

SENATE BILL NO. 630

June 1, 1999, Introduced by Senators KOIVISTO, NORTH, MC MANUS,
MC COTTER, DINGELL and GOUGEON and referred to the
Committee on Finance.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 4 and 4k (MCL 205.94 and 205.94k), section 4
as amended by 1998 PA 491 and section 4k as amended by 1996 PA
477.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. The tax levied does not apply to the following:

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

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

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

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

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

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

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

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

7 (g) Property sold to the following:

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

1 (ii) A person, whether or not the person is an industrial
2 processor, when the property is a computer used in operating
3 industrial processing equipment; equipment used in a computer
4 assisted manufacturing system; equipment used in a computer
5 assisted design or engineering system integral to an industrial
6 process; or a subunit or electronic assembly comprising a compo-
7 nent in a computer integrated industrial processing system; or
8 computer equipment used in connection with the computer assisted
9 production, storage, and transmission of data if the equipment
10 would have been exempt had the data transfer been made using
11 tapes, disks, CD-ROMS, or similar media by a company whose busi-
12 ness includes publishing doctoral dissertations and information
13 archiving, and that sells the majority of the company's products
14 to nonprofit organizations exempt under subdivision (aa).

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

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

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

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

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

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

26 (k) A vessel designed for commercial use of registered
27 tonnage of 500 tons or more, if produced upon special order of

1 the purchaser, and bunker and galley fuel, provisions, supplies,
2 maintenance, and repairs for the exclusive use of a vessel of 500
3 tons or more engaged in interstate commerce.

4 (1) Property purchased by a person engaged in the business
5 of constructing, altering, repairing, or improving real estate
6 for others to the extent the property is affixed to and made a
7 structural part of the real estate of a nonprofit hospital or a
8 nonprofit housing entity qualified as exempt pursuant to section
9 15a of the state housing development authority act of 1966, 1966
10 PA 346, MCL 125.1415a. A nonprofit hospital or nonprofit housing
11 includes only the property of a nonprofit hospital or the homes
12 or dwelling places constructed by a nonprofit housing entity, the
13 income or property of which does not directly or indirectly inure
14 to the benefit of an individual, private stockholder, or other
15 private person. For taxes assessed after December 31, 1990 and
16 before January 1, 1996, as used in this subdivision, "hospital"
17 includes, but is not limited to, an entity that meets all of the
18 following qualifications:

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

25 (ii) ~~Prior to~~ BEFORE January 1, 1996, initiated an appeal
26 of taxes assessed under this act on tangible personal property
27 used to construct a facility after December 31, 1990 and before

1 January 1, 1996, the primary purpose of which is to provide
2 medical, obstetrical, psychiatric, or surgical care or nursing.
3 Nursing includes a long-term care facility.

4 (m) Property purchased for use in this state where actual
5 personal possession is obtained outside this state, the purchase
6 price or actual value of which does not exceed \$10.00 during 1
7 calendar month.

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

1 1999. For purposes of this subdivision, tangible personal
2 property that becomes a component part of a newspaper or periodi-
3 cal and consequently not subject to tax, includes an advertising
4 supplement inserted into and circulated with a newspaper or peri-
5 odical that is otherwise exempt from tax under this subdivision,
6 if the advertising supplement is delivered directly to the news-
7 paper or periodical by a person other than the advertiser, or the
8 advertising supplement is printed by the newspaper or
9 periodical.

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

17 (p) A person who is a resident of this state who purchases
18 an automobile in another state while in the military service of
19 the United States and who pays a sales tax in the state where the
20 automobile is purchased.

21 (q) A vehicle for which a special registration is secured in
22 accordance with section 226(12) of the Michigan vehicle code,
23 1949 PA 300, MCL 257.226.

24 (r) A hearing aid, contact lenses if prescribed for a spe-
25 cific disease that precludes the use of eyeglasses, or any other
26 apparatus, device, or equipment used to replace or substitute for
27 any part of the human body, or used to assist the disabled person

1 to lead a reasonably normal life when the tangible personal
2 property is purchased on a written prescription or order issued
3 by a health professional as defined by section 4 of former 1974
4 PA 264, or section 21005 of the public health code, 1978 PA 368,
5 MCL 333.21005, or eyeglasses prescribed or dispensed to correct
6 the person's vision by an ophthalmologist, optometrist, or
7 optician.

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

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

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

24 (v) Tangible personal property purchased and installed as a
25 component part of a water pollution control facility for which a
26 tax exemption certificate is issued pursuant to part 37 of the
27 natural resources and environmental protection act, 1994 PA 451,

1 MCL 324.3701 to 324.3708, or an air pollution control facility
2 for which a tax exemption certificate is issued pursuant to part
3 59 of the natural resources and environmental protection act,
4 1994 PA 451, MCL 324.5901 to 324.5908.

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

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

17 (y) The storage, use, or consumption by a domestic air car-
18 rier of an aircraft purchased after June 30, 1994 that is used
19 solely in the regularly scheduled transport of passengers. For
20 purposes of this subdivision, the term "domestic air carrier" is
21 limited to entities engaged in the commercial transport for hire
22 of cargo or entities engaged in the commercial transport of pas-
23 sengers as a business activity.

24 (z) The storage, use, or consumption by a domestic air car-
25 rier of an aircraft, other than an aircraft described under
26 subdivision (y), purchased after December 31, 1994, that has a
27 maximum certificated takeoff weight of at least 12,500 pounds and

1 that is designed to have a maximum passenger seating
2 configuration of more than 30 seats and used solely in the trans-
3 port of passengers. For purposes of this subdivision, the term
4 "domestic air carrier" is limited to entities engaged in the com-
5 mercial transport for hire of cargo or entities engaged in the
6 commercial transport of passengers as a business activity.

7 (AA) THE STORAGE, USE, OR CONSUMPTION BY A DOMESTIC AIR CAR-
8 RIER OF AN AIRCRAFT PURCHASED AFTER DECEMBER 31, 1998 FOR USE IN
9 THE TRANSPORT OF AIR CARGO, PASSENGERS, OR A COMBINATION OF AIR
10 CARGO AND PASSENGERS THAT HAS A MAXIMUM CERTIFIED TAKEOFF WEIGHT
11 OF AT LEAST 6,000 POUNDS. FOR PURPOSES OF THIS SUBDIVISION, THE
12 TERM "DOMESTIC AIR CARRIER" IS LIMITED TO ENTITIES ENGAGED IN THE
13 COMMERCIAL TRANSPORT FOR HIRE OF AIR CARGO, PASSENGERS, OR A COM-
14 BINATION OF AIR CARGO AND PASSENGERS AS A BUSINESS ACTIVITY.

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

1 sales of tangible personal property and sales of vehicles
2 licensed for use on public highways, that are not used primarily
3 to carry out the purposes of the organization as stated in the
4 bylaws or articles of incorporation of the exempt organization.

5 (CC) ~~(bb)~~ The use or consumption of services described in
6 section 3a(a) or (c) by means of a prepaid telephone calling
7 card, a prepaid authorization number for telephone use, or a
8 charge for internet access.

9 (DD) ~~(cc)~~ The purchase, lease, use, or consumption of the
10 following by an industrial laundry after December 31, 1997:

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

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

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

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

23 (v) Production washroom equipment and mending and packaging
24 supplies and equipment.

25 (vi) Material handling equipment including, but not limited
26 to, conveyors, racks, and elevators and related control
27 equipment.

1 (vii) Wastewater pretreatment equipment and supplies and
2 related maintenance and repair services.

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

7 (a) An aircraft for use solely in the transport of air cargo
8 that has a maximum certificated takeoff weight of at least 12,500
9 pounds for taxes levied before January 1, 1997 and at least 6,000
10 pounds for taxes levied after December 31, 1996.

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

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

20 (D) FOR TAXES LEVIED AFTER DECEMBER 31, 1998, AN AIRCRAFT
21 THAT HAS A MAXIMUM CERTIFIED TAKEOFF WEIGHT OF AT LEAST 6,000
22 POUNDS FOR USE IN THE TRANSPORT OF A COMBINATION OF AIR CARGO AND
23 PASSENGERS.

24 (2) For taxes levied after December 31, 1992 and before
25 May 1, 1999, the tax levied under this act does not apply to the
26 storage, use, or consumption of rolling stock used in interstate
27 commerce and purchased, rented, or leased outside of this state

1 by an interstate motor carrier. A refund for taxes paid before
2 January 1, 1997 shall not be paid under this subsection if the
3 refund claim is made after June 30, 1997.

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

11 (4) As used in this section:

12 (a) "Domestic air carrier" is limited to entities engaged in
13 the commercial transport for hire of AIR cargo, ~~or entities~~
14 ~~engaged in the commercial transport of~~ passengers, OR A COMBINA-
15 TION OF AIR CARGO AND PASSENGERS as a business activity.

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

21 (c) "Out-of-state usage percentage" is a fraction, the
22 numerator of which is the number of miles driven outside of this
23 state in the immediately preceding tax year by qualified trucks
24 used by the taxpayer and the denominator of which is the total
25 miles driven in the immediately preceding tax year by qualified
26 trucks used by the taxpayer. Miles driven by qualified trucks

1 used solely in intrastate commerce shall not be included in
2 calculating the out-of-state usage percentage.

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

7 (e) "Rolling stock" means a qualified truck, a trailer
8 designed to be drawn behind a qualified truck, and parts affixed
9 to either a qualified truck or a trailer designed to be drawn
10 behind a qualified truck.