

SENATE BILL No. 509

May 29, 2001, Introduced by Senators MC MANUS, GAST, SIKKEMA, SMITH, HART, EMMONS, BULLARD, BENNETT, NORTH, STILLE, GOUGEON, YOUNG, PETERS, DE BEAUSSAERT and EMERSON and referred to the Committee on Farming, Agribusiness and Food Systems.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 4 and 4d (MCL 205.94 and 205.94d), section 4
as amended by 2000 PA 200 and section 4d as amended by 2000 PA
328.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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,~~
26 ~~MCL 333.21005~~ 3501 OF THE INSURANCE CODE OF 1956, 1956 PA 218,
27 MCL 500.3501, or eyeglasses prescribed or dispensed to correct

1 the person's vision by an ophthalmologist, optometrist, or
2 optician.

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

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

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

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

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

1 (v) The storage, use, or consumption by a domestic air
2 carrier of an aircraft purchased after June 30, 1994 but before
3 October 1, 1996 that is used solely in the regularly scheduled
4 transport of passengers. For purposes of this subdivision, the
5 term "domestic air carrier" is limited to entities engaged in the
6 commercial transport for hire of cargo or entities engaged in the
7 commercial transport of passengers as a business activity.

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

19 (x) The storage, use, or consumption of an aircraft by a
20 domestic air carrier after September 30, 1996 for use solely in
21 the transport of air cargo, passengers, or a combination of air
22 cargo and passengers, that has a maximum certificated takeoff
23 weight of at least 6,000 pounds. For purposes of this subdivi-
24 sion, the term "domestic air carrier" is limited to a person
25 engaged primarily in the commercial transport for hire of air
26 cargo, passengers, or a combination of air cargo and passengers
27 as a business activity. The state treasurer shall estimate on

1 January 1 each year the revenue lost by this act from the school
2 aid fund and deposit that amount into the school aid fund from
3 the general fund.

4 (y) Property or services sold to an organization not oper-
5 ated for profit and exempt from federal income tax under section
6 501(c)(3) or 501(c)(4) of the internal revenue code of 1986, 26
7 U.S.C. 501; or to a health, welfare, educational, cultural arts,
8 charitable, or benevolent organization not operated for profit
9 that has been issued before June 13, 1994 an exemption ruling
10 letter to purchase items exempt from tax signed by the adminis-
11 trator of the sales, use, and withholding taxes division of the
12 department. The department shall reissue an exemption letter
13 after June 13, 1994 to each of those organizations that had an
14 exemption letter that shall remain in effect unless the organiza-
15 tion fails to meet the requirements that originally entitled it
16 to this exemption. The exemption does not apply to sales of tan-
17 gible personal property and sales of vehicles licensed for use on
18 public highways, that are not used primarily to carry out the
19 purposes of the organization as stated in the bylaws or articles
20 of incorporation of the exempt organization.

21 (z) The use or consumption of services described in
22 section 3a(a) or (c) by means of a prepaid telephone calling
23 card, a prepaid authorization number for telephone use, or a
24 charge for internet access.

25 (aa) The purchase, lease, use, or consumption of the follow-
26 ing by an industrial laundry after December 31, 1997:

1 (i) Textiles and disposable products including, but not
2 limited to, soap, paper, chemicals, tissues, deodorizers and
3 dispensers, and all related items such as packaging, supplies,
4 hangers, name tags, and identification tags.

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

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

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

13 (v) Production washroom equipment and mending and packaging
14 supplies and equipment.

15 (vi) Material handling equipment including, but not limited
16 to, conveyors, racks, and elevators and related control
17 equipment.

18 (vii) Wastewater pretreatment equipment and supplies and
19 related maintenance and repair services.

20 (BB) A RETURNABLE PALLET OR CONTAINER LEASED TO A FARMER OR
21 OTHER PERSON INVOLVED IN AGRICULTURAL PRODUCTION OR PROCESSING,
22 INCLUDING, BUT NOT LIMITED TO, A PACKER, SHIPPER, MANUFACTURER,
23 OR RETAILER.

24 (2) The property or services under subsection (1) are exempt
25 only to the extent that the property or services are used for the
26 exempt purposes if one is stated in subsection (1). The
27 exemption is limited to the percentage of exempt use to total use

1 determined by a reasonable formula or method approved by the
2 department.

3 Sec. 4d. (1) The tax levied under this act does not apply
4 to a purchase of a prescription drug for human use or food for
5 human consumption; to the deposit on a returnable container for a
6 beverage, ~~or~~ the deposit on a carton or case that is used for
7 returnable containers, OR THE LEASE COST OF A RETURNABLE PALLET
8 OR CONTAINER; to nonalcoholic beverages and prepared food
9 intended for immediate consumption provided during work hours for
10 free or at a reduced rate to employees of food service establish-
11 ments licensed by the Michigan department of agriculture; to food
12 or tangible personal property purchased with federal food stamps;
13 or to fruit or vegetable seeds and fruit or vegetable plants if
14 purchased at a place of business authorized to accept food stamps
15 by the food and nutrition service of the United States department
16 of agriculture or a place of business that has made a complete
17 and proper application for authorization to accept food stamps
18 but has been denied authorization and provides proof of denial to
19 the department of treasury.

20 (2) "Prescription drug for human use" means insulin or a
21 drug dispensed by a licensed pharmacist pursuant to a written
22 prescription prescribed by a licensed physician or other health
23 professional as defined in section ~~21005 of the public health~~
24 ~~code, 1978 PA 368, MCL 333.21005~~ 3501 OF THE INSURANCE CODE OF
25 1956, 1956 PA 218, MCL 500.3501, for the use of a designated
26 person, or oxygen dispensed pursuant to a written prescription or
27 order issued by a licensed physician or other health professional

1 as defined in section ~~21005 of the public health code, 1978 PA~~
2 ~~368, MCL 333.21005~~ 3501 OF THE INSURANCE CODE OF 1956, 1956 PA
3 218, MCL 500.3501.

4 (3) "Food for human consumption" means all food or drink
5 items, including bottled water, primarily intended for human con-
6 sumption except a beverage with an alcoholic content of 1/2 of 1%
7 or more by volume, tobacco, or tobacco products.

8 (4) "Food service establishment" means that term as defined
9 in section 1107 of the food law of 2000, 2000 PA 92, MCL
10 289.1107.