

SENATE BILL No. 950

February 4, 2004, Introduced by Senators VAN WOERKOM, KUIPERS, JELINEK and McMANUS and referred to the Committee on Finance.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4a (MCL 205.54a), as amended by 1999 PA 116.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4a. (1) ~~A~~ **Subject to subsection (2),** a person
2 subject to tax under this act may exclude from the amount of the
3 gross proceeds used for the computation of the tax, a sale of
4 tangible personal property: ~~—, subject to subsection (2):~~

5 (a) Not for resale to a nonprofit school, nonprofit hospital,
6 or nonprofit home for the care and maintenance of children or
7 aged persons operated by an entity of government, a regularly
8 organized church, religious, or fraternal organization, a
9 veterans' organization, or a corporation incorporated under the
10 laws of the state, if the income or benefit from the operation
11 does not inure, in whole or in part, to an individual or private

1 shareholder, directly or indirectly, and if the activities of the
2 entity or agency are carried on exclusively for the benefit of
3 the public at large and are not limited to the advantage,
4 interests, and benefits of its members or any restricted group.
5 At the time of the transfer of this tangible personal property,
6 the transferee shall sign a statement, in a form approved by the
7 department, stating that the property is to be used or consumed
8 in connection with the operation of the institution or agency and
9 that the institution or agency qualifies as an exempt entity
10 under this subdivision. The statement shall be accepted by all
11 courts as prima facie evidence of the exemption and the statement
12 shall provide that if the claim for tax exemption is disallowed
13 the transferee will reimburse the transferor for the amount of
14 tax involved. A sale of tangible personal property to a parent
15 cooperative preschool is exempt from taxation under this act. As
16 used in this subdivision, "parent cooperative preschool" means a
17 nonprofit, nondiscriminatory educational institution, maintained
18 as a community service and administered by parents of children
19 currently enrolled in the preschool, that provides an educational
20 and developmental program for children younger than compulsory
21 school age, that provides an educational program for parents,
22 including active participation with children in preschool
23 activities, that is directed by qualified preschool personnel,
24 and that is licensed by the department of consumer and industry
25 services pursuant to 1973 PA 116, MCL 722.111 to 722.128.

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

1 (i) Sales in activities that are mainly commercial
2 enterprises.

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

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

9 (d) That is a vessel designated for commercial use of
10 registered tonnage of 500 tons or more, if produced upon special
11 order of the purchaser, and bunker and galley fuel, provisions,
12 supplies, maintenance, and repairs for the exclusive use of the
13 vessel engaged in interstate commerce.

14 (e) To persons engaged in a business enterprise and using or
15 consuming the tangible personal property in the tilling,
16 planting, caring for, or harvesting of the things of the soil; in
17 the breeding, raising, or caring for livestock, poultry, or
18 horticultural products, including transfers of livestock,
19 poultry, or horticultural products for further growth; or in the
20 direct gathering of fish, by net, line, or otherwise only by an
21 owner-operator of the business enterprise, not including a
22 charter fishing business enterprise. This exemption includes
23 agricultural land tile, which means fired clay or perforated
24 plastic tubing used as part of a subsurface drainage system for
25 land, and subsurface irrigation pipe, if the land tile or
26 irrigation pipe is used in the production of agricultural
27 products as a business enterprise. At the time of the transfer

1 of this tangible personal property, the transferee shall sign a
2 statement, in a form approved by the department, stating that the
3 property is to be used or consumed in connection with the
4 production of horticultural or agricultural products as a
5 business enterprise, or in connection with fishing as an
6 owner-operator business enterprise. The statement shall be
7 accepted by all courts as prima facie evidence of the exemption.
8 This exemption includes a portable grain bin, which means a
9 structure that is used or is to be used to shelter grain and that
10 is designed to be disassembled without significant damage to its
11 component parts. This exemption also includes grain drying
12 equipment and natural or propane gas used to fuel that equipment
13 for agricultural purposes. This exemption does not include
14 transfers of food, fuel, clothing, or any similar tangible
15 personal property for personal living or human consumption. This
16 exemption does not include tangible personal property permanently
17 affixed and becoming a structural part of real estate.

18 (f) That is a copyrighted motion picture film or a newspaper
19 or periodical admitted under federal postal laws and regulations
20 effective September 1, 1985 as second-class mail matter or as a
21 controlled circulation publication or qualified to accept legal
22 notices for publication in this state, as defined by law, or any
23 other newspaper or periodical of general circulation, established
24 not less than 2 years, and published not less than once a week.
25 Tangible personal property used or consumed in producing a
26 copyrighted motion picture film, a newspaper published more than
27 14 times per year, or a periodical published more than 14 times

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

20 (g) To persons licensed to operate commercial radio or
21 television stations if the property is used in the origination or
22 integration of the various sources of program material for
23 commercial radio or television transmission. This subdivision
24 does not include a vehicle licensed and titled for use on public
25 highways or property used in the transmission to or receiving
26 from an artificial satellite.

27 (h) That is a hearing aid, contact lenses if prescribed for a

1 specific disease that precludes the use of eyeglasses, or any
2 other apparatus, device, or equipment used to replace or
3 substitute for a part of the human body, or used to assist the
4 disabled person to lead a reasonably normal life if the tangible
5 personal property is purchased on a written prescription or order
6 issued by a health professional as defined by section ~~21005~~ of
7 ~~the public health code, 1978 PA 368, MCL 333.21005~~ **4 of former**
8 **1974 PA 264 or section 3501 of the insurance code of 1956, 1956**
9 **PA 218, MCL 500.3501**; a hearing aid battery; or eyeglasses
10 prescribed or dispensed to correct the person's vision by an
11 ophthalmologist, optometrist, or optician.

12 (i) That is a vehicle not for resale to a Michigan nonprofit
13 corporation organized exclusively to provide a community with
14 ambulance or fire department services.

15 (j) To inmates in a penal or correctional institution
16 purchased with scrip issued and redeemed by the institution.

17 (k) To or for the use of students enrolled in any part of a
18 kindergarten through twelfth grade program, of textbooks sold by
19 a public or nonpublic school.

20 (l) Installed as a component part of a water pollution
21 control facility for which a tax exemption certificate is issued
22 pursuant to part 37 of the natural resources and environmental
23 protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air
24 pollution control facility for which a tax exemption certificate
25 is issued pursuant to part 59 of the natural resources and
26 environmental protection act, 1994 PA 451, MCL 324.5901 to
27 324.5908.

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

8 (n) That is the following sold or leased to an industrial
9 laundry after December 31, 1997:

10 (i) Textiles and disposable products including, but not
11 limited to, soap, paper, chemicals, tissues, deodorizers and
12 dispensers, and all related items such as packaging, supplies,
13 hangers, name tags, and identification tags.

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

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

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

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

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

27 (vii) Wastewater pretreatment equipment and supplies and

1 related maintenance and repair services.

2 (o) To a person holding a direct payment permit under
3 section 8 of the use tax act, 1937 PA 94, MCL 205.98.

4 (p) **That is a returnable pallet or container leased to a**
5 **farmer or other person involved in agricultural production or**
6 **processing, including, but not limited to, a packer, shipper,**
7 **manufacturer, or retailer.**

8 (2) The tangible personal property under subsection (1) is
9 exempt only to the extent that that property is used for the
10 exempt purpose if one is stated in subsection (1). The exemption
11 is limited to the percentage of exempt use to total use
12 determined by a reasonable formula or method approved by the
13 department.