIGHT RATING IN EXCESS
12 OF 10,000 POUNDS OR A COMMERCIAL MOTOR VEHICLE POWER UNIT THAT
13 HAS 3 OR MORE AXLES.

14 (D) "ROLLING STOCK" MEANS A QUALIFIED TRUCK, A TRAILER
15 DESIGNED TO BE DRAWN BEHIND A QUALIFIED TRUCK, AND PARTS AFFIXED
16 TO EITHER A QUALIFIED TRUCK OR A TRAILER DESIGNED TO BE DRAWN
17 BEHIND A QUALIFIED TRUCK.

18 SEC. 4Y. (1) SUBJECT TO SUBSECTION (2), A PERSON SUBJECT TO
19 THE TAX UNDER THIS ACT MAY EXCLUDE FROM THE GROSS PROCEEDS USED
20 FOR THE COMPUTATION OF THE TAX THE SALE OF TANGIBLE PERSONAL
21 PROPERTY TO THE FOLLOWING AFTER MARCH 30, 1995 BUT BEFORE MARCH
22 31, 1999:

23 (A) AN INDUSTRIAL PROCESSOR FOR USE OR CONSUMPTION IN INDUS-
24 TRIAL PROCESSING. PROPERTY USED OR CONSUMED IN INDUSTRIAL PRO-
25 CESSING DOES NOT INCLUDE TANGIBLE PERSONAL PROPERTY PERMANENTLY
26 AFFIXED AND BECOMING A STRUCTURAL PART OF REAL ESTATE; OFFICE
27 FURNITURE, OFFICE SUPPLIES, AND ADMINISTRATIVE OFFICE EQUIPMENT;

1 OR VEHICLES LICENSED AND TITLED FOR USE ON PUBLIC HIGHWAYS OTHER
2 THAN A SPECIALLY DESIGNED VEHICLE, TOGETHER WITH PARTS, USED TO
3 MIX AND AGITATE MATERIALS ADDED AT A PLANT OR JOBSITE IN THE CON-
4 CRETE MANUFACTURING PROCESS. INDUSTRIAL PROCESSING DOES NOT
5 INCLUDE RECEIPT AND STORAGE OF RAW MATERIALS PURCHASED OR
6 EXTRACTED BY THE USER OR CONSUMER, OR THE PREPARATION OF FOOD AND
7 BEVERAGES BY A RETAILER FOR RETAIL SALE. AS USED IN THIS SUBDI-
8 VISION, "INDUSTRIAL PROCESSOR" MEANS A PERSON WHO TRANSFORMS,
9 ALTERS, OR MODIFIES TANGIBLE PERSONAL PROPERTY BY CHANGING THE
10 FORM, COMPOSITION, OR CHARACTER OF THE PROPERTY FOR ULTIMATE SALE
11 AT RETAIL OR SALE TO ANOTHER INDUSTRIAL PROCESSOR TO BE FURTHER
12 PROCESSED FOR ULTIMATE SALE AT RETAIL. SALES TO A PERSON PER-
13 FORMING A SERVICE WHO DOES NOT ACT AS AN INDUSTRIAL PROCESSOR
14 WHILE PERFORMING THE SERVICE MAY NOT BE EXCLUDED UNDER THIS SUB-
15 DIVISION, EXCEPT AS PROVIDED IN SUBDIVISION (B).

16 (B) A PERSON, WHETHER OR NOT THE PERSON IS AN INDUSTRIAL
17 PROCESSOR, IF THE PROPERTY IS A COMPUTER USED IN OPERATING INDUS-
18 TRIAL PROCESSING EQUIPMENT; EQUIPMENT USED IN A COMPUTER ASSISTED
19 MANUFACTURING SYSTEM; EQUIPMENT USED IN A COMPUTER ASSISTED
20 DESIGN OR ENGINEERING SYSTEM INTEGRAL TO AN INDUSTRIAL PROCESS; A
21 SUBUNIT OR ELECTRONIC ASSEMBLY COMPRISING A COMPONENT IN A COM-
22 PUTER INTEGRATED INDUSTRIAL PROCESSING SYSTEM; OR COMPUTER EQUIP-
23 MENT USED IN CONNECTION WITH THE COMPUTER ASSISTED PRODUCTION,
24 STORAGE, AND TRANSMISSION OF DATA IF THE EQUIPMENT WOULD HAVE
25 BEEN EXEMPT HAD THE DATA TRANSFER BEEN MADE USING TAPES, DISKS,
26 CD-ROMS, OR SIMILAR MEDIA BY A COMPANY WHOSE BUSINESS INCLUDES
27 PUBLISHING DOCTORAL DISSERTATIONS AND INFORMATION ARCHIVING, AND

1 THAT SELLS THE MAJORITY OF THE COMPANY'S PRODUCTS TO NONPROFIT
2 ORGANIZATIONS EXEMPT UNDER SECTION 4Q.

3 (2) THE PROPERTY UNDER SUBSECTION (1) IS EXEMPT ONLY TO THE
4 EXTENT THAT THE PROPERTY IS USED FOR THE EXEMPT PURPOSES STATED
5 IN THIS SECTION. THE EXEMPTION IS LIMITED TO THE PERCENTAGE OF
6 EXEMPT USE TO TOTAL USE DETERMINED BY A REASONABLE FORMULA OR
7 METHOD APPROVED BY THE DEPARTMENT.

8 SEC. 4T. (1) A PERSON SUBJECT TO THE TAX UNDER THIS ACT MAY
9 EXCLUDE FROM THE GROSS PROCEEDS USED FOR THE COMPUTATION OF THE
10 TAX THE SALE OF TANGIBLE PERSONAL PROPERTY TO THE FOLLOWING AFTER
11 MARCH 30, 1999, SUBJECT TO SUBSECTION (2):

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 INTENDED FOR
16 ULTIMATE USE IN AND IS USED IN INDUSTRIAL PROCESSING BY AN INDUS-
17 TRIAL PROCESSOR.

18 (C) A PERSON, WHETHER OR NOT THE PERSON IS AN INDUSTRIAL
19 PROCESSOR, IF THE TANGIBLE PERSONAL PROPERTY IS USED BY THAT
20 PERSON TO PERFORM AN INDUSTRIAL PROCESSING ACTIVITY FOR OR ON
21 BEHALF OF AN INDUSTRIAL PROCESSOR.

22 (D) A PERSON, WHETHER OR NOT THE PERSON IS AN INDUSTRIAL
23 PROCESSOR, IF THE TANGIBLE PERSONAL PROPERTY IS 1 OF THE
24 FOLLOWING:

25 (i) A COMPUTER USED IN OPERATING INDUSTRIAL PROCESSING
26 EQUIPMENT.

1 (ii) EQUIPMENT USED IN A COMPUTER ASSISTED MANUFACTURING
2 SYSTEM.

3 (iii) EQUIPMENT USED IN A COMPUTER ASSISTED DESIGN OR ENGI-
4 NEERING SYSTEM INTEGRAL TO AN INDUSTRIAL PROCESS.

5 (iv) A SUBUNIT OR ELECTRONIC ASSEMBLY COMPRISING A COMPONENT
6 IN A COMPUTER INTEGRATED INDUSTRIAL PROCESSING SYSTEM.

7 (v) COMPUTER EQUIPMENT USED IN CONNECTION WITH THE COMPUTER
8 ASSISTED PRODUCTION, STORAGE, AND TRANSMISSION OF DATA IF THE
9 EQUIPMENT WOULD HAVE BEEN EXEMPT HAD THE DATA TRANSFER BEEN MADE
10 USING TAPES, DISKS, CD-ROMS, OR SIMILAR MEDIA BY A COMPANY WHOSE
11 BUSINESS INCLUDES PUBLISHING DOCTORAL DISSERTATIONS AND INFORMA-
12 TION ARCHIVING, AND THAT SELLS THE MAJORITY OF THE COMPANY'S PRO-
13 DUCTS TO NONPROFIT ORGANIZATIONS EXEMPT UNDER SECTION 4Q.

14 (vi) EQUIPMENT USED IN THE PRODUCTION OF COMPUTER SOFTWARE
15 THAT IS OFFERED FOR GENERAL SALE TO THE PUBLIC OR SOFTWARE MODI-
16 FIED OR ADAPTED TO THE USER'S NEEDS OR EQUIPMENT BY THE SELLER,
17 ONLY IF THE SOFTWARE IS AVAILABLE FOR SALE FROM A SELLER OF SOFT-
18 WARE ON AN AS-IS BASIS OR AS AN END PRODUCT WITHOUT MODIFICATION
19 OR ADAPTION.

20 (2) THE PROPERTY UNDER SUBSECTION (1) IS EXEMPT ONLY TO THE
21 EXTENT THAT THE PROPERTY IS USED FOR THE EXEMPT PURPOSE STATED IN
22 THIS SECTION. THE EXEMPTION IS LIMITED TO THE PERCENTAGE OF
23 EXEMPT USE TO TOTAL USE DETERMINED BY A REASONABLE FORMULA OR
24 METHOD APPROVED BY THE DEPARTMENT.

25 (3) INDUSTRIAL PROCESSING INCLUDES THE FOLLOWING
26 ACTIVITIES:

- 1 (A) PRODUCTION OR ASSEMBLY.
- 2 (B) RESEARCH OR EXPERIMENTAL ACTIVITIES.
- 3 (C) ENGINEERING RELATED TO INDUSTRIAL PROCESSING.
- 4 (D) INSPECTION, QUALITY CONTROL, OR TESTING TO DETERMINE
- 5 WHETHER PARTICULAR UNITS OF MATERIALS OR PRODUCTS OR PROCESSES
- 6 CONFORM TO SPECIFIED PARAMETERS AT ANY TIME BEFORE MATERIALS OR
- 7 PRODUCTS FIRST COME TO REST IN FINISHED GOODS INVENTORY STORAGE.
- 8 (E) PLANNING, SCHEDULING, SUPERVISION, OR CONTROL OF PRODUC-
- 9 TION OR OTHER EXEMPT ACTIVITIES.
- 10 (F) DESIGN, CONSTRUCTION, OR MAINTENANCE OF PRODUCTION OR
- 11 OTHER EXEMPT MACHINERY, EQUIPMENT, AND TOOLING.
- 12 (G) REMANUFACTURING.
- 13 (H) PROCESSING OF PRODUCTION SCRAP AND WASTE UP TO THE POINT
- 14 IT IS STORED FOR REMOVAL FROM THE PLANT OF ORIGIN.
- 15 (I) RECYCLING OF USED MATERIALS FOR ULTIMATE SALE AT RETAIL
- 16 OR REUSE.
- 17 (J) PRODUCTION MATERIAL HANDLING.
- 18 (K) STORAGE OF IN-PROCESS MATERIALS.
- 19 (4) PROPERTY THAT IS ELIGIBLE FOR AN INDUSTRIAL PROCESSING
- 20 EXEMPTION INCLUDES THE FOLLOWING:
- 21 (A) PROPERTY THAT BECOMES AN INGREDIENT OR COMPONENT PART OF
- 22 THE FINISHED PRODUCT TO BE SOLD ULTIMATELY AT RETAIL.
- 23 (B) MACHINERY, EQUIPMENT, TOOLS, DIES, PATTERNS, FOUNDATIONS
- 24 FOR MACHINERY OR EQUIPMENT, OR OTHER PROCESSING EQUIPMENT USED IN
- 25 AN INDUSTRIAL PROCESSING ACTIVITY AND IN THEIR REPAIR AND
- 26 MAINTENANCE.

1 (C) PROPERTY THAT IS CONSUMED OR DESTROYED OR THAT LOSES ITS
2 IDENTITY IN AN INDUSTRIAL PROCESSING ACTIVITY.

3 (D) TANGIBLE PERSONAL PROPERTY, NOT PERMANENTLY AFFIXED AND
4 NOT BECOMING A STRUCTURAL PART OF REAL ESTATE, THAT BECOMES A
5 PART OF, OR IS USED AND CONSUMED IN INSTALLATION AND MAINTENANCE
6 OF, SYSTEMS USED FOR AN INDUSTRIAL PROCESSING ACTIVITY.

7 (E) FUEL OR ENERGY USED OR CONSUMED FOR AN INDUSTRIAL PRO-
8 CESSING ACTIVITY.

9 (F) MACHINERY, EQUIPMENT, OR MATERIALS USED WITHIN A PLANT
10 SITE OR BETWEEN PLANT SITES OPERATED BY THE SAME PERSON FOR MOVE-
11 MENT OF TANGIBLE PERSONAL PROPERTY IN THE PROCESS OF PRODUCTION.

12 (G) OFFICE EQUIPMENT, INCLUDING DATA PROCESSING EQUIPMENT,
13 USED FOR AN INDUSTRIAL PROCESSING ACTIVITY.

14 (5) PROPERTY THAT IS NOT ELIGIBLE FOR AN INDUSTRIAL PROCESS-
15 ING EXEMPTION INCLUDES THE FOLLOWING:

16 (A) TANGIBLE PERSONAL PROPERTY PERMANENTLY AFFIXED AND
17 BECOMING A STRUCTURAL PART OF REAL ESTATE INCLUDING BUILDING
18 UTILITY SYSTEMS SUCH AS HEATING, AIR CONDITIONING, VENTILATING,
19 PLUMBING, LIGHTING, AND ELECTRICAL DISTRIBUTION, TO THE POINT OF
20 THE LAST TRANSFORMER, SWITCH, VALVE, OR OTHER DEVICE AT WHICH
21 POINT USABLE POWER, WATER, GAS, STEAM, OR AIR IS DIVERTED FROM
22 DISTRIBUTION CIRCUITS FOR USE IN INDUSTRIAL PROCESSING.

23 (B) OFFICE EQUIPMENT, INCLUDING DATA PROCESSING EQUIPMENT
24 USED FOR NONINDUSTRIAL PROCESSING PURPOSES.

25 (C) OFFICE FURNITURE OR OFFICE SUPPLIES.

1 (D) AN INDUSTRIAL PROCESSOR'S OWN PRODUCT OR FINISHED GOOD
2 THAT IT USES OR CONSUMES FOR PURPOSES OTHER THAN INDUSTRIAL
3 PROCESSING.

4 (E) TANGIBLE PERSONAL PROPERTY USED FOR RECEIVING AND STOR-
5 AGE OF MATERIALS, SUPPLIES, PARTS, OR COMPONENTS PURCHASED BY THE
6 USER OR CONSUMER.

7 (F) TANGIBLE PERSONAL PROPERTY USED FOR RECEIVING OR STORAGE
8 OF NATURAL RESOURCES EXTRACTED BY THE USER OR CONSUMER.

9 (G) VEHICLES, INCLUDING SPECIAL BODIES OR ATTACHMENTS,
10 REQUIRED TO DISPLAY A VEHICLE PERMIT OR LICENSE PLATE TO OPERATE
11 ON PUBLIC HIGHWAYS, EXCEPT FOR A VEHICLE BEARING A MANUFACTURER'S
12 PLATE OR A SPECIALLY DESIGNED VEHICLE, TOGETHER WITH PARTS, USED
13 TO MIX AND AGITATE MATERIALS AT A PLANT OR JOB SITE IN THE CON-
14 CRETE MANUFACTURING PROCESS.

15 (H) TANGIBLE PERSONAL PROPERTY USED FOR THE PREPARATION OF
16 FOOD OR BEVERAGES BY A RETAILER FOR ULTIMATE SALE AT RETAIL
17 THROUGH ITS OWN LOCATIONS.

18 (I) TANGIBLE PERSONAL PROPERTY USED OR CONSUMED FOR THE PRE-
19 SERVATION OR MAINTENANCE OF A FINISHED GOOD ONCE IT FIRST COMES
20 TO REST IN FINISHED GOODS INVENTORY STORAGE.

21 (J) RETURNABLE SHIPPING CONTAINERS OR MATERIALS, EXCEPT AS
22 PROVIDED IN SUBSECTION (4)(F).

23 (K) TANGIBLE PERSONAL PROPERTY USED IN THE PRODUCTION OF
24 COMPUTER SOFTWARE ORIGINALLY DESIGNED FOR THE EXCLUSIVE USE AND
25 SPECIAL NEEDS OF THE PURCHASER.

26 (6) INDUSTRIAL PROCESSING DOES NOT INCLUDE THE FOLLOWING
27 ACTIVITIES:

1 (A) PURCHASING, RECEIVING, OR STORAGE OF RAW MATERIALS.

2 (B) SALES, DISTRIBUTION, WAREHOUSING, SHIPPING, OR ADVERTIS-
3 ING ACTIVITIES.

4 (C) ADMINISTRATIVE, ACCOUNTING, OR PERSONNEL SERVICES.

5 (D) DESIGN, ENGINEERING, CONSTRUCTION, OR MAINTENANCE OF
6 REAL PROPERTY AND NONPROCESSING EQUIPMENT.

7 (E) PLANT SECURITY, FIRE PREVENTION, OR MEDICAL OR HOSPITAL
8 SERVICES.

9 (7) AS USED IN THIS SECTION:

10 (A) "INDUSTRIAL PROCESSING" MEANS THE ACTIVITY OF CONVERTING
11 OR CONDITIONING TANGIBLE PERSONAL PROPERTY BY CHANGING THE FORM,
12 COMPOSITION, QUALITY, COMBINATION, OR CHARACTER OF THE PROPERTY
13 FOR ULTIMATE SALE AT RETAIL OR FOR USE IN THE MANUFACTURING OF A
14 PRODUCT TO BE ULTIMATELY SOLD AT RETAIL. INDUSTRIAL PROCESSING
15 BEGINS WHEN TANGIBLE PERSONAL PROPERTY BEGINS MOVEMENT FROM RAW
16 MATERIALS STORAGE TO BEGIN INDUSTRIAL PROCESSING AND ENDS WHEN
17 FINISHED GOODS FIRST COME TO REST IN FINISHED GOODS INVENTORY
18 STORAGE.

19 (B) "INDUSTRIAL PROCESSOR" MEANS A PERSON WHO PERFORMS THE
20 ACTIVITY OF CONVERTING OR CONDITIONING TANGIBLE PERSONAL PROPERTY
21 FOR ULTIMATE SALE AT RETAIL OR USE IN THE MANUFACTURING OF A PRO-
22 DUCT TO BE ULTIMATELY SOLD AT RETAIL.

23 (C) "PRODUCT", AS USED IN SUBDIVISION (E), INCLUDES BUT IS
24 NOT LIMITED TO A PROTOTYPE, PILOT MODEL, PROCESS, FORMULA, INVEN-
25 TION, TECHNIQUE, PATENT, OR SIMILAR PROPERTY, WHETHER INTENDED TO
26 BE USED IN A TRADE OR BUSINESS OR TO BE SOLD, TRANSFERRED,
27 LEASED, OR LICENSED.

1 (D) "REMANUFACTURING" MEANS THE ACTIVITY OF OVERHAULING,
2 RETROFITTING, FABRICATING, OR REPAIRING A PRODUCT OR ITS COMPO-
3 NENT PARTS FOR ULTIMATE SALE AT RETAIL.

4 (E) "RESEARCH OR EXPERIMENTAL ACTIVITY" MEANS ACTIVITY INCI-
5 DENT TO THE DEVELOPMENT, DISCOVERY, OR MODIFICATION OF A PRODUCT
6 OR A PRODUCT RELATED PROCESS. RESEARCH OR EXPERIMENTAL ACTIVITY
7 ALSO INCLUDES ACTIVITY NECESSARY FOR A PRODUCT TO SATISFY A GOV-
8 ERNMENT STANDARD OR TO RECEIVE GOVERNMENT APPROVAL. RESEARCH OR
9 EXPERIMENTAL ACTIVITY DOES NOT INCLUDE THE FOLLOWING:

10 (i) ORDINARY TESTING OR INSPECTION OF MATERIALS OR PRODUCTS
11 FOR QUALITY CONTROL PURPOSES.

12 (ii) EFFICIENCY SURVEYS.

13 (iii) MANAGEMENT SURVEYS.

14 (iv) MARKET OR CONSUMER SURVEYS.

15 (v) ADVERTISING OR PROMOTIONS.

16 (vi) RESEARCH IN CONNECTION WITH LITERACY, HISTORICAL, OR
17 SIMILAR PROJECTS.

18 SEC. 4U. (1) A PERSON SUBJECT TO THE TAX UNDER THIS ACT MAY
19 EXCLUDE FROM THE GROSS PROCEEDS USED FOR THE COMPUTATION OF THE
20 TAX THE SALE OF TANGIBLE PERSONAL PROPERTY TO AN EXTRACTIVE OPER-
21 ATOR FOR USE OR CONSUMPTION IN EXTRACTIVE OPERATIONS.

22 (2) THE PROPERTY UNDER SUBSECTION (1) IS EXEMPT ONLY TO THE
23 EXTENT THAT THE PROPERTY IS USED FOR THE EXEMPT PURPOSES STATED
24 IN THIS SECTION. THE EXEMPTION IS LIMITED TO THE PERCENTAGE OF
25 EXEMPT USE TO TOTAL USE DETERMINED BY A REASONABLE FORMULA OR
26 METHOD APPROVED BY THE DEPARTMENT.

1 (3) EXTRACTIVE OPERATIONS INCLUDE THE ACTUAL PRODUCTION OF
2 OIL, GAS, BRINE, OR OTHER NATURAL RESOURCES. PROPERTY ELIGIBLE
3 FOR THE EXEMPTION INCLUDES THE FOLLOWING:

4 (A) CASING PIPE OR DRIVE PIPE.

5 (B) TUBING.

6 (C) WELL-PUMPING EQUIPMENT.

7 (D) CHEMICALS.

8 (E) EXPLOSIVES OR ACIDS USED IN FRACTURING, ACIDIZING, OR
9 SHOOTING WELLS.

10 (F) CHRISTMAS TREES, DERRICKS, OR OTHER WELLHEAD EQUIPMENT.

11 (G) TREATMENT TANKS.

12 (H) PIPING, VALVES, OR PUMPS USED BEFORE MOVEMENT OR TRANS-
13 PORTATION OF THE NATURAL RESOURCE FROM THE PRODUCTION AREA.

14 (I) CHEMICALS OR ACIDS USED IN THE TREATMENT OF CRUDE OIL,
15 GAS, BRINE, OR OTHER NATURAL RESOURCES.

16 (J) TANGIBLE PERSONAL PROPERTY USED OR CONSUMED IN DEPOSIT-
17 ING TAILINGS FROM HARD ROCK MINING PROCESSING.

18 (K) TANGIBLE PERSONAL PROPERTY USED OR CONSUMED IN EXTRACT-
19 ING THE LITHOLOGIC UNITS NECESSARY TO PROCESS IRON ORE.

20 (4) THE EXTRACTIVE OPERATION EXEMPTION DOES NOT INCLUDE THE
21 FOLLOWING:

22 (A) TANGIBLE PERSONAL PROPERTY CONSUMED OR USED IN THE CON-
23 STRUCTION, ALTERATION, IMPROVEMENT, OR REPAIR OF BUILDINGS, STOR-
24 AGE TANKS, AND STORAGE AND HOUSING FACILITIES.

25 (B) TANGIBLE PERSONAL PROPERTY CONSUMED OR USED IN TRANS-
26 PORTING THE PRODUCT FROM THE PLACE OF EXTRACTION, EXCEPT FOR
27 TANGIBLE PERSONAL PROPERTY CONSUMED OR USED IN TRANSPORTING

1 EXTRACTED MATERIALS FROM THE EXTRACTION SITE TO THE PLACE WHERE
2 THE EXTRACTED MATERIALS FIRST COME TO REST IN FINISHED GOODS
3 INVENTORY STORAGE.

4 (C) TANGIBLE PERSONAL PROPERTY THAT IS A PRODUCT THE EXTRAC-
5 TIVE OPERATOR PRODUCES AND THAT IS CONSUMED OR USED BY THE
6 EXTRACTIVE OPERATOR FOR A PURPOSE OTHER THAN THE MANUFACTURING OR
7 PRODUCING OF A PRODUCT FOR ULTIMATE SALE. THE EXTRACTOR SHALL
8 ACCOUNT FOR AND REMIT THE TAX TO THE STATE BASED UPON THE
9 PRODUCT'S FAIR MARKET VALUE.

10 (D) EQUIPMENT, MATERIALS, AND SUPPLIES USED IN EXPLORING,
11 PROSPECTING, OR DRILLING FOR OIL, GAS, BRINE, OR OTHER NATURAL
12 RESOURCES.

13 (E) EQUIPMENT, MATERIALS, AND SUPPLIES USED IN THE STORING,
14 WITHDRAWING, OR DISTRIBUTION OF OIL, GAS, OR BRINE FROM A STORAGE
15 FACILITY.

16 (F) VEHICLES, INCLUDING SPECIAL BODIES OR ATTACHMENTS,
17 REQUIRED TO DISPLAY A VEHICLE PERMIT OR LICENSE PLATE TO OPERATE
18 ON PUBLIC HIGHWAYS.

19 (5) AS USED IN THIS SECTION:

20 (A) "EXTRACTIVE OPERATIONS" MEANS THE ACTIVITY OF TAKING OR
21 EXTRACTING FOR RESALE ORE, OIL, GAS, COAL, TIMBER, STONE, GRAVEL,
22 CLAY, MINERALS, OR OTHER NATURAL RESOURCE MATERIAL. AN EXTRAC-
23 TIVE OPERATION BEGINS WHEN CONTACT IS MADE WITH THE ACTUAL TYPE
24 OF NATURAL RAW PRODUCT BEING RECOVERED. EXTRACTIVE OPERATION
25 INCLUDES ALL NECESSARY PROCESSING OPERATIONS BEFORE SHIPMENT FROM
26 THE PLACE OF EXTRACTION. EXTRACTIVE OPERATIONS INCLUDES ALL
27 NECESSARY PROCESSING OPERATIONS AND MOVEMENT OF THE NATURAL

1 RESOURCE MATERIAL UNTIL THE POINT AT WHICH THE NATURAL RAW
2 PRODUCT BEING RECOVERED FIRST COMES TO REST IN FINISHED GOODS
3 INVENTORY STORAGE AT THE EXTRACTION SITE.

4 (B) AN EXTRACTIVE OPERATOR IS A PERSON WHO, EITHER DIRECTLY
5 OR BY CONTRACT, PERFORMS EXTRACTIVE OPERATIONS.

6 SEC. 4V. (1) THE TAX LEVIED UNDER THIS ACT DOES NOT APPLY
7 TO THE PURCHASE OF MACHINERY AND EQUIPMENT FOR USE OR CONSUMPTION
8 IN THE RENDITION OF ANY COMBINATION OF SERVICES, THE USE OR CON-
9 SUMPTION OF WHICH IS TAXABLE UNDER SECTION 3A(A) OR (C) OF THE
10 USE TAX ACT, 1937 PA 94, MCL 205.93A, EXCEPT THAT THIS EXEMPTION
11 IS LIMITED TO THE TANGIBLE PERSONAL PROPERTY LOCATED ON THE
12 PREMISES OF THE SUBSCRIBER AND TO CENTRAL OFFICE EQUIPMENT OR
13 WIRELESS EQUIPMENT, DIRECTLY USED OR CONSUMED IN TRANSMITTING,
14 RECEIVING, OR SWITCHING, OR IN THE MONITORING OF SWITCHING OF A
15 2-WAY INTERACTIVE COMMUNICATION. AS USED IN THIS SUBSECTION,
16 CENTRAL OFFICE EQUIPMENT OR WIRELESS EQUIPMENT DOES NOT INCLUDE
17 DISTRIBUTION EQUIPMENT INCLUDING CABLE OR WIRE FACILITIES.

18 (2) BEGINNING APRIL 1, 1999, THE PROPERTY UNDER SUBSECTION
19 (1) IS EXEMPT ONLY TO THE EXTENT THAT THE PROPERTY IS USED FOR
20 THE EXEMPT PURPOSES STATED IN THIS SECTION. THERE IS AN IRREBUT-
21 TABLE PRESUMPTION THAT 90% OF TOTAL USE IS FOR EXEMPT PURPOSES.
22 THIS PRESUMPTION IS IN EFFECT UNTIL APRIL 1, 2006, AT WHICH TIME
23 THE PRESUMPTION SHALL BE REVIEWED AND REDETERMINED BY THE DEPART-
24 MENT OF TREASURY USING NONEXEMPT AND EXEMPT USER INFORMATION FOR
25 THE PREVIOUS 12-MONTH PERIOD. THAT REDETERMINED IRREBUTTABLE
26 PRESUMPTION SHALL BE IN EFFECT FOR THE FOLLOWING 7 YEARS. THE

1 IRREBUTTABLE PRESUMPTION SHALL BE REVIEWED AND REDETERMINED EVERY
2 7 YEARS AFTER APRIL 1, 2006 AND APPLIED TO THE FOLLOWING 7 YEARS.

3 SEC. 4W. (1) FOR TAXES LEVIED AFTER JUNE 30, 1999, A PERSON
SUBJECT TO THE TAX UNDER THIS ACT MAY

4 EXCLUDE FROM THE GROSS PROCEEDS USED FOR THE COMPUTATION OF THE
5 TAX THE SALE OF TANGIBLE PERSONAL PROPERTY TO A PERSON DIRECTLY
6 ENGAGED IN THE BUSINESS OF CONSTRUCTING, ALTERING, REPAIRING, OR
7 IMPROVING REAL ESTATE FOR OTHERS TO THE EXTENT THAT THE PROPERTY
8 IS AFFIXED TO AND MADE A STRUCTURAL PART OF A NONPROFIT HOSPITAL
9 OR A NONPROFIT HOUSING ENTITY QUALIFIED AS EXEMPT UNDER SECTION
10 15A OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, 1966
11 PA 346, MCL 125.1415A.

12 (2) AN EXEMPTION SHALL NOT BE GRANTED UNDER THIS SECTION FOR
13 ANY PORTION OF PROPERTY OTHERWISE QUALIFYING FOR EXEMPTION UNDER
14 THIS SECTION IF INCOME OR A BENEFIT INURES DIRECTLY OR INDIRECTLY
15 TO AN INDIVIDUAL, PRIVATE STOCKHOLDER, OR OTHER PRIVATE PERSON
16 FROM THE INDEPENDENT OR NONESSENTIAL OPERATION OF THAT PORTION OF
17 PROPERTY.

18 (3) AS USED IN THIS SECTION:

19 (A) "NONPROFIT HOSPITAL" MEANS 1 OF THE FOLLOWING:

20 (i) THAT PORTION OF A BUILDING TO WHICH 1 OF THE FOLLOWING
21 APPLIES:

22 (A) IS OWNED OR OPERATED BY AN ENTITY EXEMPT UNDER SECTION
23 501(c)(3) OF THE INTERNAL REVENUE CODE OF 1986 THAT IS LICENSED
24 AS A HOSPITAL UNDER PART 215 OF THE PUBLIC HEALTH CODE, 1978
25 PA 368, MCL 333.21501 TO 333.21568.

26 (B) IS OWNED OR OPERATED BY A GOVERNMENTAL UNIT IN WHICH
27 MEDICAL ATTENTION IS PROVIDED.

1 (C) IS OWNED OR OPERATED BY AN ENTITY OR ENTITIES EXEMPT
2 UNDER SECTION 501(c)(2) OR (3) OF THE INTERNAL REVENUE CODE OF
3 1986 IN WHICH MEDICAL ATTENTION IS PROVIDED.

4 (ii) THAT PORTION OF REAL PROPERTY NECESSARY AND RELATED TO
5 A BUILDING DESCRIBED IN SUBPARAGRAPH (i) IN WHICH MEDICAL ATTEN-
6 TION IS PROVIDED.

7 (iii) A COUNTY LONG-TERM MEDICAL CARE FACILITY BUILT AFTER
8 DECEMBER 31, 1995.

9 (B) "NONPROFIT HOSPITAL" DOES NOT INCLUDE THE FOLLOWING:

10 (i) A FREESTANDING BUILDING OR OTHER REAL PROPERTY OF A
11 NURSING HOME OR SKILLED NURSING FACILITY LICENSED UNDER PART 217
12 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.21701 TO
13 333.21799E.

14 (ii) A HOSPICE LICENSED UNDER PART 214 OF THE PUBLIC HEALTH
15 CODE, 1978 PA 368, MCL 333.21401 TO 333.21421.

16 (iii) A HOME FOR THE AGED LICENSED UNDER PART 213 OF THE
17 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.21301 TO 333.21333.

18 (C) "MEDICAL ATTENTION" MEANS THAT LEVEL OF MEDICAL CARE IN
19 WHICH A PHYSICIAN PROVIDES ACUTE CARE OR ACTIVE TREATMENT OF MED-
20 ICAL, SURGICAL, OBSTETRICAL, PSYCHIATRIC, CHRONIC, OR REHABILITA-
21 TIVE CONDITIONS, THAT REQUIRE THE OBSERVATION, DIAGNOSIS, AND
22 DAILY TREATMENT BY A PHYSICIAN.

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 SEC. 4Z. (1) FOR TAXES LEVIED AFTER DECEMBER 31, 1990 AND BEFORE JULY 1, 1999, THE TAX LEVIED UNDER THIS ACT DOES NOT APPLY TO A CLAIMED EXEMPTION OF TANGIBLE PERSONAL PROPERTY USED IN THE CONSTRUCTION, ALTERATION, REPAIR, OR IMPROVEMENT OF THE REAL ESTATE OR IS AFFIXED TO AND MADE A STRUCTURAL PART OF A BUILDING OF A NONPROFIT HOSPITAL PROVIDED THE FOLLOWING CRITERIA HAVE BEEN MET:

(A) A NONPROFIT HOSPITAL IS AN ENTITY DESCRIBED IN SECTION 4W(3)(A)(i).

(B) A BINDING CONTRACT HAD BEEN ENTERED INTO FOR THE CONSTRUCTION, ALTERATION, REPAIR, OR IMPROVEMENT OF THE REAL ESTATE OR THE AFFIXATION TO THE BUILDING BEFORE JULY 1, 1999.

(C) THE CLAIMED EXEMPTION WAS MADE IN GOOD FAITH.

(2) THE PROVISIONS OF THIS SECTION SHALL NOT BE APPLIED TO AFFECT ANY FINAL DECISION OF A COURT.

(3) A CLAIM FOR REFUND FOR AN EXEMPTION UNDER THIS SECTION SHALL BE FILED NOT LATER THAN JULY 15, 1999. THE APPROVED REFUNDS SHALL BE PAID WITHOUT INTEREST.

17 Enacting section 1. Sections 4g and 4r of this amendatory
18 act are effective for taxes levied after April 30, 1999.

19 Enacting section 2. This amendatory act clarifies that,
20 with the exception of telecommunications equipment taxed under
21 section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a tax-
22 payer may exclude a sale of tangible personal property from gross
23 proceeds only to the extent that the property is used for exempt
24 purposes. For telecommunications equipment exempt under section
25 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this

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26 amendatory act clarifies that for periods before April 1, 1999,

27 the tax shall not be apportioned and for periods beginning April

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38

1 1, 1999, the tax shall be apportioned. This amendatory act
2 clarifies that existing law as originally intended provides a
3 prorated exemption. This amendatory act takes effect for all
4 periods beginning March 31, 1995 and all tax years that are open
5 under the statute of limitations provided in section 27a of 1941
6 PA 122, MCL 205.27a.

7 Enacting section 3. This amendatory act does not take
8 effect unless all of the following bills of the 90th Legislature
9 are enacted into law:

10 (a) House Bill No. 4744.

11 (b) House Bill No. 4745.