

HOUSE BILL No. 4744

May 27, 1999, Introduced by Rep. Cassis and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 3, 4, and 4h (MCL 205.93, 205.94, and
205.94h), section 3 as amended by 1995 PA 67, section 4 as
amended by 1998 PA 491, and section 4h as added by 1986 PA 13,
and by adding sections 4o, 4p, 4q, 4r, 8, and 9a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) There is levied upon and there shall be col-
2 lected from every person in this state a specific tax for the
3 privilege of using, storing, or consuming tangible personal prop-
4 erty in this state at a rate equal to 6% of the price of the
5 property or services specified in section 3a. Penalties and
6 interest shall be added to the tax if applicable as provided in
7 this act. For the purpose of the proper administration of this
8 act and to prevent the evasion of the tax, it is presumed that

1 tangible personal property purchased is subject to the tax if
2 brought into the state within 90 days of the purchase date and is
3 considered as acquired for storage, use, or other consumption in
4 this state.

5 (2) The tax imposed by this section for the privilege of
6 using, storing, or consuming a vehicle, ORV, mobile home, air-
7 craft, snowmobile, or watercraft shall be collected before the
8 transfer of the vehicle, ORV, mobile home, aircraft, snowmobile,
9 or watercraft, except a transfer to a licensed dealer or retailer
10 for purposes of resale that arises by reason of a transaction
11 made by a person who does not transfer vehicles, ORV's, mobile
12 homes, aircraft, snowmobiles, or watercraft in the ordinary
13 course of his or her business done in this state. The tax on a
14 vehicle, ORV, snowmobile, and watercraft shall be collected by
15 the secretary of state before the transfer of the vehicle, ORV,
16 snowmobile, or watercraft registration. The tax on a mobile home
17 shall be collected by the department of ~~commerce~~ CONSUMER AND
18 INDUSTRY SERVICES, mobile home commission, or its agent before
19 the transfer of the certificate of title. The tax on an aircraft
20 shall be collected by the department of treasury.

21 Notwithstanding any limitation contained in section 2, the price
22 tax base of any vehicle, ORV, mobile home, aircraft, snowmobile,
23 or watercraft subject to taxation under this act shall be not
24 less than its retail dollar value at the time of acquisition as
25 fixed pursuant to rules promulgated by the department.

26 (3) The following transfers or purchases are not subject to
27 use tax:

1 (a) ~~When~~ A TRANSACTION OR A PORTION OF A TRANSACTION IF
2 the transferee or purchaser is the spouse, mother, father, broth-
3 er, sister, child, stepparent, stepchild, stepbrother, stepsis-
4 ter, grandparent, grandchild, legal ward, or a legally appointed
5 guardian with a certified letter of guardianship, of the
6 transferor.

7 (b) ~~When~~ A TRANSACTION OR A PORTION OF A TRANSACTION IF
8 the transfer is a gift to a beneficiary in the administration of
9 an estate.

10 (c) ~~When~~ IF a vehicle, ORV, mobile home, aircraft, snowmo-
11 bile, or watercraft that has once been subjected to the Michigan
12 sales or use tax is transferred in connection with the organiza-
13 tion, reorganization, dissolution, or partial liquidation of an
14 incorporated or unincorporated business and the beneficial owner-
15 ship is not changed.

16 (d) ~~When~~ IF an insurance company licensed to conduct busi-
17 ness in this state acquires ownership of a late model distressed
18 vehicle as defined in section 12a of the Michigan vehicle code,
19 ~~Act No. 300 of the Public Acts of 1949, being section 257.12a of~~
20 ~~the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.12A, through
21 payment of damages in response to a claim or when the person who
22 owned the vehicle before the insurance company reacquires owner-
23 ship from the company as part of the settlement of a claim.

24 (4) The department may utilize the services, information, or
25 records of any other department or agency of state government in
26 the performance of its duties under this act, and other
27 departments or agencies of state government are required to

1 furnish those services, information, or records upon the request
2 of the department.

3 Sec. 4. (1) The tax levied UNDER THIS ACT does not apply to
4 the following, SUBJECT TO SUBSECTION (2):

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

9 (b) Property, the storage, use, or other consumption of
10 which this state is prohibited from taxing under the constitution
11 or laws of the United States, or under the constitution of this
12 state.

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

1 other than promotional merchandise, acquired for use in
2 fulfilling a redemption offer or rebate to a person located out-
3 side this state.

4 (d) Property that is brought into this state by a nonresi-
5 dent person for storage, use, or consumption while temporarily
6 within this state, except if the property is used in this state
7 in a nontransitory business activity for a period exceeding 15
8 days.

9 (e) Property the sale or use of which was already subjected
10 to a sales tax or use tax equal to, or in excess of, that imposed
11 by this act under the law of any other state or a local govern-
12 mental unit within a state if the tax was due and paid on the
13 retail sale to the consumer and the state or local governmental
14 unit within a state in which the tax was imposed accords like or
15 complete exemption on property the sale or use of which was sub-
16 jected to the sales or use tax of this state. If the sale or use
17 of property was already subjected to a tax under the law of any
18 other state or local governmental unit within a state in an
19 amount less than the tax imposed by this act, this act shall
20 apply, but at a rate measured by the difference between the rate
21 provided in this act and the rate by which the previous tax was
22 computed.

23 (f) Property sold to a person engaged in a business enter-
24 prise and using and consuming the property in the tilling, plant-
25 ing, caring for, or harvesting of the things of the soil or in
26 the breeding, raising, or caring for livestock, poultry, or
27 horticultural products, including transfers of livestock,

1 poultry, or horticultural products for further growth. At the
2 time of the transfer of that tangible personal property, the
3 transferee shall sign a statement, in a form approved by the
4 department, stating that the property is to be used or consumed
5 in connection with the production of horticultural or agricul-
6 tural products as a business enterprise. The statement shall be
7 accepted by the courts as prima facie evidence of the exemption.
8 This exemption includes agricultural land tile, which means fired
9 clay or perforated plastic tubing used as part of a subsurface
10 drainage system for land used in the production of agricultural
11 products as a business enterprise and includes a portable grain
12 bin, which means a structure that is used or is to be used to
13 shelter grain and that is designed to be disassembled without
14 significant damage to its component parts. This exemption does
15 not include transfers of food, fuel, clothing, or similar tangi-
16 ble personal property for personal living or human consumption.
17 This exemption does not include tangible personal property per-
18 manently affixed and becoming a structural part of real estate.

19 ~~-(g) Property sold to the following:~~

20 ~~(i) An industrial processor for use or consumption in indus-~~
21 ~~trial processing. Property used or consumed in industrial pro-~~
22 ~~cessing does not include tangible personal property permanently~~
23 ~~affixed and becoming a structural part of real estate; office~~
24 ~~furniture, office supplies, and administrative office equipment;~~
25 ~~or vehicles licensed and titled for use on public highways other~~
26 ~~than a specially designed vehicle, together with parts, used to~~
27 ~~mix and agitate materials added at a plant or jobsite in the~~

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

~~13 (ii) A person, whether or not the person is an industrial
14 processor, when the property is a computer used in operating
15 industrial processing equipment; equipment used in a computer
16 assisted manufacturing system; equipment used in a computer
17 assisted design or engineering system integral to an industrial
18 process; or a subunit or electronic assembly comprising a compo-
19 nent in a computer integrated industrial processing system; or
20 computer equipment used in connection with the computer assisted
21 production, storage, and transmission of data if the equipment
22 would have been exempt had the data transfer been made using
23 tapes, disks, CD-ROMS, or similar media by a company whose busi-
24 ness includes publishing doctoral dissertations and information
25 archiving, and that sells the majority of the company's products
26 to nonprofit organizations exempt under subdivision (aa).~~

1 (G) ~~(h)~~ Property or services sold to the United States, an
2 unincorporated agency or instrumentality of the United States, an
3 incorporated agency or instrumentality of the United States
4 wholly owned by the United States or by a corporation wholly
5 owned by the United States, the American red cross and its chap-
6 ters or branches, this state, a department or institution of this
7 state, or a political subdivision of this state.

8 (H) ~~(i)~~ Property or services sold to a school, hospital,
9 or home for the care and maintenance of children or aged persons,
10 operated by an entity of government, a regularly organized
11 church, religious, or fraternal organization, a veterans' organi-
12 zation, or a corporation incorporated under the laws of this
13 state, if not operated for profit, and if the income or benefit
14 from the operation does not inure, in whole or in part, to an
15 individual or private shareholder, directly or indirectly, and if
16 the activities of the entity or agency are carried on exclusively
17 for the benefit of the public at large and are not limited to the
18 advantage, interests, and benefits of its members or a restricted
19 group. The tax levied does not apply to property or services
20 sold to a parent cooperative preschool. As used in this subdivi-
21 sion, "parent cooperative preschool" means a nonprofit, nondis-
22 criminatory educational institution, maintained as a community
23 service and administered by parents of children currently
24 enrolled in the preschool that provides an educational and devel-
25 opmental program for children younger than compulsory school age,
26 that provides an educational program for parents, including
27 active participation with children in preschool activities, that

1 is directed by qualified preschool personnel, and that is
2 licensed by the department of consumer and industry services pur-
3 suant to 1973 PA 116, MCL 722.111 to 722.128.

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

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

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

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

17 (K) ~~(l)~~ Property purchased by a person engaged in the
18 business of constructing, altering, repairing, or improving real
19 estate for others to the extent the property is affixed to and
20 made a structural part of the real estate of a nonprofit hospital
21 or a nonprofit housing entity qualified as exempt pursuant to
22 section 15a of the state housing development authority act of
23 1966, 1966 PA 346, MCL 125.1415a. A nonprofit hospital or non-
24 profit housing includes only the property of a nonprofit hospital
25 or the homes or dwelling places constructed by a nonprofit hous-
26 ing entity, the income or property of which does not directly or
27 indirectly inure to the benefit of an individual, private

1 stockholder, or other private person. For taxes assessed after
2 December 31, 1990 and before January 1, 1996, as used in this
3 subdivision, "hospital" includes, but is not limited to, an
4 entity that meets all of the following qualifications:

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

11 (ii) ~~Prior to~~ BEFORE January 1, 1996, initiated an appeal
12 of taxes assessed under this act on tangible personal property
13 used to construct a facility after December 31, 1990 and before
14 January 1, 1996, the primary purpose of which is to provide medi-
15 cal, obstetrical, psychiatric, or surgical care or nursing.
16 Nursing includes a long-term care facility.

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

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

1 Tangible personal property used or consumed in producing a
2 copyrighted motion picture film, a newspaper published more than
3 14 times per year, or a periodical published more than 14 times
4 per year, and not becoming a component part of that film, newspa-
5 per, or periodical is subject to the tax. After December 31,
6 1993, tangible personal property used or consumed in producing a
7 newspaper published 14 times or less per year or a periodical
8 published 14 times or less per year and that portion or percen-
9 tage of tangible personal property used or consumed in producing
10 ~~and~~ AN advertising supplement that becomes a component part of
11 a newspaper or periodical is exempt from the tax under this
12 subdivision. A claim for a refund for taxes paid before January
13 1, 1999 under this subdivision shall be made before June 30,
14 1999. For purposes of this subdivision, tangible personal prop-
15 erty that becomes a component part of a newspaper or periodical
16 and consequently not subject to tax, includes an advertising sup-
17 plement inserted into and circulated with a newspaper or periodi-
18 cal that is otherwise exempt from tax under this subdivision, if
19 the advertising supplement is delivered directly to the newspaper
20 or periodical by a person other than the advertiser, or the
21 advertising supplement is printed by the newspaper or
22 periodical.

23 (N) ~~(o)~~ Property purchased by persons licensed to operate
24 a commercial radio or television station if the property is used
25 in the origination or integration of the various sources of pro-
26 gram material for commercial radio or television transmission.
27 This subdivision does not include a vehicle licensed and titled

1 for use on public highways or property used in the transmitting
2 to or receiving from an artificial satellite.

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

7 (P) ~~(q)~~ A vehicle for which a special registration is
8 secured in accordance with section 226(12) of the Michigan vehi-
9 cle code, 1949 PA 300, MCL 257.226.

10 (Q) ~~(r)~~ A hearing aid, contact lenses if prescribed for a
11 specific disease that precludes the use of eyeglasses, or any
12 other apparatus, device, or equipment used to replace or substi-
13 tute for any part of the human body, or used to assist the dis-
14 abled person to lead a reasonably normal life when the tangible
15 personal property is purchased on a written prescription or order
16 issued by a health professional as defined by section 4 of former
17 1974 PA 264, or section 21005 of the public health code, 1978 PA
18 368, MCL 333.21005, or eyeglasses prescribed or dispensed to cor-
19 rect the person's vision by an ophthalmologist, optometrist, or
20 optician.

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

23 ~~(t) The purchase of machinery and equipment for use or con-~~
24 ~~sumption in the rendition of any combination of services, the use~~
25 ~~or consumption of which is taxable under section 3a(a) or (c)~~
26 ~~except that this exemption is limited to the tangible personal~~
27 ~~property located on the premises of the subscriber and to central~~

~~1 office equipment or wireless equipment, directly used or consumed
2 in transmitting, receiving, or switching or the monitoring of
3 switching of a 2-way interactive communication. As used in this
4 subdivision, central office equipment or wireless equipment does
5 not include distribution equipment including cable or wire
6 facilities.~~

7 (S) ~~(u)~~ A vehicle not for resale used by a nonprofit cor-
8 poration organized exclusively to provide a community with ambu-
9 lance or fire department services.

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

18 (U) ~~(w)~~ Tangible real or personal property donated by a
19 manufacturer, wholesaler, or retailer to an organization or
20 entity exempt pursuant to subdivision (H) OR (i) ~~or (j)~~ or sec-
21 tion 4a(a) or (b) of the general sales tax act, 1933 PA 167,
22 MCL 205.54a.

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

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

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

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

21 (Y) ~~(aa)~~ Property or services sold to an organization not
22 operated for profit and exempt from federal income tax under sec-
23 tion 501(c)(3) or 501(c)(4) of the internal revenue code of 1986,
24 26 U.S.C. 501; or to a health, welfare, educational, cultural
25 arts, charitable, or benevolent organization not operated for
26 profit that has been issued before June 13, 1994 an exemption
27 ruling letter to purchase items exempt from tax signed by the

1 administrator of the sales, use, and withholding taxes division
2 of the department. The department shall reissue an exemption
3 letter after June 13, 1994 to each of those organizations that
4 had an exemption letter that shall remain in effect unless the
5 organization fails to meet the requirements that originally enti-
6 tled it to this exemption. The exemption does not apply to sales
7 of tangible personal property and sales of vehicles licensed for
8 use on public highways, that are not used primarily to carry out
9 the purposes of the organization as stated in the bylaws or arti-
10 cles of incorporation of the exempt organization.

11 (Z) ~~(bb)~~ The use or consumption of services described in
12 section 3a(a) or (c) by means of a prepaid telephone calling
13 card, a prepaid authorization number for telephone use, or a
14 charge for internet access.

15 (AA) ~~(cc)~~ The purchase, lease, use, or consumption of the
16 following by an industrial laundry after December 31, 1997:

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

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

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

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

2 (v) Production washroom equipment and mending and packaging
3 supplies and equipment.

4 (vi) Material handling equipment including, but not limited
5 to, conveyors, racks, and elevators and related control
6 equipment.

7 (vii) Wastewater pretreatment equipment and supplies and
8 related maintenance and repair services.

9 (2) THE PROPERTY OR SERVICES UNDER SUBSECTION (1) ARE EXEMPT
10 ONLY TO THE EXTENT THAT THE PROPERTY OR SERVICES ARE USED FOR THE
11 EXEMPT PURPOSES IF ONE IS STATED IN SUBSECTION (1). THE EXEMP-
12 TION IS LIMITED TO THE PERCENTAGE OF EXEMPT USE TO TOTAL USE
13 DETERMINED BY A FORMULA OR METHOD APPROVED BY THE DEPARTMENT.

14 Sec. 4h. The tax levied ~~shall~~ UNDER THIS ACT DOES not
15 apply to tangible real or personal property ~~for use~~ TO THE
16 EXTENT THE TANGIBLE REAL OR PERSONAL PROPERTY IS USED in a quali-
17 fied business activity of the purchaser. As used in this sec-
18 tion, "qualified business activity" means that term as defined in
19 the enterprise zone act, 1985 PA 224, MCL 125.2101 TO 125.2123.

20 SEC. 4o. (1) THE TAX LEVIED UNDER THIS ACT DOES NOT APPLY
21 TO PROPERTY SOLD TO THE FOLLOWING AFTER MARCH 30, 1999, SUBJECT
22 TO SUBSECTION (2):

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

25 (B) A PERSON, WHETHER OR NOT THE PERSON IS AN INDUSTRIAL
26 PROCESSOR, IF THE TANGIBLE PERSONAL PROPERTY IS INTENDED FOR

1 ULTIMATE USE IN AND IS USED IN INDUSTRIAL PROCESSING BY AN
2 INDUSTRIAL PROCESSOR.

3 (C) A PERSON, WHETHER OR NOT THE PERSON IS AN INDUSTRIAL
4 PROCESSOR, IF THE TANGIBLE PERSONAL PROPERTY IS USED BY THAT
5 PERSON TO PERFORM AN INDUSTRIAL PROCESSING ACTIVITY FOR OR ON
6 BEHALF OF AN INDUSTRIAL PROCESSOR.

7 (D) A PERSON, WHETHER OR NOT THE PERSON IS AN INDUSTRIAL
8 PROCESSOR, IF THE TANGIBLE PERSONAL PROPERTY IS 1 OF THE
9 FOLLOWING:

10 (i) A COMPUTER USED IN OPERATING INDUSTRIAL PROCESSING
11 EQUIPMENT.

12 (ii) EQUIPMENT USED IN A COMPUTER ASSISTED MANUFACTURING
13 SYSTEM.

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

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

18 (v) COMPUTER EQUIPMENT USED IN CONNECTION WITH THE COMPUTER
19 ASSISTED PRODUCTION, STORAGE, AND TRANSMISSION OF DATA IF THE
20 EQUIPMENT WOULD HAVE BEEN EXEMPT HAD THE DATA TRANSFER BEEN MADE
21 USING TAPES, DISKS, CD-ROMS, OR SIMILAR MEDIA BY A COMPANY WHOSE
22 BUSINESS INCLUDES PUBLISHING DOCTORAL DISSERTATIONS AND INFORMA-
23 TION ARCHIVING, AND THAT SELLS THE MAJORITY OF THE COMPANY'S PRO-
24 DUCTS TO NONPROFIT ORGANIZATIONS EXEMPT UNDER SECTION 4(1)(Y).

25 (vi) EQUIPMENT USED IN THE PRODUCTION OF COMPUTER SOFTWARE
26 THAT IS OFFERED FOR GENERAL SALE TO THE PUBLIC OR SOFTWARE
27 MODIFIED OR ADAPTED TO THE USER'S NEEDS OR EQUIPMENT BY THE

1 SELLER, ONLY IF THE SOFTWARE IS AVAILABLE FOR SALE FROM A SELLER
2 OF SOFTWARE ON AN AS-IS BASIS OR AS AN END PRODUCT WITHOUT MODI-
3 FICATION OR ADAPTION.

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

9 (3) INDUSTRIAL PROCESSING INCLUDES THE FOLLOWING
10 ACTIVITIES:

11 (A) PRODUCTION OR ASSEMBLY.

12 (B) RESEARCH OR EXPERIMENTAL ACTIVITIES.

13 (C) ENGINEERING RELATED TO INDUSTRIAL PROCESSING.

14 (D) INSPECTION, QUALITY CONTROL, OR TESTING TO DETERMINE
15 WHETHER PARTICULAR UNITS OF MATERIALS OR PRODUCTS OR PROCESSES
16 CONFORM TO SPECIFIED PARAMETERS AT ANY TIME BEFORE MATERIALS OR
17 PRODUCTS FIRST COME TO REST IN FINISHED GOODS INVENTORY STORAGE.

18 (E) PLANNING, SCHEDULING, SUPERVISION, OR CONTROL OF PRODUC-
19 TION OR OTHER EXEMPT ACTIVITIES.

20 (F) DESIGN, CONSTRUCTION, OR MAINTENANCE OF PRODUCTION OR
21 OTHER EXEMPT MACHINERY, EQUIPMENT, AND TOOLING.

22 (G) REMANUFACTURING.

23 (H) PROCESSING OF PRODUCTION SCRAP AND WASTE UP TO THE POINT
24 IT IS STORED FOR REMOVAL FROM THE PLANT OF ORIGIN.

25 (I) RECYCLING OF USED MATERIALS FOR ULTIMATE SALE AT RETAIL
26 OR REUSE.

1 (J) PRODUCTION MATERIAL HANDLING.

2 (K) STORAGE OF IN-PROCESS MATERIALS.

3 (4) PROPERTY THAT IS ELIGIBLE FOR AN INDUSTRIAL PROCESSING
4 EXEMPTION INCLUDES THE FOLLOWING:

5 (A) PROPERTY THAT BECOMES AN INGREDIENT OR COMPONENT PART OF
6 THE FINISHED PRODUCT TO BE SOLD ULTIMATELY AT RETAIL.

7 (B) MACHINERY, EQUIPMENT, TOOLS, DIES, PATTERNS, FOUNDATIONS
8 FOR MACHINERY OR EQUIPMENT, OR OTHER PROCESSING EQUIPMENT USED IN
9 AN INDUSTRIAL PROCESSING ACTIVITY AND IN THEIR REPAIR AND
10 MAINTENANCE.

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

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

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

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

22 (G) OFFICE EQUIPMENT, INCLUDING DATA PROCESSING EQUIPMENT,
23 USED FOR AN INDUSTRIAL PROCESSING ACTIVITY.

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

26 (A) TANGIBLE PERSONAL PROPERTY PERMANENTLY AFFIXED AND
27 BECOMING A STRUCTURAL PART OF REAL ESTATE INCLUDING BUILDING

1 UTILITY SYSTEMS SUCH AS HEATING, AIR CONDITIONING, VENTILATING,
2 PLUMBING, LIGHTING, AND ELECTRICAL DISTRIBUTION, TO THE POINT OF
3 THE LAST TRANSFORMER, SWITCH, VALVE, OR OTHER DEVICE AT WHICH
4 POINT USABLE POWER, WATER, GAS, STEAM, OR AIR IS DIVERTED FROM
5 DISTRIBUTION CIRCUITS FOR USE IN INDUSTRIAL PROCESSING.

6 (B) OFFICE EQUIPMENT, INCLUDING DATA PROCESSING EQUIPMENT
7 USED FOR NONINDUSTRIAL PROCESSING PURPOSES.

8 (C) OFFICE FURNITURE OR OFFICE SUPPLIES.

9 (D) AN INDUSTRIAL PROCESSOR'S OWN PRODUCT OR FINISHED GOOD
10 THAT IT USES OR CONSUMES FOR PURPOSES OTHER THAN INDUSTRIAL
11 PROCESSING.

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

15 (F) TANGIBLE PERSONAL PROPERTY USED FOR RECEIVING AND STOR-
16 AGE OF NATURAL RESOURCES EXTRACTED BY THE USER OR CONSUMER.

17 (G) VEHICLES, INCLUDING SPECIAL BODIES OR ATTACHMENTS,
18 REQUIRED TO DISPLAY A VEHICLE PERMIT OR LICENSE PLATE TO OPERATE
19 ON PUBLIC HIGHWAYS, EXCEPT FOR A SPECIALLY DESIGNED VEHICLE,
20 TOGETHER WITH PARTS, USED TO MIX AND AGITATE MATERIALS AT A PLANT
21 OR JOB SITE IN THE CONCRETE MANUFACTURING PROCESS.

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

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

1 (J) RETURNABLE SHIPPING CONTAINERS OR MATERIALS, EXCEPT AS
2 PROVIDED IN SUBDIVISION (4)(F).

3 (K) TANGIBLE PERSONAL PROPERTY USED IN THE PRODUCTION OF
4 COMPUTER SOFTWARE ORIGINALLY DESIGNED FOR THE EXCLUSIVE USE AND
5 SPECIAL NEEDS OF THE PURCHASER.

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

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

9 (B) SALES, DISTRIBUTION, WAREHOUSING, SHIPPING, OR ADVERTIS-
10 ING ACTIVITIES.

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

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

14 (E) PLANT SECURITY, FIRE PREVENTION, OR MEDICAL OR HOSPITAL
15 SERVICES.

16 (7) AS USED IN THIS SECTION:

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

26 (B) "INDUSTRIAL PROCESSOR" MEANS A PERSON WHO PERFORMS THE
27 ACTIVITY OF CONVERTING OR CONDITIONING TANGIBLE PERSONAL PROPERTY

1 FOR ULTIMATE SALE AT RETAIL OR USE IN THE MANUFACTURING OF A
2 PRODUCT TO BE ULTIMATELY SOLD AT RETAIL.

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

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

11 (E) "RESEARCH OR EXPERIMENTAL ACTIVITY" MEANS ACTIVITY INCI-
12 DENT TO THE DEVELOPMENT, DISCOVERY, OR MODIFICATION OF A PRODUCT
13 OR A PRODUCT RELATED PROCESS. RESEARCH OR EXPERIMENTAL ACTIVITY
14 ALSO INCLUDES ACTIVITY NECESSARY FOR A PRODUCT TO SATISFY A GOV-
15 ERNMENT STANDARD OR TO RECEIVE GOVERNMENT APPROVAL. RESEARCH OR
16 EXPERIMENTAL ACTIVITY DOES NOT INCLUDE THE FOLLOWING:

17 (i) ORDINARY TESTING OR INSPECTION OF MATERIALS OR PRODUCTS
18 FOR QUALITY CONTROL PURPOSES.

19 (ii) EFFICIENCY SURVEYS.

20 (iii) MANAGEMENT SURVEYS.

21 (iv) MARKET OR CONSUMER SURVEYS.

22 (v) ADVERTISING OR PROMOTIONS.

23 (vi) RESEARCH IN CONNECTION WITH LITERACY, HISTORICAL, OR
24 SIMILAR PROJECTS.

25 SEC. 4P. (1) THE TAX UNDER THIS ACT DOES NOT APPLY TO PROP-
26 ERTY SOLD TO AN EXTRACTIVE OPERATOR FOR USE OR CONSUMPTION IN
27 EXTRACTIVE OPERATIONS.

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

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

9 (A) CASING PIPE OR DRIVE PIPE.

10 (B) TUBING.

11 (C) WELL-PUMPING EQUIPMENT.

12 (D) CHEMICALS.

13 (E) EXPLOSIVES OR ACIDS USED IN FRACTURING, ACIDIZING, OR
14 SHOOTING WELLS.

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

16 (G) TREATMENT TANKS.

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

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

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

23 (4) THE EXTRACTIVE OPERATION EXEMPTION DOES NOT INCLUDE THE
24 FOLLOWING:

25 (A) TANGIBLE PERSONAL PROPERTY CONSUMED OR USED IN THE CON-
26 STRUCTION, ALTERATION, IMPROVEMENT, OR REPAIR OF BUILDINGS,
27 STORAGE TANKS, AND STORAGE AND HOUSING FACILITIES.

1 (B) TANGIBLE PERSONAL PROPERTY CONSUMED OR USED IN
2 TRANSPORTING THE PRODUCT FROM THE PLACE OF EXTRACTION, EXCEPT FOR
3 TANGIBLE PERSONAL PROPERTY CONSUMED OR USED IN TRANSPORTING
4 EXTRACTED MATERIALS FROM THE EXTRACTION SITE TO THE PLACE WHERE
5 THE EXTRACTED MATERIALS FIRST COME TO REST IN FINISHED GOODS
6 INVENTORY STORAGE.

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

13 (D) EQUIPMENT, MATERIALS, AND SUPPLIES USED IN EXPLORING,
14 PROSPECTING, OR DRILLING FOR OIL, GAS, BRINE, OR OTHER NATURAL
15 RESOURCES.

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

19 (F) VEHICLES, INCLUDING SPECIAL BODIES OR ATTACHMENTS,
20 REQUIRED TO DISPLAY A VEHICLE PERMIT OR LICENSE PLATE TO OPERATE
21 ON PUBLIC HIGHWAYS.

22 (5) AS USED IN THIS SECTION:

23 (A) "EXTRACTIVE OPERATIONS" MEANS THE ACTIVITY OF TAKING OR
24 EXTRACTING FOR RESALE ORE, OIL, GAS, COAL, TIMBER, STONE, GRAVEL,
25 CLAY, MINERALS, OR OTHER NATURAL RESOURCE MATERIAL. AN EXTRAC-
26 TIVE OPERATION BEGINS WHEN CONTACT IS MADE WITH THE ACTUAL TYPE
27 OF NATURAL RAW PRODUCT BEING RECOVERED. EXTRACTIVE OPERATION

1 INCLUDES ALL NECESSARY PROCESSING OPERATIONS BEFORE SHIPMENT FROM
2 THE PLACE OF EXTRACTION. EXTRACTIVE OPERATIONS INCLUDES ALL NEC-
3 ESSARY PROCESSING OPERATIONS AND MOVEMENT OF THE NATURAL RESOURCE
4 MATERIAL UNTIL THE POINT AT WHICH THE NATURAL RAW PRODUCT BEING
5 RECOVERED FIRST COMES TO REST IN FINISHED GOODS INVENTORY STORAGE
6 AT THE EXTRACTION SITE.

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

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

21 (2) BEGINNING APRIL 1, 1999, THE PROPERTY UNDER SUBSECTION
22 (1) IS EXEMPT ONLY TO THE EXTENT THAT THE PROPERTY IS USED FOR
23 THE EXEMPT PURPOSES STATED IN THIS SECTION. THE EXEMPTION IS
24 LIMITED TO THE PERCENTAGE OF EXEMPT USE TO TOTAL USE DETERMINED
25 BY A FORMULA OR METHOD APPROVED BY THE DEPARTMENT.

1 SEC. 4R. (1) SUBJECT TO SUBSECTION (2), THE TAX LEVIED
2 UNDER THIS ACT DOES NOT APPLY TO PROPERTY SOLD TO THE FOLLOWING
3 AFTER MARCH 30, 1995 BUT BEFORE MARCH 31, 1999:

4 (A) 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 RECEIPT 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 THE SERVICE MAY NOT BE EXCLUDED UNDER THIS SUB-
23 DIVISION, EXCEPT AS PROVIDED IN SUBDIVISION (B).

24 (B) A PERSON, WHETHER OR NOT THE PERSON IS AN INDUSTRIAL
25 PROCESSOR, WHEN THE PROPERTY IS A COMPUTER USED IN OPERATING
26 INDUSTRIAL PROCESSING EQUIPMENT; EQUIPMENT USED IN A COMPUTER
27 ASSISTED MANUFACTURING SYSTEM; EQUIPMENT USED IN A COMPUTER

1 ASSISTED DESIGN OR ENGINEERING SYSTEM INTEGRAL TO AN INDUSTRIAL
2 PROCESS; OR A SUBUNIT OR ELECTRONIC ASSEMBLY COMPRISING A COMPO-
3 NENT IN A COMPUTER INTEGRATED INDUSTRIAL PROCESSING SYSTEM; OR
4 COMPUTER EQUIPMENT USED IN CONNECTION WITH THE COMPUTER ASSISTED
5 PRODUCTION, STORAGE, AND TRANSMISSION OF DATA IF THE EQUIPMENT
6 WOULD HAVE BEEN EXEMPT HAD THE DATA TRANSFER BEEN MADE USING
7 TAPES, DISKS, CD-ROMS, OR SIMILAR MEDIA BY A COMPANY WHOSE BUSI-
8 NESS INCLUDES PUBLISHING DOCTORAL DISSERTATIONS AND INFORMATION
9 ARCHIVING, AND THAT SELLS THE MAJORITY OF THE COMPANY'S PRODUCTS
10 TO NONPROFIT ORGANIZATIONS EXEMPT UNDER SECTION 4(1)(Y).

11 (2) THE PROPERTY UNDER SUBSECTION (1) IS EXEMPT ONLY TO THE
12 EXTENT THAT THE PROPERTY IS USED FOR THE EXEMPT PURPOSES STATED
13 IN THIS SECTION. THE EXEMPTION IS LIMITED TO THE PERCENTAGE OF
14 EXEMPT USE TO TOTAL USE DETERMINED BY A FORMULA OR METHOD
15 APPROVED BY THE DEPARTMENT.

16 SEC. 8. (1) THE COMMISSIONER, IN HIS OR HER DISCRETION, MAY
17 AUTHORIZE A PERSON TO ASSUME THE OBLIGATION OF SELF-ACCRUING AND
18 REMITTING USE TAX DUE ON PURCHASES OR LEASES DIRECTLY TO THE
19 DEPARTMENT UNDER A DIRECT PAYMENT AUTHORIZATION, IF THE FOLLOWING
20 CONDITIONS ARE MET:

21 (A) THE AUTHORIZATION IS TO BE USED FOR THE PURCHASE OR
22 LEASE OF TANGIBLE PERSONAL PROPERTY OR SERVICES.

23 (B) THE AUTHORIZATION IS NECESSARY BECAUSE IT IS EITHER
24 IMPRACTICAL AT THE TIME OF ACQUISITION TO DETERMINE THE MANNER IN
25 WHICH THE TANGIBLE PERSONAL PROPERTY OR SERVICES WILL BE USED OR
26 IT WILL FACILITATE IMPROVED COMPLIANCE WITH THE TAX LAWS OF THIS
27 STATE.

1 (C) THE PERSON REQUESTING AUTHORIZATION FOR DIRECT PAYMENT
2 MAINTAINS ACCURATE AND COMPLETE RECORDS OF ALL PURCHASES OR
3 LEASES AND USES OF TANGIBLE PERSONAL PROPERTY OR SERVICES PUR-
4 CHASED PURSUANT TO THE DIRECT PAYMENT AUTHORIZATION IN A FORM
5 ACCEPTABLE TO THE DEPARTMENT.

6 (2) THE COMMISSIONER HAS THE AUTHORITY TO IDENTIFY ITEMS
7 THAT ARE NOT ELIGIBLE FOR A DIRECT PAYMENT AUTHORIZATION.

8 SEC. 9A. (1) BEGINNING MARCH 30, 1995, IN COMPUTING THE
9 AMOUNT OF TAX LEVIED UNDER THIS ACT FOR ANY MONTH, A SELLER MAY
10 DEDUCT THE AMOUNT OF BAD DEBTS FROM HIS OR HER GROSS SALES,
11 RENTALS, OR SERVICES USED FOR THE COMPUTATION OF THE TAX. THE
12 AMOUNT OF GROSS SALES, RENTALS, OR SERVICES DEDUCTED MUST BE
13 CHARGED OFF AS UNCOLLECTIBLE ON THE BOOKS OF THE SELLER. IF THE
14 BUSINESS CONSISTS OF TAXABLE AND NONTAXABLE TRANSACTIONS, THE
15 DEDUCTION EQUALS THE FULL AMOUNT OF THE BAD DEBT IF THE BAD DEBT
16 IS DOCUMENTED AS A TAXABLE TRANSACTION IN THE SELLER'S RECORDS.
17 IF DOCUMENTATION IS NOT AVAILABLE, THE MAXIMUM DEDUCTION FROM
18 GROSS SALES, RENTALS, OR SERVICES FOR ANY BAD DEBTS EQUALS THE
19 AMOUNT OF THE BAD DEBT MULTIPLIED BY THE QUOTIENT RESULTING FROM
20 DIVIDING THE SALES, RENTALS, OR SERVICES TAXED UNDER THIS ACT
21 DURING THE PRECEDING CALENDAR YEAR BY ALL SALES, RENTALS, OR
22 SERVICES DURING THE PRECEDING CALENDAR YEAR, WHETHER OR NOT TAXED
23 UNDER THIS ACT. IF A CONSUMER OR OTHER PERSON PAYS ALL OR PART
24 OF A BAD DEBT WITH RESPECT TO WHICH A SELLER CLAIMED A DEDUCTION
25 UNDER THIS SECTION, THE SELLER IS LIABLE FOR THE AMOUNT OF TAXES
26 DEDUCTED IN CONNECTION WITH THAT PORTION OF THE DEBT FOR WHICH

1 PAYMENT IS RECEIVED AND SHALL REMIT THESE TAXES IN HIS OR HER
2 NEXT PAYMENT TO THE DEPARTMENT.

3 (2) ANY CLAIM FOR A BAD DEBT DEDUCTION UNDER THIS SECTION
4 SHALL BE SUPPORTED BY THAT EVIDENCE REQUIRED BY THE DEPARTMENT.
5 THE DEPARTMENT SHALL REVIEW ANY CHANGE IN THE RATE OF TAXATION
6 APPLICABLE TO ANY TAXABLE SALES, RENTALS, OR SERVICES BY A SELLER
7 CLAIMING A DEDUCTION PURSUANT TO THIS SECTION AND SHALL ENSURE
8 THAT THE DEDUCTION ON ANY BAD DEBT DOES NOT RESULT IN THE SELLER
9 CLAIMING THE DEDUCTION RECOVERING ANY MORE OR LESS THAN THE TAXES
10 IMPOSED ON THE SALE, RENTAL, OR SERVICE THAT CONSTITUTES THE BAD
11 DEBT.

12 (3) AS USED IN THIS SECTION, "BAD DEBT" MEANS ANY PORTION OF
13 A DEBT RESULTING FROM A SELLER'S COLLECTION OF THE USE TAX ON THE
14 PURCHASE OF TANGIBLE PERSONAL PROPERTY OR SERVICES THAT IS NOT
15 OTHERWISE DEDUCTIBLE OR EXCLUDABLE, THAT HAS BECOME WORTHLESS OR
16 UNCOLLECTIBLE IN THE TIME PERIOD BETWEEN THE DATE WHEN TAXES
17 ACCRUE TO THE STATE FOR THE SELLER'S PRECEDING USE TAX RETURN AND
18 THE DATE WHEN TAXES ACCRUE TO THE STATE FOR THE PRESENT RETURN,
19 AND THAT IS ELIGIBLE TO BE CLAIMED, OR COULD BE ELIGIBLE TO BE
20 CLAIMED IF THE SELLER KEPT ACCOUNTS ON AN ACCRUAL BASIS, AS A
21 DEDUCTION PURSUANT TO SECTION 166 OF THE INTERNAL REVENUE CODE.
22 A BAD DEBT DOES NOT INCLUDE ANY OF THE FOLLOWING:

23 (A) INTEREST OR USE TAX ON THE PURCHASE PRICE.

24 (B) UNCOLLECTIBLE AMOUNTS ON PROPERTY THAT REMAINS IN THE
25 POSSESSION OF THE SELLER UNTIL THE FULL PURCHASE PRICE IS PAID.

26 (C) EXPENSES INCURRED IN ATTEMPTING TO COLLECT ANY ACCOUNT
27 RECEIVABLE OR ANY PORTION OF THE DEBT RECOVERED.

1 (D) ANY ACCOUNTS RECEIVABLE THAT HAVE BEEN SOLD TO A THIRD
2 PARTY FOR COLLECTION.

3 (E) REPOSSESSED PROPERTY.

4 Enacting section 1. This amendatory act is intended to cor-
5 rect any misinterpretation of the application of this act to
6 property used only partially for exempt purposes as determined by
7 the Michigan court of appeals in Michigan Bell Telephone Company
8 v Dep't of Treasury, 229 Mich App 200 (1998). This amendatory
9 act clarifies that, with the exception of telecommunications
10 equipment taxed under section 3a of the use tax act, 1937 PA 94,
11 MCL 205.93a, the tax levied does not apply to the price of prop-
12 erty or services except to the extent that the property or serv-
13 ices are stored, used, or consumed for exempt purposes. For
14 telecommunications equipment taxed under section 3a of the use
15 tax act, 1937 PA 94, MCL 205.93a, this amendatory act clarifies
16 that for periods before April 1, 1999, the tax shall not be
17 apportioned and for periods beginning April 1, 1999, the tax
18 shall be apportioned. This amendatory act is curative, express-
19 ing the original intent of the legislature. This amendatory act
20 takes effect for all periods beginning March 31, 1995 and all tax
21 years that are open under the statute of limitations provided in
22 section 27a of 1941 PA 122, MCL 205.27a. This amendatory act
23 clarifies that existing law and procedures provide a prorated
24 exemption, as evidenced by rule 40 of the specific sales and use
25 tax rules.