

SUBSTITUTE FOR
SENATE BILL NO. 370

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4t (MCL 205.54t), as amended by 2010 PA 116.

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), is
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
11 processor, if the tangible personal property is used by that person

1 to perform an industrial processing activity for or on behalf of an
2 industrial processor.

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

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

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

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

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

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

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

25 (2) The property under subsection (1) is exempt only to the
26 extent that the property is used for the exempt purpose stated in
27 this section. The exemption is limited to the percentage of exempt

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

3 (3) Industrial processing includes the following activities:

4 (a) Production or assembly.

5 (b) Research or experimental activities.

6 (c) Engineering related to industrial processing.

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

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

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

15 (g) Remanufacturing.

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

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

20 (j) Production material handling.

21 (k) Storage of in-process materials.

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

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

26 (b) Machinery, equipment, tools, dies, patterns, foundations
27 for machinery or equipment, or other processing equipment used in

1 an industrial processing activity and in their repair and
2 maintenance.

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

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

9 (e) Fuel or energy used or consumed for an industrial
10 processing activity.

11 (f) Machinery, equipment, or materials used within a plant
12 site or between plant sites operated by the same person for
13 movement of tangible personal property in the process of
14 production. Property exempt under this subdivision includes front
15 end loaders, forklifts, pettibone lifts, skidsters, multipurpose
16 loaders, knuckle-boom log loaders, tractors, and log loaders used
17 to unload logs from trucks at a saw mill site for the purpose of
18 processing at the site and to load lumber onto trucks at a saw mill
19 site for purposes of transportation from the site.

20 (g) Office equipment, including data processing equipment,
21 used for an industrial processing activity.

22 **(H) TANGIBLE PERSONAL PROPERTY USED OR CONSUMED IN AN**
23 **INDUSTRIAL PROCESSING ACTIVITY TO PRODUCE ALCOHOLIC BEVERAGES THAT**
24 **ARE SOLD AT RETAIL BY THAT INDUSTRIAL PROCESSOR THROUGH ITS OWN**
25 **RETAIL LOCATIONS.**

26 (5) Property that is not eligible for an industrial processing
27 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 point
6 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 used
9 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 storage
15 of materials, supplies, parts, or components purchased by the user
16 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 on
21 public highways, except for a vehicle bearing a manufacturer's
22 plate or a specially designed vehicle, together with parts, used to
23 mix and agitate materials at a plant or job site in the concrete
24 manufacturing process.

25 (h) Tangible personal property used for the preparation of
26 food or beverages by a retailer for ultimate sale at retail through
27 its own locations, **EXCEPT AS PROVIDED IN SUBSECTION (4) (H) .**

1 (i) Tangible personal property used or consumed for the
2 preservation or maintenance of a finished good once it first comes
3 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 advertising
13 activities.

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

15 (d) Design, engineering, construction, or maintenance of real
16 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 for
23 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 intended
9 to be used in a trade or business or to be sold, transferred,
10 leased, or licensed.

11 (d) "Remanufacturing" means the activity of overhauling,
12 retrofitting, fabricating, or repairing a product or its component
13 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 satisfy
18 a government standard or to receive government approval. Research
19 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 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No. 369 of the 98th Legislature is enacted into
3 law.