

SUBSTITUTE FOR

SENATE BILL NO. 630

(As amended May 10, 2000)
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A bill to amend 1937 PA 94, entitled

"Use tax act,"

by amending sections 3a, 4, and 4k (MCL 205.93a, 205.94, and 205.94k), section 3a as amended by 1998 PA 366, section 4 as amended by 1999 PA 117, and section 4k as amended by 1999 PA 70.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 3a. The use or consumption of the following services is taxed under this act in the same manner as tangible personal property is taxed under this act:

(a) Intrastate telephone, telegraph, leased wire, and other similar communications, including local telephone exchange and long distance telephone service that both originates and terminates in Michigan, and telegraph, private line, and teletypewriter service between places in Michigan, but excluding telephone service by coin-operated installations, switchboards, concentrator-identifiers, interoffice circuitry and their accessories for telephone answering service, and directory advertising proceeds.

(b) Rooms or lodging furnished by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public on the basis of a commercial and business enterprise, irrespective of whether or not membership is required for use of the accommodations, except rooms and lodging rented for a continuous period of more than 1 month. As used in this act, "hotel" or "motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, nudist camps, apartment hotels, resort lodges and cabins, camps operated by other than nonprofit organizations but not including those licensed under 1973 PA 116, MCL 722.111 to 722.128, and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than 1 month and accommodations furnished by hospitals or nursing homes.

(c) Interstate telephone communications that either originate or terminate in this state and for which the charge for the service is billed to a Michigan service address or phone number by the provider either within or outside this state including calls between this state and any place within or without the United States of America outside of this state. However, if the tax under this act is levied at a rate of 6%, this subdivision does not apply to a wide area telecommunication service or a similar type service, an 800

prefix service or similar type service, an interstate private network and related usage charges, or an international call either inbound or outbound.

(d) After December 31, 1998, the laundering or cleaning of textiles under a sale, rental, or service agreement with a term of at least 5 days. This subdivision does not apply to the laundering or cleaning of textiles used by a restaurant, ~~or~~ A retail sales business, OR A PERSON IN THE BUSINESS OF PROVIDING DENTAL SERVICES. As used in this subdivision, "restaurant" means a food service establishment defined and licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

1 Sec. 4. (1) The tax levied under this act does not apply to
2 the following, subject to subsection (2):

3 (a) Property sold in this state on which transaction a tax
4 is paid under the general sales tax act, 1933 PA 167, MCL 205.51
5 to 205.78, if the tax was due and paid on the retail sale to a
6 consumer.

7 (b) Property, the storage, use, or other consumption of
8 which this state is prohibited from taxing under the constitution

1 or laws of the United States, or under the constitution of this
2 state.

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

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

26 (e) Property the sale or use of which was already subjected
27 to a sales tax or use tax equal to, or in excess of, that imposed

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

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

1 products as a business enterprise and includes a portable grain
2 bin, which means a structure that is used or is to be used to
3 shelter grain and that is designed to be disassembled without
4 significant damage to its component parts. This exemption does
5 not include transfers of food, fuel, clothing, or similar tangi-
6 ble personal property for personal living or human consumption.
7 This exemption does not include tangible personal property per-
8 manently affixed and becoming a structural part of real estate.

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

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

1 sold to a parent cooperative preschool. As used in this
2 subdivision, "parent cooperative preschool" means a nonprofit,
3 nondiscriminatory educational institution, maintained as a commu-
4 nity service and administered by parents of children currently
5 enrolled in the preschool that provides an educational and devel-
6 opmental program for children younger than compulsory school age,
7 that provides an educational program for parents, including
8 active participation with children in preschool activities, that
9 is directed by qualified preschool personnel, and that is
10 licensed by the department of consumer and industry services pur-
11 suant to 1973 PA 116, MCL 722.111 to 722.128.

12 (i) Property or services sold to a regularly organized
13 church or house of religious worship except the following:

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

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

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

25 (k) Property purchased for use in this state where actual
26 personal possession is obtained outside this state, the purchase

1 price or actual value of which does not exceed \$10.00 during 1
2 calendar month.

3 (1) A newspaper or periodical classified under federal
4 postal laws and regulations effective September 1, 1985 as
5 second-class mail matter or as a controlled circulation publica-
6 tion or qualified to accept legal notices for publication in this
7 state, as defined by law, or any other newspaper or periodical of
8 general circulation, established at least 2 years, and published
9 at least once a week, and a copyrighted motion picture film.
10 Tangible personal property used or consumed in producing a copy-
11 righted motion picture film, a newspaper published more than 14
12 times per year, or a periodical published more than 14 times per
13 year, and not becoming a component part of that film, newspaper,
14 or periodical is subject to the tax. After December 31, 1993,
15 tangible personal property used or consumed in producing a news-
16 paper published 14 times or less per year or a periodical pub-
17 lished 14 times or less per year and that portion or percentage
18 of tangible personal property used or consumed in producing an
19 advertising supplement that becomes a component part of a newspa-
20 per or periodical is exempt from the tax under this subdivision.
21 A claim for a refund for taxes paid before January 1, 1999 under
22 this subdivision shall be made before June 30, 1999. For pur-
23 poses of this subdivision, tangible personal property that
24 becomes a component part of a newspaper or periodical and conse-
25 quently not subject to tax, includes an advertising supplement
26 inserted into and circulated with a newspaper or periodical that
27 is otherwise exempt from tax under this subdivision, if the

1 advertising supplement is delivered directly to the newspaper or
2 periodical by a person other than the advertiser, or the adver-
3 tising supplement is printed by the newspaper or periodical.

4 (m) Property purchased by persons licensed to operate a com-
5 mercial radio or television station if the property is used in
6 the origination or integration of the various sources of program
7 material for commercial radio or television transmission. This
8 subdivision does not include a vehicle licensed and titled for
9 use on public highways or property used in the transmitting to or
10 receiving from an artificial satellite.

11 (n) A person who is a resident of this state who purchases
12 an automobile in another state while in the military service of
13 the United States and who pays a sales tax in the state where the
14 automobile is purchased.

15 (o) A vehicle for which a special registration is secured in
16 accordance with section 226(12) of the Michigan vehicle code,
17 1949 PA 300, MCL 257.226.

18 (p) A hearing aid, contact lenses if prescribed for a spe-
19 cific disease that precludes the use of eyeglasses, or any other
20 apparatus, device, or equipment used to replace or substitute for
21 any part of the human body, or used to assist the disabled person
22 to lead a reasonably normal life when the tangible personal prop-
23 erty is purchased on a written prescription or order issued by a
24 health professional as defined by section 4 of former 1974 PA
25 264, or section 21005 of the public health code, 1978 PA 368, MCL
26 333.21005, or eyeglasses prescribed or dispensed to correct the
27 person's vision by an ophthalmologist, optometrist, or optician.

1 (q) Water when delivered through water mains or in bulk
2 tanks in quantities of not less than 500 gallons.

3 (r) A vehicle not for resale used by a nonprofit corporation
4 organized exclusively to provide a community with ambulance or
5 fire department services.

6 (s) Tangible personal property purchased and installed as a
7 component part of a water pollution control facility for which a
8 tax exemption certificate is issued pursuant to part 37 of the
9 natural resources and environmental protection act, 1994 PA 451,
10 MCL 324.3701 to 324.3708, or an air pollution control facility
11 for which a tax exemption certificate is issued pursuant to part
12 59 of the natural resources and environmental protection act,
13 1994 PA 451, MCL 324.5901 to 324.5908.

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

18 (u) The storage, use, or consumption by a domestic air car-
19 rier of an aircraft purchased after December 31, 1992 BUT BEFORE
20 OCTOBER 1, 1996 for use solely in the transport of air cargo that
21 has a maximum certificated takeoff weight of at least 12,500
22 pounds. For purposes of this subdivision, the term "domestic air
23 carrier" is limited to entities engaged in the commercial trans-
24 port for hire of cargo or entities engaged in the commercial
25 transport of passengers as a business activity.

26 (v) The storage, use, or consumption by a domestic air
27 carrier of an aircraft purchased after June 30, 1994 BUT BEFORE

1 OCTOBER 1, 1996 that is used solely in the regularly scheduled
2 transport of passengers. For purposes of this subdivision, the
3 term "domestic air carrier" is limited to entities engaged in the
4 commercial transport for hire of cargo or entities engaged in the
5 commercial transport of passengers as a business activity.

6 (w) The storage, use, or consumption by a domestic air car-
7 rier of an aircraft, other than an aircraft described under
8 subdivision (v), purchased after December 31, 1994 BUT BEFORE
9 OCTOBER 1, 1996, that has a maximum certificated takeoff weight
10 of at least 12,500 pounds and that is designed to have a maximum
11 passenger seating configuration of more than 30 seats and used
12 solely in the transport of passengers. For purposes of this sub-
13 division, the term "domestic air carrier" is limited to entities
14 engaged in the commercial transport for hire of cargo or entities
15 engaged in the commercial transport of passengers as a business
16 activity.

17 (X) THE STORAGE, USE, OR CONSUMPTION OF AN AIRCRAFT PUR-
18 CHASED BY, OR FOR LEASE TO, A DOMESTIC AIR CARRIER AFTER
19 SEPTEMBER 30, 1996 FOR USE SOLELY IN THE TRANSPORT OF AIR CARGO,
20 PASSENGERS, OR A COMBINATION OF AIR CARGO AND PASSENGERS, THAT
21 HAS A MAXIMUM CERTIFICATED TAKEOFF WEIGHT OF AT LEAST 6,000
22 POUNDS. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "DOMESTIC AIR
23 CARRIER" IS LIMITED TO A PERSON ENGAGED PRIMARILY IN THE COMMER-
24 CIAL TRANSPORT FOR HIRE OF AIR CARGO, PASSENGERS, OR A COMBINA-
25 TION OF AIR CARGO AND PASSENGERS AS A BUSINESS ACTIVITY.

26 (Y) ~~-(x)-~~ Property or services sold to an organization not
27 operated for profit and exempt from federal income tax under

1 section 501(c)(3) or 501(c)(4) of the internal revenue code of
2 1986, 26 U.S.C. 501; or to a health, welfare, educational, cul-
3 tural arts, charitable, or benevolent organization not operated
4 for profit that has been issued before June 13, 1994 an exemption
5 ruling letter to purchase items exempt from tax signed by the
6 administrator of the sales, use, and withholding taxes division
7 of the department. The department shall reissue an exemption
8 letter after June 13, 1994 to each of those organizations that
9 had an exemption letter that shall remain in effect unless the
10 organization fails to meet the requirements that originally enti-
11 tled it to this exemption. The exemption does not apply to sales
12 of tangible personal property and sales of vehicles licensed for
13 use on public highways, that are not used primarily to carry out
14 the purposes of the organization as stated in the bylaws or arti-
15 cles of incorporation of the exempt organization.

16 (Z) ~~-(y)-~~ The use or consumption of services described in
17 section 3a(a) or (c) by means of a prepaid telephone calling
18 card, a prepaid authorization number for telephone use, or a
19 charge for internet access.

20 (AA) ~~-(z)-~~ The purchase, lease, use, or consumption of the
21 following by an industrial laundry after December 31, 1997:

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

26 (ii) Equipment, whether owned or leased, used to repair and
27 dispense textiles including, but not limited to, roll towel

1 cabinets, slings, hardware, lockers, mop handles and frames, and
2 carts.

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

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

7 (v) Production washroom equipment and mending and packaging
8 supplies and equipment.

9 (vi) Material handling equipment including, but not limited
10 to, conveyors, racks, and elevators and related control
11 equipment.

12 (vii) Wastewater pretreatment equipment and supplies and
13 related maintenance and repair services.

14 (2) The property or services under subsection (1) are exempt
15 only to the extent that the property or services are used for the
16 exempt purposes if one is stated in subsection (1). The exemp-
17 tion is limited to the percentage of exempt use to total use
18 determined by a reasonable formula or method approved by the
19 department.

20 Sec. 4k. (1) The tax levied under this act does not apply
21 to parts and materials, excluding shop equipment or fuel, affixed
22 to or to be affixed ~~in this state~~ to an aircraft owned or used
23 by a domestic air carrier that is any of the following:

24 (a) An aircraft for use solely in the transport of air cargo
25 OR A COMBINATION OF AIR CARGO AND PASSENGERS that has a maximum
26 certificated takeoff weight of at least 12,500 pounds for taxes

1 levied before January 1, 1997 and at least 6,000 pounds for taxes
2 levied after December 31, 1996.

3 (b) An aircraft that is used solely in the regularly sched-
4 uled transport of passengers.

5 (c) An aircraft other than an aircraft described in subdivi-
6 sion (b), that has a maximum certificated takeoff weight of at
7 least 12,500 pounds for taxes levied before January 1, 1997 and
8 at least 6,000 pounds for taxes levied after December 31, 1996,
9 and that is designed to have a maximum passenger seating configu-
10 ration of more than 30 seats and is used solely in the transport
11 of passengers.

12 (2) For taxes levied after December 31, 1992, the tax levied
13 under this act does not apply to the storage, use, or consumption
14 of rolling stock used in interstate commerce and purchased,
15 rented, or leased by an interstate motor carrier. A refund for
16 taxes paid before January 1, 1997 shall not be paid under this
17 subsection if the refund claim is made after June 30, 1997.

18 (3) For taxes levied after December 31, 1996 and before
19 May 1, 1999, the tax levied under this act does not apply to the
20 product of the out-of-state usage percentage and the price other-
21 wise taxable under this act of a qualified truck or a trailer
22 designed to be drawn behind a qualified truck, purchased, rented,
23 or leased in this state by an interstate motor carrier and used
24 in interstate commerce.

25 (4) As used in this section:

26 (a) "Domestic air carrier" means a person engaged PRIMARILY
27 in the commercial transport for hire of AIR cargo, ~~or engaged in~~

1 ~~the commercial transport of~~ passengers, OR A COMBINATION OF AIR
2 CARGO AND PASSENGERS as a business activity.

3 (b) "Interstate motor carrier" means a person engaged in the
4 business of carrying persons or property, other than themselves,
5 their employees, or their own property, for hire across state
6 lines, whose fleet mileage was driven at least 10% outside of
7 this state in the immediately preceding tax year.

8 (c) "Out-of-state usage percentage" is a fraction, the
9 numerator of which is the number of miles driven outside of this
10 state in the immediately preceding tax year by qualified trucks
11 used by the taxpayer and the denominator of which is the total
12 miles driven in the immediately preceding tax year by qualified
13 trucks used by the taxpayer. Miles driven by qualified trucks
14 used solely in intrastate commerce shall not be included in cal-
15 culating the out-of-state usage percentage.

16 (d) "Qualified truck" means a commercial motor vehicle power
17 unit that has 2 axles and a gross vehicle weight rating in excess
18 of 10,000 pounds or a commercial motor vehicle power unit that
19 has 3 or more axles.

20 (e) "Rolling stock" means a qualified truck, a trailer
21 designed to be drawn behind a qualified truck, and parts affixed
22 to either a qualified truck or a trailer designed to be drawn
23 behind a qualified truck.