

HOUSE BILL No. 5164

October 24, 2017, Introduced by Reps. Kahle and Alexander 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 2016 PA 432.

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:

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

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

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

20 (A) 0 to 25, 2 units.

21 (B) 26 to 100, 7 units.

22 (C) 101 to 500, 20 units.

23 (D) 501 or more, 25 units.

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

27 (d) Property that is brought into this state by a nonresident

1 person for storage, use, or consumption while temporarily within
2 this state, except if the property is used in this state in a
3 nontransitory business activity for a period exceeding 15 days.

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

17 (f) Property sold to a person engaged in a business enterprise
18 and using and consuming the property in the tilling, planting,
19 draining, caring for, or harvesting of the things of the soil, in
20 the breeding, raising, or caring for livestock, poultry, or
21 horticultural products, including transfers of livestock, poultry,
22 or horticultural products for further growth, or in the direct
23 gathering of fish, by net, by line, or otherwise only by an owner-
24 operator of the business enterprise, not including a charter
25 fishing business enterprise. This exemption includes machinery that
26 is capable of simultaneously harvesting grain or other crops and
27 biomass and machinery used for the purpose of harvesting biomass.

1 This exemption includes agricultural land tile, which means fired
2 clay or perforated plastic tubing used as part of a subsurface
3 drainage system for land, and subsurface irrigation pipe, if the
4 land tile or irrigation pipe is used in the production of
5 agricultural products as a business enterprise. This exemption
6 includes a portable grain bin, which means a structure that is used
7 or is to be used to shelter grain and that is designed to be
8 disassembled without significant damage to its component parts.
9 This exemption includes grain drying equipment and the fuel or
10 energy source that powers that equipment for agricultural purposes.
11 This exemption also includes tangible personal property affixed to
12 or to be affixed to and directly used in the operation of either a
13 portable grain bin or grain drying equipment. This exemption also
14 includes the sale or acquisition of agricultural land tile,
15 portable grain bins, and grain drying equipment purchased or
16 acquired by a person in the business of constructing, altering,
17 repairing, or improving real estate for others to the extent that
18 it is affixed to or made a structural part of real estate used for
19 a purpose exempt under this subsection. This exemption does not
20 include transfers of food, fuel, clothing, or similar tangible
21 personal property for personal living or human consumption. Except
22 for agricultural land tile, subsurface irrigation pipe, portable
23 grain bins, and grain drying equipment, this exemption does not
24 include tangible personal property permanently affixed to and
25 becoming a structural part of real estate. As used in this
26 subdivision, "biomass" means crop residue used to produce energy or
27 agricultural crops grown specifically for the production of energy.

1 (g) Property or services sold to the United States, an
2 unincorporated agency or instrumentality of the United States, an
3 incorporated agency or instrumentality of the United States wholly
4 owned by the United States or by a corporation wholly owned by the
5 United States, the American Red Cross and its chapters or branches,
6 this state, a department or institution of this state, or a
7 political subdivision of this state.

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

1 qualified preschool personnel, and that is licensed pursuant to
2 1973 PA 116, MCL 722.111 to 722.128.

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

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

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

11 (j) A vessel designed for commercial use of registered tonnage
12 of 500 tons or more, if produced upon special order of the
13 purchaser, and bunker and galley fuel, provisions, supplies,
14 maintenance, and repairs for the exclusive use of a vessel of 500
15 tons or more engaged in interstate commerce.

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

20 (l) A newspaper or periodical classified under federal postal
21 laws and regulations effective September 1, 1985 as second-class
22 mail matter or as a controlled circulation publication or qualified
23 to accept legal notices for publication in this state, as defined
24 by law, or any other newspaper or periodical of general
25 circulation, established at least 2 years, and published at least
26 once a week, and a copyrighted motion picture film. Tangible
27 personal property used or consumed in producing a copyrighted

1 motion picture film, a newspaper published more than 14 times per
2 year, or a periodical published more than 14 times per year, and
3 not becoming a component part of that film, newspaper, or
4 periodical is subject to the tax. After December 31, 1993, tangible
5 personal property used or consumed in producing a newspaper
6 published 14 times or less per year or a periodical published 14
7 times or less per year and that portion or percentage of tangible
8 personal property used or consumed in producing an advertising
9 supplement that becomes a component part of a newspaper or
10 periodical is exempt from the tax under this subdivision. A claim
11 for a refund for taxes paid before January 1, 1999 under this
12 subdivision shall be made before June 30, 1999. For purposes of
13 this subdivision, tangible personal property that becomes a
14 component part of a newspaper or periodical and consequently not
15 subject to tax, includes an advertising supplement inserted into
16 and circulated with a newspaper or periodical that is otherwise
17 exempt from tax under this subdivision, if the advertising
18 supplement is delivered directly to the newspaper or periodical by
19 a person other than the advertiser, or the advertising supplement
20 is printed by the newspaper or periodical.

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

1 (n) A person who is a resident of this state who purchases an
2 automobile in another state while in the military service of the
3 United States and who pays a sales tax in the state where the
4 automobile is purchased.

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

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

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

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

16 (s) Tangible personal property purchased and installed as a
17 component part of a water pollution control facility for which a
18 tax exemption certificate is issued pursuant to part 37 of the
19 natural resources and environmental protection act, 1994 PA 451,
20 MCL 324.3701 to 324.3708, or an air pollution control facility for
21 which a tax exemption certificate is issued pursuant to part 59 of
22 the natural resources and environmental protection act, 1994 PA
23 451, MCL 324.5901 to 324.5908.

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

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

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

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

1 requirements that originally entitled it to this exemption. The
2 exemption does not apply to sales of tangible personal property and
3 sales of vehicles licensed for use on public highways, that are not
4 used primarily to carry out the purposes of the organization as
5 stated in the bylaws or articles of incorporation of the exempt
6 organization.

7 (x) The use or consumption of services described in section
8 3a(1)(a) or (b) or 3b by means of a prepaid telephone calling card,
9 a prepaid authorization number for telephone use, or a charge for
10 internet access.

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

13 (i) Textiles and disposable products including, but not
14 limited to, soap, paper, chemicals, tissues, deodorizers and
15 dispensers, and all related items such as packaging, supplies,
16 hangers, name tags, and identification tags.

17 (ii) Equipment, whether owned or leased, used to repair and
18 dispense textiles including, but not limited to, roll towel
19 cabinets, slings, hardware, lockers, mop handles and frames, and
20 carts.

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

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

25 (v) Production washroom equipment and mending and packaging
26 supplies and equipment.

27 (vi) Material handling equipment including, but not limited

1 to, conveyors, racks, and elevators and related control equipment.

2 (vii) Wastewater pretreatment equipment and supplies and
3 related maintenance and repair services.

4 (z) Property purchased or manufactured by a person engaged in
5 the business of constructing, altering, repairing, or improving
6 real estate for others, to the extent that the property is affixed
7 to and made a structural part of real estate located in another
8 state, regardless of whether sales or use tax was due and paid in
9 the state in which the property is affixed to real estate.

10 **(AA) THE SALE OF A DENTAL PROSTHESIS.**

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

16 Enacting section 1. This amendatory act is retroactive and
17 effective July 1, 2017.