

HOUSE BILL NO. 6373

September 14, 2022, Introduced by Reps. Liberati and Beeler and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 4o (MCL 205.94o), as amended by 2015 PA 204.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4o. (1) The tax levied under this act does not apply to
2 property sold to the following after March 30, 1999, subject to
3 subsection (2):

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

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

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

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

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

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

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

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

19 (v) Computer equipment used in connection with the computer
20 assisted production, storage, and transmission of data if the
21 equipment would have been exempt had the data transfer been made
22 using tapes, disks, CD-ROMs, or similar media by a company whose
23 business includes publishing doctoral dissertations and information
24 archiving, and that sells the majority of the company's products to
25 nonprofit organizations exempt under section 4(1)(w).

26 (vi) Equipment used in the production of prewritten computer
27 software or software modified or adapted to the user's needs or
28 equipment by the seller, only if the software is available for sale
29 from a seller of software on an as-is basis or as an end product

1 without modification or adaption.

2 **(vii) A reverse vending machine, and spare and repair parts for**
3 **a reverse vending machine, used to properly identify and process**
4 **empty beverage containers and provide a means for a deposit refund**
5 **on returnable containers.**

6 (2) The property under subsection (1) is exempt only to the
7 extent that the property is used for the exempt purpose stated in
8 this section. The exemption is limited to the percentage of exempt
9 use to total use determined by a reasonable formula or method
10 approved by the department.

11 (3) Industrial processing includes the following activities:

12 (a) Production or assembly.

13 (b) Research or experimental activities.

14 (c) Engineering related to industrial processing.

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

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

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

23 (g) Remanufacturing.

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

26 (i) Recycling of used materials for ultimate sale at retail or
27 reuse.

28 (j) Production material handling.

29 (k) Storage of in-process materials.

1 (l) The use of a reverse vending machine, and spare and repair
2 parts for a reverse vending machine, to properly identify and
3 process empty beverage containers and provide a means for a deposit
4 refund on returnable containers.

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

7 (a) Property that becomes an ingredient or component part of
8 the finished product to be sold ultimately at retail or affixed to
9 and made a structural part of real estate **located in another state.**

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

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

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

20 (e) Fuel or energy used or consumed for an industrial
21 processing activity.

22 (f) Machinery, equipment, or materials used within a plant
23 site or between plant sites operated by the same person for
24 movement of tangible personal property in the process of
25 production. Property exempt under this subdivision includes front
26 end loaders, forklifts, pettibone lifts, skidsters, multipurpose
27 loaders, knuckle-boom log loaders, tractors, and log loaders used
28 to unload logs from trucks at a saw mill site for the purpose of
29 processing at the site and to load lumber onto trucks at a saw mill

1 site for purposes of transportation from the site.

2 (g) Office equipment, including data processing equipment,
3 used for an industrial processing activity.

4 (h) Tangible personal property used or consumed in an
5 industrial processing activity to produce alcoholic beverages that
6 are sold at retail by that industrial processor through its own
7 locations.

8 **(i) Reverse vending machines, and spare and repair parts for**
9 **reverse vending machines, used to properly identify and process**
10 **empty beverage containers and provide a means for a deposit refund**
11 **on returnable containers.**

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

14 (a) Tangible personal property permanently affixed and
15 becoming a structural part of real estate in this state including
16 building utility systems such as heating, air conditioning,
17 ventilating, plumbing, lighting, and electrical distribution, to
18 the point of the last transformer, switch, valve, or other device
19 at which point usable power, water, gas, steam, or air is diverted
20 from distribution circuits for use in industrial processing.

21 (b) Office equipment, including data processing equipment used
22 for nonindustrial processing purposes.

23 (c) Office furniture or office supplies.

24 (d) An industrial processor's own product or finished good
25 that it uses or consumes for purposes other than industrial
26 processing.

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

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

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

9 (h) Tangible personal property used for the preparation of
10 food or beverages by a retailer for ultimate sale at retail through
11 its own locations, except as provided in subsection (4)(h).

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

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

17 (k) Tangible personal property used in the production of
18 computer software originally designed for the exclusive use and
19 special needs of the purchaser.

20 (6) Industrial processing does not include the following
21 activities:

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

23 (b) Sales, distribution, warehousing, shipping, or advertising
24 activities.

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

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

28 (e) Plant security, fire prevention, or medical or hospital
29 services.

(7) As used in this section:

(a) "Industrial processing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property for ultimate sale at retail, ~~or~~ for use in the manufacturing of a product to be ultimately sold at retail or **to be** affixed to and made a structural part of real estate located in another state, **or for the exempt purposes described in subsection (3)(l) or (4)(i).**

Industrial processing begins when tangible personal property begins movement from raw materials storage to begin industrial processing and ends when finished goods first come to rest in finished goods inventory storage.

(b) "Industrial processor" means a person who performs the activity of converting or conditioning tangible personal property for ultimate sale at retail, ~~or~~ for use in the manufacturing of a product to be ultimately sold at retail or **to be** affixed to and made a structural part of real estate located in another state, **or for the exempt purposes described in subsection (3)(l) or (4)(i).**

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

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

(e) "Research or experimental activity" means activity incident to the development, discovery, or modification of a product or a product related process. Research or experimental

1 activity also includes activity necessary for a product to satisfy
2 a government standard or to receive government approval. Research
3 or experimental activity does not include the following:

4 (i) Ordinary testing or inspection of materials or products for
5 quality control purposes.

6 (ii) Efficiency surveys.

7 (iii) Management surveys.

8 (iv) Market or consumer surveys.

9 (v) Advertising or promotions.

10 (vi) Research in connection with literacy, historical, or
11 similar projects.

12 (f) **"Reverse vending machine" means that term as defined in**
13 **section 3 of the reverse vending machine antifraud act, 2008 PA**
14 **387, MCL 445.653.**