

HOUSE BILL No. 5386

November 1, 2005, Introduced by Reps. Kahn, Wenke, David Law, Moore, Baxter, Emmons, Casperson, Marleau, LaJoy, Ball, Mortimer and Farhat and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 4 (MCL 205.94), as amended by 2004 PA 172.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) The following are exempt from the tax levied under
2 this act, subject to subsection (2):

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

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

10 (c) Property purchased for resale, demonstration purposes, or
11 lending or leasing to a public or parochial school offering a

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

16 (d) Property that is brought into this state by a nonresident
17 person for storage, use, or consumption while temporarily within
18 this state, except if the property is used in this state in a
19 nontransitory business activity for a period exceeding 15 days.

20 (e) Property the sale or use of which was already subjected to
21 a sales tax or use tax equal to, or in excess of, that imposed by
22 this act under the law of any other state or a local governmental
23 unit within a state if the tax was due and paid on the retail sale
24 to the consumer and the state or local governmental unit within a
25 state in which the tax was imposed accords like or complete
26 exemption on property the sale or use of which was subjected to the
27 sales or use tax of this state. If the sale or use of property was

1 already subjected to a tax under the law of any other state or
2 local governmental unit within a state in an amount less than the
3 tax imposed by this act, this act shall apply, but at a rate
4 measured by the difference between the rate provided in this act
5 and the rate by which the previous tax was computed.

6 (f) Property sold to a person engaged in a business enterprise
7 and using and consuming the property in the tilling, planting,
8 caring for, or harvesting of the things of the soil or in the
9 breeding, raising, or caring for livestock, poultry, or
10 horticultural products, including transfers of livestock, poultry,
11 or horticultural products for further growth. This exemption
12 includes agricultural land tile, which means fired clay or
13 perforated plastic tubing used as part of a subsurface drainage
14 system for land used in the production of agricultural products as
15 a business enterprise and includes a portable grain bin, which
16 means a structure that is used or is to be used to shelter grain
17 and that is designed to be disassembled without significant damage
18 to its component parts. This exemption does not include transfers
19 of food, fuel, clothing, or similar tangible personal property for
20 personal living or human consumption. This exemption does not
21 include tangible personal property permanently affixed to and
22 becoming a structural part of real estate.

23 (g) Property or services sold to the United States, an
24 unincorporated agency or instrumentality of the United States, an
25 incorporated agency or instrumentality of the United States wholly
26 owned by the United States or by a corporation wholly owned by the
27 United States, the American red cross and its chapters or branches,

1 this state, a department or institution of this state, or a
2 political subdivision of this state.

3 (h) Property or services sold to a school, hospital, or home
4 for the care and maintenance of children or aged persons, operated
5 by an entity of government, a regularly organized church,
6 religious, or fraternal organization, a veterans' organization, or
7 a corporation incorporated under the laws of this state, if not
8 operated for profit, and if the income or benefit from the
9 operation does not inure, in whole or in part, to an individual or
10 private shareholder, directly or indirectly, and if the activities
11 of the entity or agency are carried on exclusively for the benefit
12 of the public at large and are not limited to the advantage,
13 interests, and benefits of its members or a restricted group. The
14 tax levied does not apply to property or services sold to a parent
15 cooperative preschool. As used in this subdivision, "parent
16 cooperative preschool" means a nonprofit, nondiscriminatory
17 educational institution, maintained as a community service and
18 administered by parents of children currently enrolled in the
19 preschool that provides an educational and developmental program
20 for children younger than compulsory school age, that provides an
21 educational program for parents, including active participation
22 with children in preschool activities, that is directed by
23 qualified preschool personnel, and that is licensed ~~by the~~
24 ~~department of consumer and industry services~~ pursuant to 1973 PA
25 116, MCL 722.111 to 722.128.

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

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

3 (ii) Sales of vehicles licensed for use on the 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 (j) A vessel designed for commercial use of registered tonnage
8 of 500 tons or more, if produced upon special order of the
9 purchaser, and bunker and galley fuel, provisions, supplies,
10 maintenance, and repairs for the exclusive use of a vessel of 500
11 tons or more engaged in interstate commerce.

12 (k) Property purchased for use in this state where actual
13 personal possession is obtained outside this state, the purchase
14 price or actual value of which does not exceed \$10.00 during 1
15 calendar month.

16 (l) A newspaper or periodical classified under federal postal
17 laws and regulations effective September 1, 1985 as second-class
18 mail matter or as a controlled circulation publication or qualified
19 to accept legal notices for publication in this state, as defined
20 by law, or any other newspaper or periodical of general
21 circulation, established at least 2 years, and published at least
22 once a week, and a copyrighted motion picture film. Tangible
23 personal property used or consumed in producing a copyrighted
24 motion picture film, a newspaper published more than 14 times per
25 year, or a periodical published more than 14 times per year, and
26 not becoming a component part of that film, newspaper, or
27 periodical is subject to the tax. After December 31, 1993, tangible

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

17 (m) Property purchased by persons licensed to operate a
18 commercial radio or television station if the property is used in
19 the origination or integration of the various sources of program
20 material for commercial radio or television transmission. This
21 subdivision does not include a vehicle licensed and titled for use
22 on public highways or property used in the transmitting to or
23 receiving from an artificial satellite.

24 (n) A person who is a resident of this state who purchases an
25 automobile in another state while in the military service of the
26 United States and who pays a sales tax in the state where the
27 automobile is purchased.

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

4 (p) The sale of a prosthetic device, durable medical
5 equipment, or mobility enhancing equipment.

6 (q) Water when delivered through water mains, water sold in
7 bulk tanks in quantities of not less than 500 gallons, or the sale
8 of bottled water.

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

12 (s) Tangible personal property purchased and installed as a
13 component part of a water pollution control facility for which a
14 tax exemption certificate is issued pursuant to part 37 of the
15 natural resources and environmental protection act, 1994 PA 451,
16 MCL 324.3701 to 324.3708, or an air pollution control facility for
17 which a tax exemption certificate is issued pursuant to part 59 of
18 the natural resources and environmental protection act, 1994 PA
19 451, MCL 324.5901 to 324.5908.

20 (t) Tangible real or personal property donated by a
21 manufacturer, wholesaler, or retailer to an organization or entity
22 exempt pursuant to subdivision (h) or (i) or section ~~4a(a)~~
23 **4A(1)(A)** or (b) of the general sales tax act, 1933 PA 167, MCL
24 205.54a.

25 (u) The storage, use, or consumption of an aircraft by a
26 domestic air carrier for use solely in the transport of air cargo,
27 passengers, or a combination of air cargo and passengers, that has

1 a maximum certificated takeoff weight of at least 6,000 pounds. For
2 purposes of this subdivision, the term "domestic air carrier" is
3 limited to a person engaged primarily in the commercial transport
4 for hire of air cargo, passengers, or a combination of air cargo
5 and passengers as a business activity. The state treasurer shall
6 estimate on January 1 each year the revenue lost by this act from
7 the school aid fund and deposit that amount into the school aid
8 fund from the general fund.

9 (v) The storage, use, or consumption of an aircraft by a
10 person who purchases the aircraft for subsequent lease to a
11 domestic air carrier operating under a certificate issued by the
12 federal aviation administration under 14 CFR part 121, for use
13 solely in the regularly scheduled transport of passengers.

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

1 used primarily to carry out the purposes of the organization as
2 stated in the bylaws or articles of incorporation of the exempt
3 organization.

4 (x) The use or consumption of services described in section
5 ~~3a(a)~~ **3A(1)(A)** or (c) or 3b by means of a prepaid telephone
6 calling card, a prepaid authorization number for telephone use, or
7 a charge for internet access.

8 (y) The purchase, lease, use, or consumption of the following
9 by an industrial laundry after December 31, 1997:

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

26 (vii) Wastewater pretreatment equipment and supplies and
27 related maintenance and repair services.

1 (2) The property or services under subsection (1) are exempt
2 only to the extent that the property or services are used for the
3 exempt purposes if one is stated in subsection (1). The exemption
4 is limited to the percentage of exempt use to total use determined
5 by a reasonable formula or method approved by the department.