

HOUSE BILL No. 5527

October 20, 2009, Introduced by Rep. Meadows and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending sections 1, 2, 4, 4a, 4d, 4h, 4j, 4q, 4t, 4u, 4w, 5b,
6, 10, 16a, 19, 23, and 25 (MCL 205.51, 205.52, 205.54, 205.54a,
205.54d, 205.54h, 205.54j, 205.54q, 205.54t, 205.54u, 205.54w,
205.55b, 205.56, 205.60, 205.66a, 205.69, 205.73, and 205.75),
section 1 as amended by 2008 PA 438, sections 2, 4, 4j, 4q, 4t,
6, 10, and 23 as amended and sections 4h and 19 as added by 2004
PA 173, section 4a as amended by 2008 PA 415, sections 4d and 4u
as amended by 2008 PA 556, section 4w as amended by 2006 PA 665,
section 5b as added by 2006 PA 590, and section 25 as amended by
2008 PA 361, and by adding section 4c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. (1) As used in this act:

(a) "Person" means an individual, firm, partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether organized for profit or not, company, estate, trust, receiver, trustee, syndicate, the United States, this state, county, or any other group or combination acting as a unit, and includes the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) "Sale at retail" or "retail sale" means ~~a~~**1 OR MORE OF THE FOLLOWING:**

(i) A sale, lease, or rental of tangible personal property for any purpose other than for resale, sublease, or subrent.

(ii) BEGINNING JANUARY 1, 2010, THE SALE, LEASE, OR RENTAL OF SERVICES.

(c) "Gross proceeds" means sales price.

(d) "Sales price" means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, and applies to the measure subject to sales tax. Sales price includes the following subparagraphs (i) through (vii) and excludes subparagraphs (viii) through (x):

(i) Seller's cost of the property sold.

(ii) Cost of materials used, labor or service cost, interest, losses, costs of transportation to the seller, taxes imposed on the seller other than taxes imposed by this act, and any other expense of the seller.

(iii) Charges by the seller for any services **PROVIDED, INCLUDING SERVICES** necessary to complete the sale, other than ~~the following:~~

~~—— (A) An **AN** amount received or billed by the taxpayer for remittance to the employee as a gratuity or tip, if the gratuity or tip is separately identified and itemized on the guest check or billed to the customer.~~

~~—— (B) Labor or service charges involved in maintenance and repair work on tangible personal property of others if separately itemized.~~

(iv) Delivery charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property subject to the tax levied under this act from the seller to the purchaser. A seller is not liable under this act for delivery charges allocated to the delivery of exempt property.

(v) Installation charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

(vi) Credit for any trade-in.

(vii) Except as otherwise provided in subparagraph (x), consideration received by the seller from third parties if all of the following conditions are met:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale.

(B) The seller has an obligation to pass the price reduction or discount through to the purchaser.

1 (C) The amount of the consideration attributable to the sale
2 is fixed and determinable by the seller at the time of the sale
3 of the item to the purchaser.

4 (D) One of the following criteria is met:

5 (I) The purchaser presents a coupon, certificate, or other
6 documentation to the seller to claim a price reduction or
7 discount where the coupon, certificate, or documentation is
8 authorized, distributed, or granted by a third party with the
9 understanding that the third party will reimburse any seller to
10 whom the coupon, certificate, or documentation is presented.

11 (II) The purchaser identifies himself or herself to the
12 seller as a member of a group or organization entitled to a price
13 reduction or discount. A preferred customer card that is
14 available to any patron does not constitute membership in a group
15 or organization.

16 (III) The price reduction or discount is identified as a
17 third party price reduction or discount on the invoice received
18 by the purchaser or on a coupon, certificate, or other
19 documentation presented by the purchaser.

20 (viii) Interest, financing, or carrying charges from credit
21 extended on the sale of personal property or services, if the
22 amount is separately stated on the invoice, bill of sale, or
23 similar document given to the purchaser.

24 (ix) Any taxes legally imposed directly on the consumer that
25 are separately stated on the invoice, bill of sale, or similar
26 document given to the purchaser.

27 (x) Beginning January 1, 2000, employee discounts that are

1 reimbursed by a third party on sales of motor vehicles.

2 (e) "Business" includes an activity engaged in by a person
3 or caused to be engaged in by that person with the object of
4 gain, benefit, or advantage, either direct or indirect.

5 (f) "Tax year" or "taxable year" means the fiscal year of
6 the state or the taxpayer's fiscal year if permission is obtained
7 by the taxpayer from the department to use the taxpayer's fiscal
8 year as the tax period instead.

9 (g) "Department" means the department of treasury.

10 (h) "Taxpayer" means a person subject to a tax under this
11 act.

12 (i) "Tax" includes a tax, interest, or penalty levied under
13 this act.

14 (j) "Textiles" means goods that are made of or incorporate
15 woven or nonwoven fabric, including, but not limited to,
16 clothing, shoes, hats, gloves, handkerchiefs, curtains, towels,
17 sheets, pillows, pillow cases, tablecloths, napkins, aprons,
18 linens, floor mops, floor mats, and thread. Textiles also include
19 materials used to repair or construct textiles, or other goods
20 used in the rental, sale, or cleaning of textiles.

21 **(K) "SELLER" MEANS 1 OR MORE OF THE FOLLOWING:**

22 **(i) A PERSON WHO SELLS, LEASES, OR RENTS TANGIBLE PERSONAL**
23 **PROPERTY FOR ANY PURPOSE OTHER THAN FOR RESALE, SUBLEASE, OR**
24 **SUBRENT.**

25 **(ii) BEGINNING JANUARY 1, 2010, A PERSON WHO SELLS, LEASES,**
26 **OR RENTS SERVICES.**

27 **(l) "PURCHASER" MEANS 1 OR MORE OF THE FOLLOWING:**

1 (i) A PERSON WHO PURCHASES, LEASES, OR RENTS TANGIBLE
2 PERSONAL PROPERTY FOR ANY PURPOSE OTHER THAN FOR RESALE,
3 SUBLEASE, OR SUBRENT.

4 (ii) BEGINNING JANUARY 1, 2010, A PERSON WHO PURCHASES,
5 LEASES, OR RENTS SERVICES.

6 (2) If the department determines that it is necessary for
7 the efficient administration of this act to regard an unlicensed
8 person, including a salesperson, representative, peddler, or
9 canvasser as the agent of the dealer, distributor, supervisor, or
10 employer under whom the unlicensed person operates or from whom
11 the unlicensed person obtains the tangible personal property **OR**
12 **SERVICES** sold by the unlicensed person, irrespective of whether
13 the unlicensed person is making sales on the unlicensed person's
14 own behalf or on behalf of the dealer, distributor, supervisor,
15 or employer, the department may so regard the unlicensed person
16 and may regard the dealer, distributor, supervisor, or employer
17 as making sales at retail at the retail price for the purposes of
18 this act.

19 Sec. 2. (1) Except as provided in section 2a, there is
20 levied upon and there shall be collected from all persons engaged
21 in the business of making sales at retail, by which ownership of
22 tangible personal property is transferred for consideration, an
23 annual tax for the privilege of engaging in that business equal
24 to **THE FOLLOWING:**

25 **(A) BEFORE JANUARY 1, 2010,** 6% of the gross proceeds of the
26 business, plus the penalty and interest if applicable as provided
27 by law, less deductions allowed by this act. **THE 6% RATE LEVIED**

1 UNDER THIS SUBDIVISION IS COMPOSED OF A RATE OF 4% AND AN
2 ADDITIONAL RATE OF 2% UNDER SECTION 8 OF ARTICLE IX OF THE STATE
3 CONSTITUTION OF 1963, AS APPROVED BY THE ELECTORS ON MARCH 15,
4 1994.

5 (B) AFTER DECEMBER 31, 2009, 5% OF THE GROSS PROCEEDS OF THE
6 BUSINESS, PLUS THE PENALTY AND INTEREST IF APPLICABLE AS PROVIDED
7 BY LAW, LESS DEDUCTIONS ALLOWED BY THIS ACT. THE 5% RATE LEVIED
8 UNDER THIS SUBDIVISION IS COMPOSED OF A RATE OF 3% AND AN
9 ADDITIONAL RATE OF 2% UNDER SECTION 8 OF ARTICLE IX OF THE STATE
10 CONSTITUTION OF 1963, AS APPROVED BY THE ELECTORS ON MARCH 15,
11 1994.

12 (2) The tax under subsection (1) also applies to the
13 following:

14 (a) The transmission and distribution of electricity,
15 whether the electricity is purchased from the delivering utility
16 or from another provider, if the sale is made to the consumer or
17 user of the electricity for consumption or use rather than for
18 resale.

19 (b) The sale of a prepaid telephone calling card or a
20 prepaid authorization number for telephone use, rather than for
21 resale, including the reauthorization of a prepaid telephone
22 calling card or a prepaid authorization number.

23 (c) A conditional sale, installment lease sale, or other
24 transfer of property, if title is retained as security for the
25 purchase but is intended to be transferred later.

26 (D) BEGINNING JANUARY 1, 2010, THE PROVISION OF SERVICES FOR
27 CONSIDERATION.

(3) Any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation, or profession not taxable under this act shall keep books to show separately the transactions used in determining the tax levied by this act. If the person fails to keep separate books, there shall be levied upon him or her the tax provided for in subsection (1) equal to ~~6% of~~ **THE RATE LEVIED UNDER THIS ACT ON** the entire gross proceeds of both or all of his or her businesses. The taxes levied by this section are a personal obligation of the taxpayer.

(4) A meal provided free of charge or at a reduced rate to an employee during work hours by a food service establishment licensed by the Michigan department of agriculture for the convenience of the employer is not considered transferred for consideration.

Sec. 4. (1) In computing the amount of tax levied under this act for any month, a taxpayer not subject to section 6(2) may deduct the amount provided by subdivision (a) or (b), whichever is greater:

(a) If the tax that accrued to this state from the sales at retail during the preceding month is remitted to the department on or before the twelfth day of the month in which remittance is due, 0.75% of the tax due at a rate of 4% **BEFORE JANUARY 1, 2010 AND 3% AFTER DECEMBER 31, 2009** for the preceding monthly period, but not to exceed \$20,000.00 of the tax due for that month. If the tax that accrued to this state from the sales at retail during the preceding month is remitted to the department after

1 the twelfth day and on or before the twentieth day of the month
2 in which remittance is due, 0.50% of the tax due at a rate of 4%
3 **BEFORE JANUARY 1, 2010 AND 3% AFTER DECEMBER 31, 2009** for the
4 preceding monthly period, but not to exceed \$15,000.00 of the tax
5 due for that month.

6 (b) The tax at a rate of 4% **BEFORE JANUARY 1, 2010 AND 3%**
7 **AFTER DECEMBER 31, 2009** due on \$150.00 of taxable gross proceeds
8 for the preceding monthly period, or a prorated portion of
9 \$150.00 of the taxable gross proceeds for the preceding month if
10 the taxpayer engaged in business for less than a month.

11 (2) Beginning January 1, 1999, in computing the amount of
12 tax levied under this act for any month, a taxpayer who is
13 subject to section 6(2) may deduct from the amount of the tax
14 paid 0.50% of the tax due at a rate of 4% **BEFORE JANUARY 1, 2010**
15 **AND 3% AFTER DECEMBER 31, 2009.**

16 (3) A deduction is not allowed under this section for
17 payments of taxes made to the department after the day the
18 taxpayer is required to pay, pursuant to section 6, the tax
19 imposed by this act.

20 (4) If, pursuant to section 6(4), the department prescribes
21 the filing of returns and the payment of the tax for periods in
22 excess of 1 month, a taxpayer is entitled to a deduction from the
23 tax collections remitted to the department for the extended
24 payment period that is equivalent to the deduction allowed under
25 subsection (1) or (2) for monthly periods.

26 (5) The department may prescribe the filing of estimated
27 returns and annual periodic reconciliations as necessary to carry

1 out the purposes of this section.

2 (6) A seller registered under the streamlined sales and use
3 tax agreement may claim a deduction under this section if
4 provided for in the streamlined sales and use tax administration
5 act.

6 Sec. 4a. (1) Subject to subsection (2), the following **SALES**
7 **AT RETAIL** are exempt from the tax under this act:

8 (a) A **RETAIL** sale of tangible personal property not for
9 resale **OR SERVICES** to a nonprofit school, nonprofit hospital, or
10 nonprofit home for the care and maintenance of children or aged
11 persons operated by an entity of government, a regularly
12 organized church, religious, or fraternal organization, a
13 veterans' organization, or a corporation incorporated under the
14 laws of this state, if the income or benefit from the operation
15 does not inure, in whole or in part, to an individual or private
16 shareholder, directly or indirectly, and if the activities of the
17 entity or agency are carried on exclusively for the benefit of
18 the public at large and are not limited to the advantage,
19 interests, and benefits of its members or any restricted group. A
20 **RETAIL** sale of tangible personal property **OR SERVICES** to a parent
21 cooperative preschool is exempt from taxation under this act. As
22 used in this subdivision, "parent cooperative preschool" means a
23 nonprofit, nondiscriminatory educational institution, maintained
24 as a community service and administered by parents of children
25 currently enrolled in the preschool, that provides an educational
26 and developmental program for children younger than compulsory
27 school age, that provides an educational program for parents,

1 including active participation with children in preschool
2 activities, that is directed by qualified preschool personnel,
3 and that is licensed pursuant to 1973 PA 116, MCL 722.111 to
4 722.128.

5 (b) A **RETAIL** sale of tangible personal property not for
6 resale **OR SERVICES** to a regularly organized church or house of
7 religious worship, except the following:

8 (i) ~~Sales~~ **RETAIL SALES** in activities that are mainly
9 commercial enterprises.

10 (ii) ~~Sales~~ **RETAIL SALES** of vehicles licensed for use on
11 public highways other than a passenger van or bus with a
12 manufacturer's rated seating capacity of 10 or more that is used
13 primarily for the transportation of persons for religious
14 purposes.

15 (c) The **RETAIL** sale of food to bona fide enrolled students
16 by a school or other educational institution not operated for
17 profit.

18 (d) The **RETAIL** sale of a vessel designated for commercial
19 use of registered tonnage of 500 tons or more, if produced upon
20 special order of the purchaser, and bunker and galley fuel,
21 provisions, supplies, maintenance, and repairs for the exclusive
22 use of the vessel engaged in interstate commerce.

23 (e) A **RETAIL** sale of tangible personal property **OR SERVICES**
24 to persons engaged in a business enterprise and using or
25 consuming the tangible personal property in the tilling,
26 planting, caring for, or harvesting of the things of the soil; in
27 the breeding, raising, or caring for livestock, poultry, or

1 horticultural products, including transfers of livestock,
2 poultry, or horticultural products for further growth; or in the
3 direct gathering of fish, by net, line, or otherwise only by an
4 owner-operator of the business enterprise, not including a
5 charter fishing business enterprise. This exemption includes
6 machinery that is capable of simultaneously harvesting grain or
7 other crops and biomass and machinery used for the purpose of
8 harvesting biomass. This exemption includes agricultural land
9 tile, which means fired clay or perforated plastic tubing used as
10 part of a subsurface drainage system for land, and subsurface
11 irrigation pipe, if the land tile or irrigation pipe is used in
12 the production of agricultural products as a business enterprise.
13 This exemption includes a portable grain bin, which means a
14 structure that is used or is to be used to shelter grain and that
15 is designed to be disassembled without significant damage to its
16 component parts. This exemption also includes grain drying
17 equipment and natural or propane gas used to fuel that equipment
18 for agricultural purposes. This exemption does not include
19 transfers of food, fuel, clothing, or any similar tangible
20 personal property for personal living or human consumption. This
21 exemption does not include tangible personal property permanently
22 affixed and becoming a structural part of real estate. As used in
23 this subdivision, "biomass" means crop residue used to produce
24 energy or agricultural crops grown specifically for the
25 production of energy.

26 (f) The sale of a copyrighted motion picture film or a
27 newspaper or periodical admitted under federal postal laws and

1 regulations effective September 1, 1985 as second-class mail
2 matter or as a controlled circulation publication or qualified to
3 accept legal notices for publication in this state, as defined by
4 law, or any other newspaper or periodical of general circulation,
5 established not less than 2 years, and published not less than
6 once a week. Tangible personal property **OR SERVICES** used or
7 consumed in producing a copyrighted motion picture film, a
8 newspaper published more than 14 times per year, or a periodical
9 published more than 14 times per year, and not becoming a
10 component part of that film, newspaper, or periodical is subject
11 to the tax. Tangible personal property **OR SERVICES** used or
12 consumed in producing a newspaper published 14 times or less per
13 year or a periodical published 14 times or less per year and that
14 portion or percentage of tangible personal property used or
15 consumed in producing an advertising supplement that becomes a
16 component part of a newspaper or periodical is exempt from the
17 tax under this subdivision. ~~A claim for a refund for taxes paid~~
18 ~~before January 1, 1999, under this subdivision shall be made~~
19 ~~before June 30, 1999.~~ For purposes of this subdivision, tangible
20 personal property that becomes a component part of a newspaper or
21 periodical and consequently not subject to tax includes an
22 advertising supplement inserted into and circulated with a
23 newspaper or periodical that is otherwise exempt from tax under
24 this subdivision, if the advertising supplement is delivered
25 directly to the newspaper or periodical by a person other than
26 the advertiser, or the advertising supplement is printed by the
27 newspaper or periodical.

1 (g) A **RETAIL** sale of tangible personal property **OR SERVICES**
2 to persons licensed to operate commercial radio or television
3 stations if the property ~~is~~**OR SERVICES ARE** used in the
4 origination or integration of the various sources of program
5 material for commercial radio or television transmission. This
6 subdivision does not include a vehicle licensed and titled for
7 use on public highways or property used in the transmission to or
8 receiving from an artificial satellite.

9 (h) The **RETAIL** sale of a prosthetic device, durable medical
10 equipment, or mobility enhancing equipment.

11 (i) The **RETAIL** sale of a vehicle not for resale to a
12 Michigan nonprofit corporation organized exclusively to provide a
13 community with ambulance or fire department services.

14 (j) A **RETAIL** sale of tangible personal property to inmates
15 in a penal or correctional institution purchased with scrip or
16 its equivalent issued and redeemed by the institution.

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

20 (l) A **RETAIL** sale of **SERVICES FOR, OR** tangible personal
21 property installed as a component part of, a water pollution
22 control facility for which a tax exemption certificate is issued
23 pursuant to part 37 of the natural resources and environmental
24 protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air
25 pollution control facility for which a tax exemption certificate
26 is issued pursuant to part 59 of the natural resources and
27 environmental protection act, 1994 PA 451, MCL 324.5901 to

1 324.5908.

2 (m) The **RETAIL** sale or lease of the following to an
3 industrial laundry after December 31, 1997:

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

8 (ii) Equipment, whether owned or leased, used to repair and
9 dispense textiles including, but not limited to, roll towel
10 cabinets, slings, hardware, lockers, mop handles and frames, and
11 carts.

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

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

16 (v) Production washroom equipment and mending and packaging
17 supplies and equipment.

18 (vi) Material handling equipment including, but not limited
19 to, conveyors, racks, and elevators and related control
20 equipment.

21 (vii) Wastewater pretreatment equipment and supplies and
22 related maintenance and repair services.

23 (n) A **RETAIL** sale of tangible personal property to a person
24 holding a direct payment permit under section 8 of the use tax
25 act, 1937 PA 94, MCL 205.98.

26 **(O) A RETAIL SALE OF TANGIBLE PERSONAL PROPERTY OR SERVICES**
27 **SUBJECT TO THE TAX LEVIED UNDER THE USE TAX ACT, 1937 PA 94, MCL**

1 205.91 TO 205.111.

2 (2) The **RETAIL SALE OF** tangible personal property **OR**
 3 **SERVICES** under subsection (1) is exempt only to the extent that
 4 that property ~~is~~ **OR SERVICES ARE** used for the exempt purpose if
 5 one is stated in subsection (1). The exemption is limited to the
 6 percentage of exempt use to total use determined by a reasonable
 7 formula or method approved by the department.

8 **SEC. 4C. BEGINNING JANUARY 1, 2010, THE SALE OF THE**
 9 **FOLLOWING SERVICES MAY BE EXCLUDED FROM THE GROSS PROCEEDS USED**
 10 **TO CALCULATE THE TAX UNDER THIS ACT:**

11 (A) **SERVICES PROVIDED TO A BUSINESS ENTITY.**

12 (B) **EDUCATIONAL SERVICES.**

13 (C) **SERVICES PROVIDED BY A NONPROFIT ORGANIZATION.**

14 (D) **SERVICES PROVIDED BY A PHYSICIAN.**

15 Sec. 4d. The following are exempt from the tax under this
 16 act:

17 (a) The sale of tangible personal property to a person who
 18 is a lessor licensed under the use tax act, 1937 PA 94, MCL
 19 205.91 to 205.111, and whose rental receipts are taxed or
 20 specifically exempt under the use tax act.

21 (b) The sale of a vehicle acquired for lending or leasing to
 22 a public or parochial school for use in a course in driver
 23 education.

24 (c) The sale of a vehicle purchased by a public or parochial
 25 school if that vehicle is certified for driver education and is
 26 not reassigned for personal use by the school's administrative
 27 personnel.

1 (d) The sale of water through water mains, the sale of water
2 delivered in bulk tanks in quantities of not less than 500
3 gallons, or the sale of bottled water.

4 (e) The sale of tangible personal property to a person for
5 demonstration purposes. For a dealer selling a new car or truck,
6 the exemption for demonstration purposes shall be determined by
7 the number of new cars and trucks sold during the current
8 calendar year or the immediately preceding year without regard to
9 specific make or style in accordance with the following schedule
10 of 0 to 25, 2 units; 26 to 100, 7 units; 101 to 500, 20 units;
11 501 or more, 25 units; but not to exceed 25 cars and trucks in a
12 calendar year for demonstration purposes.

13 ~~—— (f) Specific charges for technical support or for adapting~~
14 ~~or modifying prewritten computer software programs to a~~
15 ~~purchaser's needs or equipment if those charges are separately~~
16 ~~stated and identified.~~

17 (F) ~~(g)~~ The sale of computer software originally designed
18 for the exclusive use and special needs of the purchaser.

19 (G) ~~(h)~~ The sale of a commercial advertising element if the
20 commercial advertising element is used to create or develop a
21 print, radio, television, or other advertisement, the commercial
22 advertising element is discarded or returned to the provider
23 after the advertising message is completed, and the commercial
24 advertising element is custom developed by the provider for the
25 purchaser. As used in this subdivision, "commercial advertising
26 element" means a negative or positive photographic image, an
27 audiotape or videotape master, a layout, a manuscript, writing of

1 copy, a design, artwork, an illustration, retouching, and
 2 mechanical or keyline instructions. This exemption does not
 3 include black and white or full color process separation
 4 elements, an audiotape reproduction, or a videotape reproduction.

5 (H) ~~(i)~~—A sale made outside of the ordinary course of the
 6 seller's business.

7 (I) ~~(j)~~—An isolated transaction by a person not licensed or
 8 required to be licensed under this act, in which tangible
 9 personal property is offered for sale, sold, or transferred and
 10 delivered by the owner.

11 (J) ~~(k)~~—The sale of oxygen for human use dispensed pursuant
 12 to a prescription.

13 (K) ~~(l)~~—The sale of insulin for human use.

14 (L) ~~(m)~~—Before January 1, 2014, the sale of tangible personal
 15 property for use in construction or renovation of a qualified
 16 convention facility under the regional convention facility
 17 authority act.

18 Sec. 4h. ~~Sales~~ **A SALE AT RETAIL** to the United States, its
 19 unincorporated agencies and instrumentalities, any incorporated
 20 agency or instrumentality of the United States wholly owned by
 21 the United States or by a corporation wholly owned by the United
 22 States, the American Red Cross and its chapters and branches, and
 23 this state or its departments and institutions or any of its
 24 political subdivisions are exempt from the tax under this act.

25 Sec. 4j. (1) A sale ~~of tangible personal property~~ **AT RETAIL**
 26 used in a qualified business activity of the purchaser is exempt
 27 from the tax under this act.

1 (2) As used in this section, "qualified business activity"
2 means that term as defined in the enterprise zone act, 1985 PA
3 224, MCL 125.2101 to 125.2123.

4 Sec. 4q. (1) A sale **AT RETAIL** of tangible personal property
5 **OR SERVICES** not for resale to the following, subject to
6 subsection (5), is exempt from the tax under this act:

7 (a) A health, welfare, educational, cultural arts,
8 charitable, or benevolent organization not operated for profit
9 that has been issued an exemption ruling letter to purchase items
10 exempt from tax before July 17, 1998 signed by the administrator
11 of the sales, use, and withholding taxes division of the
12 department.

13 (b) An organization not operated for profit and exempt from
14 federal income tax under section 501(c)(3) or 501(c)(4) of the
15 internal revenue code, 26 USC 501.

16 (2) The exemptions provided for in subsection (1) do not
17 apply to sales ~~of tangible personal property~~ **AT RETAIL** and sales
18 of vehicles licensed for use on public highways, that are not
19 used primarily to carry out the purposes of the organization as
20 stated in the bylaws or articles of incorporation of the exempt
21 entity.

22 (3) At the time of the transfer of the tangible personal
23 property **OR THE PROVISION OF SERVICES** exempt under subsection
24 (1), the transferee shall do 1 of the following:

25 (a) Present the exemption ruling letter signed by the
26 administrator of the sales, use, and withholding taxes division
27 of the department certifying that the property is to be used or

consumed **OR THE SERVICES SHALL BE UTILIZED** in connection with the operation of the organization.

(b) Present a signed statement, on a form approved by the department, stating that the property is to be used or consumed **OR THAT THE SERVICES WILL BE UTILIZED** in connection with the operation of the organization and that the organization qualifies as an exempt organization under this section. The transferee shall also provide to the transferor a copy of the federal exemption letter.

(4) The letter provided under subsection (3)(a) and the statement with the accompanying letter provided under subsection (3)(b) shall be accepted by all courts as prima facie evidence of the exemption and the statement shall provide that if the claim for tax exemption is disallowed, the transferee will reimburse the transferor for the amount of tax involved.

(5) The tangible personal property **OR SERVICES** under subsection (1) ~~is~~**ARE** exempt only to the extent that the property ~~is~~**OR SERVICES ARE** used to carry out the purposes of the organization as stated in the organization's bylaws or articles of incorporation. The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

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

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

1 (b) A person, whether or not the person is an industrial
2 processor, if the tangible personal property ~~is~~ **OR SERVICES ARE**
3 intended for ultimate use in and is used in industrial processing
4 by an industrial processor.

5 (c) A person, whether or not the person is an industrial
6 processor, if the tangible personal property **OR SERVICE** is used
7 by that person to perform an industrial processing activity for
8 or on behalf of an industrial processor.

9 (d) A person, whether or not the person is an industrial
10 processor, if the ~~tangible personal property~~ **RETAIL SALE** is 1 of
11 the following:

12 (i) A computer used in operating industrial processing
13 equipment.

14 (ii) Equipment used in a computer assisted manufacturing
15 system.

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

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

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

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

(2) The **TANGIBLE PERSONAL** property **OR SERVICES** under subsection (1) ~~is~~**ARE** exempt only to the extent that the property ~~is~~**OR SERVICES ARE** used for the exempt purpose stated in this section. The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

(3) Industrial processing includes the following activities:

(a) Production or assembly.

(b) Research or experimental activities.

(c) Engineering related to industrial processing.

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

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

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

(g) Remanufacturing.

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

(i) Recycling of used materials for ultimate sale at retail

1 or reuse.

2 (j) Production material handling.

3 (k) Storage of in-process materials.

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

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

8 (b) Machinery, equipment, tools, dies, patterns, foundations
9 for machinery or equipment, or other processing equipment used in
10 an industrial processing activity and in their repair and
11 maintenance.

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

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

18 (e) Fuel or energy used or consumed for an industrial
19 processing activity.

20 (f) Machinery, equipment, or materials used within a plant
21 site or between plant sites operated by the same person for
22 movement of tangible personal property in the process of
23 production.

24 (g) Office equipment, including data processing equipment,
25 used for an industrial processing activity.

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

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

8 (b) Office equipment, including data processing equipment
9 used for nonindustrial processing purposes.

10 (c) Office furniture or office supplies.

11 (d) An industrial processor's own product or finished good
12 that it uses or consumes for purposes other than industrial
13 processing.

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

17 (f) Tangible personal property used for receiving or storage
18 of natural resources extracted by the user or consumer.

19 (g) Vehicles, including special bodies or attachments,
20 required to display a vehicle permit or license plate to operate
21 on public highways, except for a vehicle bearing a manufacturer's
22 plate or a specially designed vehicle, together with parts, used
23 to mix and agitate materials at a plant or job site in the
24 concrete manufacturing process.

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

1 (i) Tangible personal property used or consumed for the
2 preservation or maintenance of a finished good once it first
3 comes to rest in finished goods inventory storage.

4 (j) Returnable shipping containers or materials, except as
5 provided in subsection (4)(f).

6 (k) Tangible personal property used in the production of
7 computer software originally designed for the exclusive use and
8 special needs of the purchaser.

9 (6) Industrial processing does not include the following
10 activities:

11 (a) Purchasing, receiving, or storage of raw materials.

12 (b) Sales, distribution, warehousing, shipping, or
13 advertising activities.

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

15 (d) Design, engineering, construction, or maintenance of
16 real property and nonprocessing equipment.

17 (e) Plant security, fire prevention, or medical or hospital
18 services.

19 (7) As used in this section:

20 (a) "Industrial processing" means the activity of converting
21 or conditioning tangible personal property by changing the form,
22 composition, quality, combination, or character of the property
23 for ultimate sale at retail or for use in the manufacturing of a
24 product to be ultimately sold at retail. Industrial processing
25 begins when tangible personal property begins movement from raw
26 materials storage to begin industrial processing and ends when
27 finished goods first come to rest in finished goods inventory

1 storage.

2 (b) "Industrial processor" means a person who performs the
3 activity of converting or conditioning tangible personal property
4 for ultimate sale at retail or use in the manufacturing of a
5 product to be ultimately sold at retail.

6 (c) "Product", as used in subdivision (e), includes, but is
7 not limited to, a prototype, pilot model, process, formula,
8 invention, technique, patent, or similar property, whether
9 intended to be used in a trade or business or to be sold,
10 transferred, leased, or licensed.

11 (d) "Remanufacturing" means the activity of overhauling,
12 retrofitting, fabricating, or repairing a product or its
13 component parts for ultimate sale at retail.

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

20 (i) Ordinary testing or inspection of materials or products
21 for quality control purposes.

22 (ii) Efficiency surveys.

23 (iii) Management surveys.

24 (iv) Market or consumer surveys.

25 (v) Advertising or promotions.

26 (vi) Research in connection with literacy, historical, or
27 similar projects.

1 Sec. 4u. (1) A **RETAIL** sale of tangible personal property **OR**
2 **SERVICES** to an extractive operator for use or consumption in
3 extractive operations is exempt from the tax under this act.

4 (2) The **TANGIBLE PERSONAL** property **OR SERVICES** under
5 subsection (1) ~~is~~**ARE** exempt only to the extent that the property
6 ~~is~~**OR SERVICES ARE** used for the exempt purposes stated in this
7 section. The exemption is limited to the percentage of exempt use
8 to total use determined by a reasonable formula or method
9 approved by the department.

10 (3) Extractive operations include the actual production of
11 oil, gas, brine, or other natural resources. Property eligible
12 for the exemption includes the following:

13 (a) Casing pipe or drive pipe.

14 (b) Tubing.

15 (c) Well-pumping equipment.

16 (d) Chemicals.

17 (e) Explosives or acids used in fracturing, acidizing, or
18 shooting wells.

19 (f) Christmas trees, derricks, or other wellhead equipment.

20 (g) Treatment tanks.

21 (h) Piping, valves, or pumps used before movement or
22 transportation of the natural resource from the production area.

23 (i) Chemicals or acids used in the treatment of crude oil,
24 gas, brine, or other natural resources.

25 (j) Tangible personal property used or consumed in
26 depositing tailings from hard rock mining processing.

27 (k) Tangible personal property used or consumed in

1 extracting the lithologic units necessary to process iron ore.

2 (4) The extractive operation exemption does not include the
3 following:

4 (a) Tangible personal property consumed or used in the
5 construction, alteration, improvement, or repair of buildings,
6 storage tanks, and storage and housing facilities.

7 (b) Tangible personal property consumed or used in
8 transporting the product from the place of extraction, except for
9 tangible personal property consumed or used in transporting
10 extracted materials from the extraction site to the place where
11 the extracted materials first come to rest in finished goods
12 inventory storage.

13 (c) Tangible personal property that is a product the
14 extractive operator produces and that is consumed or used by the
15 extractive operator for a purpose other than the manufacturing or
16 producing of a product for ultimate sale. The extractor shall
17 account for and remit the tax to this state based upon the
18 product's fair market value.

19 (d) Equipment, materials, and supplies used in exploring,
20 prospecting, or drilling for oil, gas, brine, or other natural
21 resources.

22 (e) Equipment, materials, and supplies used in the storing,
23 withdrawing, or distribution of oil, gas, or brine from a storage
24 facility.

25 (f) Vehicles, including special bodies or attachments,
26 required to display a vehicle permit or license plate to operate
27 on public highways.

(5) As used in this section:

(a) "Extractive operations" means the activity of taking or extracting for resale ore, oil, gas, coal, timber, stone, gravel, clay, minerals, or other natural resource material. An extractive operation begins when contact is made with the actual type of natural raw product being recovered. Extractive operation includes all necessary processing operations before shipment from the place of extraction. Extractive operations include all necessary processing operations and movement of the natural resource material until the point at which the natural raw product being recovered first comes to rest in finished goods inventory storage at the extraction site. Extractive operations for timber include transporting timber from the point of extraction to a place of temporary storage at the extraction site and loading or transporting timber from a place of temporary storage at the extraction site to a vehicle or other equipment located at the extraction site that will remove the timber from the extraction site.

(b) An extractive operator is a person who, either directly or by contract, performs extractive operations.

Sec. 4w. (1) For taxes levied after June 30, 1999, a **RETAIL** sale of tangible personal property **OR SERVICES** to a person directly engaged in the business of constructing, altering, repairing, or improving real estate for others to the extent that the **SERVICES ARE USED FOR, OR THE** property is affixed to and made a structural part of, a nonprofit hospital or a nonprofit housing entity qualified as exempt under section 15a of the state housing

development authority act of 1966, 1966 PA 346, MCL 125.1415a, is exempt from the tax under this act. For purposes of a county long-term medical care facility, "affixed to and made a structural part of" means any physical connection to an existing county long-term medical care facility.

(2) An exemption shall not be granted under this section for any portion of property **OR SERVICES** otherwise qualifying for exemption under this section if income or a benefit inures directly or indirectly to an individual, private stockholder, or other private person from the independent or nonessential operation of that portion of property.

(3) As used in this section:

(a) "Nonprofit hospital" means 1 of the following:

(i) That portion of a building to which 1 of the following applies:

(A) Is owned or operated by an entity exempt under section 501(c)(3) of the internal revenue code, 26 USC 501, that is licensed as a hospital under part 215 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21571.

(B) Is owned or operated by a governmental unit in which medical attention is provided.

(C) Is owned or operated by an entity or entities exempt under section 501(c)(2) or (3) of the internal revenue code, 26 USC 501, in which medical attention is provided.

(ii) That portion of real property necessary and related to a building described in subparagraph (i) in which medical attention is provided.

1 (iii) A county long-term medical care facility, including any
2 addition to an existing county long-term medical care facility,
3 if the addition is owned and operated by either the county or the
4 county long-term medical care facility and offers health services
5 provided by the county long-term medical care facility. An
6 exemption under this section shall be granted until January 1,
7 2008, regardless of whether the addition is licensed as a nursing
8 home or skilled nursing facility under part 217 of the public
9 health code, 1978 PA 368, MCL 333.21701 to 333.21799e, or whether
10 the addition meets the requirements set forth in subsection (1).

11 (b) "Nonprofit hospital" does not include the following:

12 (i) A freestanding building or other real property of a
13 nursing home or skilled nursing facility licensed under part 217
14 of the public health code, 1978 PA 368, MCL 333.21701 to
15 333.21799e.

16 (ii) A hospice licensed under part 214 of the public health
17 code, 1978 PA 368, MCL 333.21401 to 333.21420.

18 (iii) A home for the aged licensed under part 213 of the
19 public health code, 1978 PA 368, MCL 333.21301 to 333.21335.

20 (c) "Medical attention" means that level of medical care in
21 which a physician provides acute care or active treatment of
22 medical, surgical, obstetrical, psychiatric, chronic, or
23 rehabilitative conditions, that require the observation,
24 diagnosis, and daily treatment by a physician.

25 Sec. 5b. (1) The organizing entity of a qualified athletic
26 event that sells corporate sponsor contracts for the event that
27 include both taxable tangible personal property and services may

1 exempt the retail sale of the taxable tangible personal property
2 **AND SERVICES** if all of the following criteria have been met:

3 (a) The organizing entity is exempt or is wholly owned by an
4 entity exempt under section 501(c)(6) of the internal revenue
5 code, 26 USC 501.

6 (b) The organizing entity provided both of the following to
7 the department at least 60 days in advance of entering into the
8 first corporate sponsor contract:

9 (i) Written notice of its intent to enter into corporate
10 sponsor contracts.

11 (ii) An itemized schedule of the tangible personal property
12 and services that will be provided under each corporate sponsor
13 contract.

14 (c) The department has given written approval to the
15 organizing entity.

16 (2) As used in this section, "qualified athletic event"
17 means 1 or more of the following:

18 (a) A professional sporting competition in which individuals
19 officially representing at least 2 countries or nations compete.

20 (b) A professional football competition in which teams
21 compete in a postseason event to determine the league champion.

22 (c) A professional golfers' association competition in which
23 individuals compete in an event to determine a champion.

24 (d) A collegiate basketball competition in which teams
25 compete in a postseason event to determine the national champion.

26 (e) A collegiate hockey competition in which teams compete
27 in a postseason event to determine the national champion.

(3) This section is repealed effective January 1, 2011.

Sec. 6. (1) Each taxpayer, unless otherwise provided by law or as required pursuant to subsection (2), (4), or (5), on or before the twentieth day of each month shall make out a return for the preceding month on a form prescribed by the department showing the entire amount of all **RETAIL** sales and gross proceeds of his or her business, the allowable deductions, and the amount of tax for which he or she is liable. The taxpayer shall also transmit the return, together with a remittance for the amount of the tax, to the department on or before the twentieth day of that month.

(2) Beginning January 1, 1999, each taxpayer that had a total tax liability after subtracting the tax payments made to the secretary of state under this act or the use tax act, 1937 PA 94, MCL 205.91 to 205.111, or after subtracting the tax credits available under section 6a, in the immediately preceding calendar year of \$720,000.00 or more shall remit to the department, by an electronic funds transfer method approved by the department on or before the twentieth day of the month, an amount equal to 50% of the taxpayer's liability under this act for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported, whichever is less, plus a reconciliation payment equal to the difference between the tax liability determined for the immediately preceding month minus the amount of tax previously paid for that month. Additionally, the seller shall remit to the department, by an electronic funds transfer method approved by the department on or before the last

1 day of the month, an amount equal to 50% of the taxpayer's
2 liability under this act for the same month in the immediately
3 preceding calendar year, or 50% of the actual liability for the
4 month being reported, whichever is less.

5 (3) The tax imposed under this act shall accrue to this
6 state on the last day of the month in which the sale is incurred.

7 (4) The department, if necessary to insure payment of the
8 tax or to provide a more efficient administration, may require
9 the filing of returns and payment of the tax for other than
10 monthly periods.

11 (5) A taxpayer who is a materialperson may at the option of
12 the taxpayer include the amount of all taxable **RETAIL** sales and
13 gross proceeds from materials furnished to an owner, contractor,
14 subcontractor, repairperson, or consumer on a credit sale basis
15 for the purpose of making an improvement to real property in his
16 or her return in the first quarterly return due following the
17 date in which the materialperson made the credit sale to the
18 owner, contractor, subcontractor, repairperson, or consumer.
19 Notwithstanding subsections (1) through (3), a materialperson may
20 at the option of the taxpayer file quarterly returns for a credit
21 sale only as determined by the department. As used in this
22 subsection, "credit sale" means an extension of credit for the
23 sale of taxable goods by a seller other than a credit card sale;
24 and "materialperson" means a person who provides materials for
25 the improvement of real property, who has registered with and has
26 demonstrated to the department that he or she is primarily
27 engaged in the sale of lumber and building material related

1 products to owners, contractors, subcontractors, repairpersons,
2 or consumers, and who is authorized to file a construction lien
3 upon real property and improvements under the construction lien
4 act, 1980 PA 497, MCL 570.1101 to 570.1305.

5 (6) If a due date falls on a Saturday, Sunday, state
6 holiday, or legal banking holiday, the taxes are due on the next
7 succeeding business day.

8 Sec. 10. (1) If a taxpayer refunds or provides a credit for
9 all or a portion of the amount of the purchase price of **SERVICES**
10 **OR** returned tangible personal property within the time period for
11 returns stated in the taxpayer's refund policy or 180 days after
12 the initial **RETAIL** sale, whichever is sooner, the taxpayer shall
13 also refund or provide a credit for the tax levied under this act
14 that the taxpayer added to all or that portion of the amount of
15 the purchase price that is refunded or credited.

16 (2) A cause of action against a seller for overcollected
17 sales or use taxes does not accrue until a purchaser has provided
18 written notice to a seller and the seller has had 60 days to
19 respond. The purchaser shall provide in the notice sufficient
20 information to determine the validity of the request. In matters
21 relating to the request, a seller is presumed to have a
22 reasonable business practice if in the collection of sales and
23 use tax, the seller has a certified service provider or a system,
24 including a proprietary system, certified by the department and
25 has remitted to this state all taxes collected less any
26 deductions, credits, or collection allowances.

27 (3) If a taxpayer tenders an amount to a buyer under section

1 10a of 1976 PA 449, MCL 445.360a, the taxpayer shall refund the
 2 tax levied under this act on the difference between the price
 3 stamped or affixed to the item and the price charged.

4 Sec. 16a. (1) ~~It shall be the duty of each~~ **THE** assessing
 5 officer of each city, village, or township in preparing the
 6 annual property tax roll of personal property ~~to~~ **SHALL** show on
 7 the assessment roll the sales tax license number of each person
 8 engaged in the business of making retail sales ~~of tangible~~
 9 ~~personal property~~ subject to tax under this act. ~~It shall be the~~
 10 ~~duty of each said~~ **EACH** assessing officer ~~to~~ **SHALL** immediately
 11 report to the department ~~of revenue~~ the name and address and type
 12 of business of any person found ~~in the business of making such~~
 13 retail sales and not licensed ~~to do so as required by section 3~~
 14 ~~of~~ **UNDER** this act.

15 (2) Any city, village, or township clerk, ~~marketmaster, or~~
 16 any other state, county, or municipal official whose duty it is
 17 to issue licenses or permits to engage in a business involving
 18 ~~the sale at retail of tangible personal property~~ **RETAIL SALES**
 19 subject to tax under this act shall, before issuing ~~such a~~
 20 license or permit, require proof that the person to whom ~~such~~
 21 **THAT** license or permit is to be issued ~~is the holder of~~ **HAS** a
 22 sales tax license as required ~~by section 3 of~~ **UNDER** this act or
 23 has applied to the department ~~of revenue for such~~ **FOR A** license.

24 (3) Any city, village, township, or state officer who ~~shall~~
 25 ~~receive~~ **RECEIVES** information ~~which~~ **THAT** leads him **OR HER** to
 26 believe that a person making retail sales subject to tax under
 27 this act is about to close ~~his~~ **THAT PERSON'S** business or cease

1 making retail sales shall immediately notify the department of
2 ~~revenue of this fact in order that~~ **AND** the department may make
3 ~~such investigation as may be~~ **INVESTIGATE AS** necessary to protect
4 the interests of ~~the~~ **THIS** state.

5 Sec. 19. (1) For sourcing a sale at retail for taxation
6 under this act, the following apply:

7 (a) If a product **OR SERVICE** is received by the purchaser at
8 a business location of the seller, the sale is sourced to that
9 business location.

10 (b) If a product **OR SERVICE** is not received by the purchaser
11 at a business location of the seller, the sale is sourced to the
12 location where the product **OR SERVICE** is received by the
13 purchaser or the purchaser's designee, including the location
14 indicated by instructions for delivery to the purchaser, known to
15 the seller.

16 (c) If subdivision (a) or (b) does not apply, the sale is
17 sourced to the location indicated by an address for the purchaser
18 available from the seller's business records maintained in the
19 ordinary course of the seller's business, provided use of the
20 address does not constitute bad faith.

21 (d) If subdivisions (a) through (c) do not apply, the sale
22 is sourced to the location indicated by an address for the
23 purchaser obtained at the completion of the sale, including the
24 address of the purchaser's payment instrument if no other address
25 is available, provided use of the address does not constitute bad
26 faith.

27 (e) If subdivisions (a) through (d) do not apply or the

1 seller has insufficient information to apply subdivisions (a)
2 through (d), the sale will be sourced to the location indicated
3 by the address from which the tangible personal property was
4 shipped, **FROM WHICH THE SERVICES WERE PROVIDED**, or from which the
5 computer software delivered electronically was first available
6 for transmission by the seller.

7 (2) For sourcing the lease or rental of tangible personal
8 property, other than property included in subsection (3) or (4),
9 for taxation under this act, the following apply:

10 (a) For a lease or rental requiring recurring periodic
11 payments, the first payment is sourced in the same manner
12 provided for a retail sale in subsection (1). Subsequent payments
13 shall be sourced to the primary property location for each period
14 covered by the payment as indicated by the address of the
15 property provided by the lessee and available to the lessor from
16 the lessor's records maintained in the ordinary course of
17 business, when use of this address does not constitute bad faith.
18 The property location is not considered altered by intermittent
19 use at different locations such as business property that
20 accompanies employees on business trips or service calls.

21 (b) For a lease or rental not requiring recurring periodic
22 payments, the payment is sourced in the same manner provided for
23 a retail sale in subsection (1).

24 (3) For sourcing the lease or rental of motor vehicles,
25 trailers, semitrailers, or aircraft that are not transportation
26 equipment, the following apply:

27 (a) For a lease or rental requiring recurring periodic

1 payments, each payment is sourced to the primary property
2 location as indicated by the address of the property provided by
3 the lessee and available to the lessor from the lessor's records
4 maintained in the ordinary course of business, when use of this
5 address does not constitute bad faith. The property location is
6 not considered altered by intermittent use at a different
7 location.

8 (b) For a lease or rental not requiring recurring periodic
9 payments, the payment is sourced in the same manner provided for
10 a retail sale in subsection (1).

11 (4) The lease or rental of transportation equipment shall be
12 sourced in the same manner provided for a retail sale in
13 subsection (1).

14 (5) Subsections (2) and (3) do not affect the imposition or
15 computation of sales tax on leases or rentals based on a lump-sum
16 or accelerated basis or on the acquisition of property for lease.

17 (6) As used in this section:

18 (a) "Receive" and "receipt" mean 1 or more of the following
19 but exclude possession by a shipping company on behalf of the
20 purchaser:

21 (i) Taking possession of tangible personal property.

22 (ii) Making first use of services.

23 (b) "Transportation equipment" means 1 or more of the
24 following:

25 (i) Locomotives and railcars utilized for the carriage of
26 persons or property in interstate commerce.

27 (ii) Trucks and truck-tractors with a gross vehicle weight

rating of 10,001 pounds or greater, trailers, semitrailers, or passenger buses, which are registered through the international registration plan and operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(iii) Aircraft operated by air carriers authorized and certificated by the United States department of transportation or other federal or foreign authority to transport air cargo or passengers in interstate or foreign commerce.

(iv) Containers designed for use on or component parts attached or secured to the equipment included in subparagraphs (i) to (iii).

(7) A person may deviate from the sourcing requirements under this section as provided in section ~~20 or~~ 21.

Sec. 23. (1) A person engaged in the business of ~~selling tangible personal property at retail~~ **MAKING SALES AT RETAIL** shall not advertise or hold out to the public in any manner, directly or indirectly, that the tax imposed under this act is not considered as an element in the price to the consumer. This act does not prohibit any taxpayer from reimbursing himself or herself by adding to the sale price any tax levied by this act.

(2) Subject to subsection (3), in determining amounts to be added to the sales prices for reimbursement purposes, the seller shall compute the tax to the third decimal place and round up to a whole cent when the third decimal place is greater than 4 or round down to a whole cent when the third decimal place is 4 or

1 less.

2 (3) The following brackets may be used through December 31,
3 2005 by retailers in determining amounts to be added to sales
4 prices for reimbursement purposes:

5 Amount of Sale	Tax
6 1 cent to 10 cents.....	0
7 11 cents to 24 cents.....	1 cent
8 25 cents to 41 cents.....	2 cents
9 42 cents to 58 cents.....	3 cents
10 59 cents to 74 cents.....	4 cents
11 75 cents to 91 cents.....	5 cents
12 92 cents to 99 cents.....	6 cents
13 For \$1.00 and each multiple of \$1.00, 6% of the sale price.	

14 (4) A person other than this state may not enrich himself or
15 herself or gain any benefit from the collection or payment of the
16 tax.

17 (5) A person subject to tax under this act shall not
18 separately state on an invoice, bill of sale, or other similar
19 document given to the purchaser the tax imposed under the tobacco
20 products tax act, 1993 PA 327, MCL 205.421 to 205.436.

21 Sec. 25. (1) All money received and collected under this act
22 shall be deposited by the department in the state treasury to the
23 credit of the general fund, except as otherwise provided in this
24 section.

25 (2) ~~Fifteen percent~~ **BEFORE JANUARY 1, 2010, 15%** of the
26 collections of the tax imposed at a rate of 4% shall be
27 distributed to cities, villages, and townships pursuant to the

1 Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL
2 141.901 to 141.921.

3 (3) BEGINNING JANUARY 1, 2010, 20% OF THE COLLECTIONS OF THE
4 TAX IMPOSED AT A RATE OF 5% SHALL BE DISTRIBUTED TO CITIES,
5 VILLAGES, AND TOWNSHIPS PURSUANT TO THE GLENN STEIL STATE REVENUE
6 SHARING ACT OF 1971, 1971 PA 140, MCL 141.901 TO 141.921.

7 (4) ~~(3) Sixty percent~~ BEFORE JANUARY 1, 2010, 60% of the
8 collections of the tax imposed at a rate of 4% shall be deposited
9 in the state school aid fund established in section 11 of article
10 IX of the state constitution of 1963 and distributed as provided
11 by law. In addition, all of the collections of the tax imposed at
12 the additional rate of 2% approved by the electors March 15, 1994
13 shall be deposited in the state school aid fund.

14 (5) BEGINNING JANUARY 1, 2010, 75% OF THE COLLECTIONS OF THE
15 TAX IMPOSED AT A RATE OF 5% SHALL BE DEPOSITED IN THE STATE
16 SCHOOL AID FUND ESTABLISHED IN SECTION 11 OF ARTICLE IX OF THE
17 STATE CONSTITUTION OF 1963 AND DISTRIBUTED AS PROVIDED BY LAW.

18 (6) ~~(4) For the fiscal year ending September 30, 1988 and~~
19 ~~each THROUGH THE~~ fiscal year ending ~~after~~ September 30, ~~1988~~
20 2010, of the 25% of the collections of the general sales tax
21 imposed at a rate of 4% directly or indirectly on fuels sold to
22 propel motor vehicles upon highways, on the sale of motor
23 vehicles, and on the sale of the parts and accessories of motor
24 vehicles by new and used car businesses, used car businesses,
25 accessory dealer businesses, and gasoline station businesses as
26 classified by the department of treasury remaining after the
27 allocations and distributions are made pursuant to subsections

(2) and ~~(3)~~-(4), the following amounts shall be deposited each year into the respective funds:

(a) For the fiscal year ending September 30, 2003 and for the fiscal year ending September 30, 2006 and each fiscal year ending after September 30, 2006, not less than 27.9% to the comprehensive transportation fund. For the fiscal year ending September 30, 2004 through the fiscal year ending September 30, 2005, not less than 24% to the comprehensive transportation fund. For the fiscal year ending September 30, 2006 only, the amount deposited to the comprehensive transportation fund under this subdivision shall be reduced by \$11,100,000.00. For the fiscal year ending September 30, 2007 only, the amount deposited to the comprehensive transportation fund under this subdivision shall be reduced by \$10,270,000.00. For the fiscal year ending September 30, 2008 only, the amount deposited to the comprehensive transportation fund under this subdivision shall be reduced by \$5,000,000.00 and shall be deposited in the state treasury to the credit of the general fund.

(b) The balance to the state general fund.

(7) FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2011 AND EACH FISCAL YEAR ENDING AFTER SEPTEMBER 30, 2011, OF THE 25% OF THE COLLECTIONS OF THE GENERAL SALES TAX IMPOSED AT A RATE OF 5% DIRECTLY OR INDIRECTLY ON FUELS SOLD TO PROPEL MOTOR VEHICLES UPON HIGHWAYS, ON THE SALE OF MOTOR VEHICLES, AND ON THE SALE OF THE PARTS AND ACCESSORIES OF MOTOR VEHICLES BY NEW AND USED CAR BUSINESSES, USED CAR BUSINESSES, ACCESSORY DEALER BUSINESSES, AND GASOLINE STATION BUSINESSES AS CLASSIFIED BY THE DEPARTMENT OF

1 TREASURY REMAINING AFTER THE ALLOCATIONS AND DISTRIBUTIONS ARE
2 MADE PURSUANT TO SUBSECTIONS (3) AND (5), THE FOLLOWING AMOUNTS
3 SHALL BE DEPOSITED EACH YEAR INTO THE RESPECTIVE FUNDS:

4 (A) FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2011 AND EACH
5 FISCAL YEAR ENDING AFTER SEPTEMBER 30, 2011, NOT LESS THAN 27.9%
6 TO THE COMPREHENSIVE TRANSPORTATION FUND.

7 (B) THE BALANCE TO THE STATE GENERAL FUND.

8 (8) ~~(5) After~~ BEFORE JANUARY 1, 2010, AFTER the allocations
9 and distributions are made pursuant to subsections (2) and ~~(3)~~
10 (4), an amount equal to the collections of the tax imposed at a
11 rate of 4% under this act from the sale at retail of computer
12 software as defined in section 1a shall be deposited in the
13 Michigan health initiative fund created in section 5911 of the
14 public health code, 1978 PA 368, MCL 333.5911, and shall be
15 considered in addition to, and is not intended as a replacement
16 for any other money appropriated to the department of community
17 health. The funds deposited in the Michigan health initiative
18 fund on an annual basis shall not be less than \$9,000,000.00 or
19 more than \$12,000,000.00.

20 (9) BEGINNING JANUARY 1, 2010, AFTER THE ALLOCATIONS AND
21 DISTRIBUTIONS ARE MADE PURSUANT TO SUBSECTIONS (3) AND (5), AN
22 AMOUNT EQUAL TO THE COLLECTIONS OF THE TAX IMPOSED AT A RATE OF
23 5% UNDER THIS ACT FROM THE SALE AT RETAIL OF COMPUTER SOFTWARE AS
24 DEFINED IN SECTION 1A SHALL BE DEPOSITED IN THE MICHIGAN HEALTH
25 INITIATIVE FUND CREATED IN SECTION 5911 OF THE PUBLIC HEALTH
26 CODE, 1978 PA 368, MCL 333.5911, AND SHALL BE CONSIDERED IN
27 ADDITION TO, AND IS NOT INTENDED AS A REPLACEMENT FOR, ANY OTHER

1 MONEY APPROPRIATED TO THE DEPARTMENT OF COMMUNITY HEALTH. THE
2 FUNDS DEPOSITED IN THE MICHIGAN HEALTH INITIATIVE FUND ON AN
3 ANNUAL BASIS SHALL NOT BE LESS THAN \$9,000,000.00 OR MORE THAN
4 \$12,000,000.00.

5 (10) ~~(6)~~—The balance in the state general fund shall be
6 disbursed only on an appropriation or appropriations by the
7 legislature.

8 Enacting section 1. This amendatory act does not take effect
9 unless Senate Joint Resolution ____ or House Joint Resolution
10 KK(request no. 04558'09 a) of the 95th Legislature becomes a
11 part of the state constitution of 1963 as provided in section 1
12 of article XII of the state constitution of 1963.

13 Enacting section 2. This amendatory act does not take effect
14 unless Senate Bill No. ____ or House Bill No. 5529(request no.
15 05070'09) of the 95th Legislature is enacted into law.