

HOUSE BILL No. 5880

September 15, 2016, Introduced by Rep. Lyons 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 2012 PA 474.

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 under the general sales tax act, 1933 PA 167, MCL 205.51 to
5 205.78, if the tax was due and paid on the retail sale to a
6 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) All of the following:

11 (i) Property purchased for resale. Property purchased for

1 resale includes promotional merchandise transferred pursuant to a
2 redemption offer to a person located outside this state or any
3 packaging material, other than promotional merchandise, acquired
4 for use in fulfilling a redemption offer or rebate to a person
5 located outside this state.

6 (ii) Property purchased for lending or leasing to a public or
7 parochial school offering a course in automobile driving except
8 that a vehicle purchased by the school shall be certified for
9 driving education and shall not be reassigned for personal use by
10 the school's administrative personnel.

11 (iii) Property purchased for demonstration purposes. For a new
12 vehicle dealer selling a new car or truck, exemption for
13 demonstration purposes shall be determined by the number of new
14 cars and trucks sold during the current calendar year or the
15 immediately preceding calendar year, without regard to specific
16 make or style, according to the following schedule but not to
17 exceed 25 cars and trucks in 1 calendar year for demonstration
18 purposes:

19 (A) 0 to 25, 2 units.

20 (B) 26 to 100, 7 units.

21 (C) 101 to 500, 20 units.

22 (D) 501 or more, 25 units.

23 (iv) Motor vehicles purchased for resale purposes by a new
24 vehicle dealer licensed under section 248(8)(a) of the Michigan
25 vehicle code, 1949 PA 300, MCL 257.248.

26 (d) Property that is brought into this state by a nonresident
27 person for storage, use, or consumption while temporarily within

1 this state, except if the property is used in this state in a
2 nontransitory business activity for a period exceeding 15 days.

3 (e) Property the sale or use of which was already subjected to
4 a sales tax or use tax equal to, or in excess of, that imposed by
5 this act under the law of any other state or a local governmental
6 unit within a state if the tax was due and paid on the retail sale
7 to the consumer and the state or local governmental unit within a
8 state in which the tax was imposed accords like or complete
9 exemption on property the sale or use of which was subjected to the
10 sales or use tax of this state. If the sale or use of property was
11 already subjected to a tax under the law of any other state or
12 local governmental unit within a state in an amount less than the
13 tax imposed by this act, this act shall apply, but at a rate
14 measured by the difference between the rate provided in this act
15 and the rate by which the previous tax was computed.

16 (f) Property sold to a person engaged in a business enterprise
17 and using and consuming the property in the tilling, planting,
18 caring for, or harvesting of the things of the soil or in the
19 breeding, raising, or caring for livestock, poultry, or
20 horticultural products, including transfers of livestock, poultry,
21 or horticultural products for further growth. This exemption
22 includes machinery that is capable of simultaneously harvesting
23 grain or other crops and biomass and machinery used for the purpose
24 of harvesting biomass. This exemption includes agricultural land
25 tile, which means fired clay or perforated plastic tubing used as
26 part of a subsurface drainage system for land used in the
27 production of agricultural products as a business enterprise and

1 includes a portable grain bin, which means a structure that is used
2 or is to be used to shelter grain and that is designed to be
3 disassembled without significant damage to its component parts.

4 This exemption does not include transfers of food, fuel, clothing,
5 or similar tangible personal property for personal living or human
6 consumption. This exemption does not include tangible personal
7 property permanently affixed to and becoming a structural part of
8 real estate. As used in this subdivision, "biomass" means crop
9 residue used to produce energy or agricultural crops grown
10 specifically for the production of energy.

11 (g) Property or services sold to the United States, an
12 unincorporated agency or instrumentality of the United States, an
13 incorporated agency or instrumentality of the United States wholly
14 owned by the United States or by a corporation wholly owned by the
15 United States, the American ~~red cross~~ **RED CROSS** and its chapters or
16 branches, this state, a department or institution of this state, or
17 a political subdivision of this state.

18 (h) Property or services sold to a school, hospital, or home
19 for the care and maintenance of children or aged persons, operated
20 by an entity of government, a regularly organized church,
21 religious, or fraternal organization, a veterans' organization, or
22 a corporation incorporated under the laws of this state, if not
23 operated for profit, and if the income or benefit from the
24 operation does not inure, in whole or in part, to an individual or
25 private shareholder, directly or indirectly, and if the activities
26 of the entity or agency are carried on exclusively for the benefit
27 of the public at large and are not limited to the advantage,

1 interests, and benefits of its members or a restricted group. The
2 tax levied does not apply to property or services sold to a parent
3 cooperative preschool. As used in this subdivision, "parent
4 cooperative preschool" means a nonprofit, nondiscriminatory
5 educational institution, maintained as a community service and
6 administered by parents of children currently enrolled in the
7 preschool that provides an educational and developmental program
8 for children younger than compulsory school age, that provides an
9 educational program for parents, including active participation
10 with children in preschool activities, that is directed by
11 qualified preschool personnel, and that is licensed pursuant to
12 1973 PA 116, MCL 722.111 to 722.128.

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

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

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

21 (j) A vessel designed for commercial use of registered tonnage
22 of 500 tons or more, if produced upon special order of the
23 purchaser, and bunker and galley fuel, provisions, supplies,
24 maintenance, and repairs for the exclusive use of a vessel of 500
25 tons or more engaged in interstate commerce.

26 (k) Property purchased for use in this state where actual
27 personal possession is obtained outside this state, the purchase

1 price or actual value of which does not exceed \$10.00 during 1
2 calendar month.

3 (l) A newspaper or periodical classified under federal postal
4 laws and regulations effective September 1, 1985 as second-class
5 mail matter or as a controlled circulation publication or qualified
6 to accept legal notices for publication in this state, as defined
7 by law, or any other newspaper or periodical of general
8 circulation, established at least 2 years, and published at least
9 once a week, and a copyrighted motion picture film. Tangible
10 personal property used or consumed in producing a copyrighted
11 motion picture film, a newspaper published more than 14 times per
12 year, or a periodical published more than 14 times per year, and
13 not becoming a component part of that film, newspaper, or
14 periodical is subject to the tax. After December 31, 1993, tangible
15 personal property used or consumed in producing a newspaper
16 published 14 times or less per year or a periodical published 14
17 times or less per year and that portion or percentage of tangible
18 personal property used or consumed in producing an advertising
19 supplement that becomes a component part of a newspaper or
20 periodical is exempt from the tax under this subdivision. A claim
21 for a refund for taxes paid before January 1, 1999 under this
22 subdivision shall be made before June 30, 1999. For purposes of
23 this subdivision, tangible personal property that becomes a
24 component part of a newspaper or periodical and consequently not
25 subject to tax, includes an advertising supplement inserted into
26 and circulated with a newspaper or periodical that is otherwise
27 exempt from tax under this subdivision, if the advertising

1 supplement is delivered directly to the newspaper or periodical by
2 a person other than the advertiser, or the advertising supplement
3 is printed by the newspaper or periodical.

4 (m) Property purchased by persons licensed to operate a
5 commercial radio or television station if the property is used in
6 the origination or integration of the various sources of program
7 material for commercial radio or television transmission. This
8 subdivision does not include a vehicle licensed and titled for use
9 on public highways or property used in the transmitting to or
10 receiving from an artificial satellite.

11 (n) A person who is a resident of this state who purchases an
12 automobile in another state while in the military service of the
13 United States and who pays a sales tax in the state where the
14 automobile is purchased.

15 (o) A vehicle for which a special registration is secured in
16 accordance with section 226(9) of the Michigan vehicle code, 1949
17 PA 300, MCL 257.226.

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

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

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

26 (s) Tangible personal property purchased and installed as a
27 component part of a water pollution control facility for which a

1 tax exemption certificate is issued pursuant to part 37 of the
2 natural resources and environmental protection act, 1994 PA 451,
3 MCL 324.3701 to 324.3708, or an air pollution control facility for
4 which a tax exemption certificate is issued pursuant to part 59 of
5 the natural resources and environmental protection act, 1994 PA
6 451, MCL 324.5901 to 324.5908.

7 (t) Tangible real or personal property donated by a
8 manufacturer, wholesaler, or retailer to an organization or entity
9 exempt pursuant to subdivision (h) or (i) or section 4a(1)(a) or
10 (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

11 (u) The storage, use, or consumption of an aircraft by a
12 domestic air carrier for use solely in the transport of air cargo,
13 passengers, or a combination of air cargo and passengers, that has
14 a maximum certificated takeoff weight of at least 6,000 pounds. For
15 purposes of this subdivision, the term "domestic air carrier" is
16 limited to a person engaged primarily in the commercial transport
17 for hire of air cargo, passengers, or a combination of air cargo
18 and passengers as a business activity. The state treasurer shall
19 estimate on January 1 each year the revenue lost by this act from
20 the school aid fund and deposit that amount into the school aid
21 fund from the general fund.

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

27 (w) Property or services sold to an organization not operated

1 for profit and exempt from federal income tax under section
2 501(c) (3) or 501(c) (4) of the internal revenue code, 26 USC 501; or
3 to a health, welfare, educational, cultural arts, charitable, or
4 benevolent organization not operated for profit that has been
5 issued before June 13, 1994 an exemption ruling letter to purchase
6 items exempt from tax signed by the administrator of the sales,
7 use, and withholding taxes division of the department. The
8 department shall reissue an exemption letter after June 13, 1994 to
9 each of those organizations that had an exemption letter that shall
10 remain in effect unless the organization fails to meet the
11 requirements that originally entitled it to this exemption. The
12 exemption does not apply to sales of tangible personal property and
13 sales of vehicles licensed for use on public highways, that are not
14 used primarily to carry out the purposes of the organization as
15 stated in the bylaws or articles of incorporation of the exempt
16 organization.

17 (x) The use or consumption of services described in section
18 3a(1) (a) or (b) or 3b by means of a prepaid telephone calling card,
19 a prepaid authorization number for telephone use, or a charge for
20 internet access.

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

23 (i) Textiles and disposable products including, but not
24 limited to, soap, paper, chemicals, tissues, deodorizers and
25 dispensers, and all related items such as packaging, supplies,
26 hangers, name tags, and identification tags.

27 (ii) Equipment, whether owned or leased, used to repair and

1 dispense textiles including, but not limited to, roll towel
2 cabinets, slings, hardware, lockers, mop handles and frames, and
3 carts.

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

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

8 (v) Production washroom equipment and mending and packaging
9 supplies and equipment.

10 (vi) Material handling equipment including, but not limited
11 to, conveyors, racks, and elevators and related control equipment.

12 (vii) Wastewater pretreatment equipment and supplies and
13 related maintenance and repair services.

14 (z) Property purchased or manufactured by a person engaged in
15 the business of constructing, altering, repairing, or improving
16 real estate for others, to the extent that the property is affixed
17 to and made a structural part of real estate located in another
18 state, regardless of whether sales or use tax was due and paid in
19 the state in which the property is affixed to real estate.

20 **(AA) THE SALE OF INCONTINENCE PRODUCTS AND FEMININE HYGIENE**
21 **PRODUCTS. AS USED IN THIS SUBDIVISION:**

22 **(i) "FEMININE HYGIENE PRODUCTS" MEANS TAMPONS, SANITARY**
23 **NAPKINS, AND OTHER SIMILAR TANGIBLE PERSONAL PROPERTY.**

24 **(ii) "INCONTINENCE PRODUCTS" MEANS ADULT DIAPERS, WATERPROOF**
25 **PANTS, PROTECTIVE UNDERWEAR, INCONTINENCE PADS, AND OTHER SIMILAR**
26 **TANGIBLE PERSONAL PROPERTY.**

27 (2) The property or services under subsection (1) are exempt

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

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.