

# HOUSE BILL No. 4404

February 24, 2009, Introduced by Reps. Lindberg, McDowell, Nerat, Lahti and Neumann and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending section 4t (MCL 205.54t), as amended by 2004 PA 173.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 4t. (1) The sale of tangible personal property to the  
2 following after March 30, 1999, subject to subsection (2) are  
3 exempt from the tax under this act:

4       (a) An industrial processor for use or consumption in  
5 industrial processing.

6       (b) A person, whether or not the person is an industrial  
7 processor, if the tangible personal property is intended for  
8 ultimate use in and is used in industrial processing by an  
9 industrial processor.

10       (c) A person, whether or not the person is an industrial

1 processor, if the tangible personal property is used by that person  
2 to perform an industrial processing activity for or on behalf of an  
3 industrial processor.

4 (d) A person, whether or not the person is an industrial  
5 processor, if the tangible personal property is 1 of the following:

6 (i) A computer used in operating industrial processing  
7 equipment.

8 (ii) Equipment used in a computer assisted manufacturing  
9 system.

10 (iii) Equipment used in a computer assisted design or  
11 engineering system integral to an industrial process.

12 (iv) A subunit or electronic assembly comprising a component in  
13 a computer integrated industrial processing system.

14 (v) Computer equipment used in connection with the computer  
15 assisted production, storage, and transmission of data if the  
16 equipment would have been exempt had the data transfer been made  
17 using tapes, disks, CD-ROMs, or similar media by a company whose  
18 business includes publishing doctoral dissertations and information  
19 archiving, and that sells the majority of the company's products to  
20 nonprofit organizations exempt under section 4q.

21 (vi) Equipment used in the production of prewritten computer  
22 software or software modified or adapted to the user's needs or  
23 equipment by the seller, only if the software is available for sale  
24 from a seller of software on an as-is basis or as an end product  
25 without modification or adaptation.

26 (2) The property under subsection (1) is exempt only to the  
27 extent that the property is used for the exempt purpose stated in

1 this section. The exemption is limited to the percentage of exempt  
2 use to total use determined by a reasonable formula or method  
3 approved by the department.

4 (3) Industrial processing includes the following activities:

5 (a) Production or assembly.

6 (b) Research or experimental activities.

7 (c) Engineering related to industrial processing.

8 (d) Inspection, quality control, or testing to determine  
9 whether particular units of materials or products or processes  
10 conform to specified parameters at any time before materials or  
11 products first come to rest in finished goods inventory storage.

12 (e) Planning, scheduling, supervision, or control of  
13 production or other exempt activities.

14 (f) Design, construction, or maintenance of production or  
15 other exempt machinery, equipment, and tooling.

16 (g) Remanufacturing.

17 (h) Processing of production scrap and waste up to the point  
18 it is stored for removal from the plant of origin.

19 (i) Recycling of used materials for ultimate sale at retail or  
20 reuse.

21 (j) Production material handling.

22 (k) Storage of in-process materials.

23 **(l) OPERATION OF A SAWMILL.**

24 (4) Property that is eligible for an industrial processing  
25 exemption includes the following:

26 (a) Property that becomes an ingredient or component part of  
27 the finished product to be sold ultimately at retail.

1 (b) Machinery, equipment, tools, dies, patterns, foundations  
2 for machinery or equipment, or other processing equipment used in  
3 an industrial processing activity and in their repair and  
4 maintenance.

5 (c) Property that is consumed or destroyed or that loses its  
6 identity in an industrial processing activity.

7 (d) Tangible personal property, not permanently affixed and  
8 not becoming a structural part of real estate, that becomes a part  
9 of, or is used and consumed in installation and maintenance of,  
10 systems used for an industrial processing activity.

11 (e) Fuel or energy used or consumed for an industrial  
12 processing activity.

13 (f) Machinery, equipment, or materials used within a plant  
14 site or between plant sites operated by the same person for  
15 movement of tangible personal property in the process of  
16 production.

17 (g) Office equipment, including data processing equipment,  
18 used for an industrial processing activity.

19 (5) Property that is not eligible for an industrial processing  
20 exemption includes the following:

21 (a) Tangible personal property permanently affixed and  
22 becoming a structural part of real estate including building  
23 utility systems such as heating, air conditioning, ventilating,  
24 plumbing, lighting, and electrical distribution, to the point of  
25 the last transformer, switch, valve, or other device at which point  
26 usable power, water, gas, steam, or air is diverted from  
27 distribution circuits for use in industrial processing.

1 (b) Office equipment, including data processing equipment used  
2 for nonindustrial processing purposes.

3 (c) Office furniture or office supplies.

4 (d) An industrial processor's own product or finished good  
5 that it uses or consumes for purposes other than industrial  
6 processing.

7 (e) Tangible personal property used for receiving and storage  
8 of materials, supplies, parts, or components purchased by the user  
9 or consumer.

10 (f) Tangible personal property used for receiving or storage  
11 of natural resources extracted by the user or consumer, **EXCEPT**  
12 **TIMBER RECEIVED OR STORED IN RELATION TO A SAWMILL OPERATION.**

13 (g) Vehicles, including special bodies or attachments,  
14 required to display a vehicle permit or license plate to operate on  
15 public highways, except ~~for a~~ **THE FOLLOWING:**

16 (i) A vehicle bearing a manufacturer's plate or a specially  
17 designed vehicle, together with parts, used to mix and agitate  
18 materials at a plant or job site in the concrete manufacturing  
19 process.

20 (ii) **A VEHICLE USED TO TRANSFER TIMBER FROM A FOREST, WOODLOT,**  
21 **OR CUTTING SITE TO A SAWMILL OPERATION.**

22 (h) Tangible personal property used for the preparation of  
23 food or beverages by a retailer for ultimate sale at retail through  
24 its own locations.

25 (i) Tangible personal property used or consumed for the  
26 preservation 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 subsection (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 advertising  
10 activities.

11 (c) Administrative, accounting, or personnel services.

12 (d) Design, engineering, construction, or maintenance of real  
13 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 for  
20 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. **INDUSTRIAL PROCESSING INCLUDES THE OPERATION OF A SAWMILL.**

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,  
5 invention, technique, patent, or similar property, whether intended  
6 to 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 component  
10 parts for ultimate sale at retail.

11 (e) "Research or experimental activity" means activity  
12 incident to the development, discovery, or modification of a  
13 product or a product related process. Research or experimental  
14 activity also includes activity necessary for a product to satisfy  
15 a government standard or to receive government approval. Research  
16 or experimental activity does not include the following:

17 (i) Ordinary testing or inspection of materials or products for  
18 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.