

# HOUSE BILL No. 4262

February 21, 1989, Introduced by Reps. Hunter, DeMars, Brown, Berman, Murphy, Ciaramitaro, Joe Young, Jr., Gire, Scott, Honigman, Jondahl, Wallace, Webb, Kilpatrick, Bankes, Stabenow, Saunders, Martin, Leland, Barns and Hollister and referred to the Committee on Social Services and Youth.

A bill to amend section 4 of Act No. 94 of the Public Acts of 1937, entitled as amended

"Use tax act,"

as amended by Act No. 459 of the Public Acts of 1988, being section 205.94 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4 of Act No. 94 of the Public Acts of  
2 1937, as amended by Act No. 459 of the Public Acts of 1988, being  
3 section 205.94 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 4. The tax levied shall not apply to:

6 (a) Property sold in this state on which transaction a tax  
7 is paid under the general sales tax act, Act No. 167 of the  
8 Public Acts of 1933, as amended, being sections 205.51 to 205.78

1 of the Michigan Compiled Laws, if the tax was due and paid on the  
2 retail sale to a consumer.

3 (b) Property, the storage, use, or other consumption of  
4 which, this state is prohibited from taxing under the constitu-  
5 tion or laws of the United States, or under the constitution of  
6 this state.

7 (c) Property purchased for resale, demonstration purposes,  
8 or lending or leasing to a public or parochial school offering a  
9 course in automobile driving except that a vehicle purchased by  
10 the school shall be certified for driving education and shall not  
11 be reassigned for personal use by the school's administrative  
12 personnel. For a dealer selling a new car or truck, exemption  
13 for demonstration purposes shall be determined by the number of  
14 new cars and trucks sold during the current calendar year or the  
15 immediate prior year without regard to specific make or style in  
16 accordance with the following schedule: 0 to 25, 2 units; 26 to  
17 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but  
18 not to exceed 25 cars and trucks in 1 calendar year for demon-  
19 stration purposes.

20 (d) Property that is brought into this state by a nonresi-  
21 dent person for storage, use, or consumption while temporarily  
22 within this state, except when the property is used in this state  
23 in a nontransitory business activity for a period exceeding 15  
24 days.

25 (e) Property the sale or use of which was already subjected  
26 to a sales tax or use tax equal to, or in excess of, that imposed  
27 by this act under the law of any other state or a local

1 governmental unit within a state if the tax was due and paid on  
2 the retail sale to the consumer and the state or local governmen-  
3 tal unit within a state in which the tax was imposed accords like  
4 or complete exemption on property the sale or use of which was  
5 subjected to the sales or use tax of this state. If the sale or  
6 use of property was already subjected to a tax under the law of  
7 any other state or local governmental unit within a state in an  
8 amount less than the tax imposed by this act, this act shall  
9 apply, but at a rate measured by the difference only between the  
10 rate provided in this act and the rate by which the previous tax  
11 was computed.

12 (f) Property sold to a person engaged in a business enter-  
13 prise and using and consuming the property in the tilling, plant-  
14 ing, caring for, or harvesting of the things of the soil or in  
15 the breeding, raising, or caring for livestock, poultry, or  
16 horticultural products, including transfers of livestock, poul-  
17 try, or horticultural products for further growth. In that case,  
18 at the time of the transfer of the tangible personal property,  
19 the transferee shall sign a statement, in a form approved by the  
20 department, stating that the property is to be used or consumed  
21 in connection with the production of horticultural or agricul-  
22 tural products as a business enterprise. The statement shall be  
23 accepted by the courts as prima facie evidence of the exemption.  
24 This exemption shall not include transfers of food, fuel, cloth-  
25 ing, or similar tangible personal property for personal living or  
26 human consumption. This exemption shall not include tangible

1 personal property permanently affixed and becoming a structural  
2 part of real estate.

3 (g) Property sold to the following:

4 (i) An industrial processor for use or consumption in indus-  
5 trial processing. Property used or consumed in industrial pro-  
6 cessing does not include tangible personal property permanently  
7 affixed and becoming a structural part of real estate; office  
8 furniture, office supplies, and administrative office equipment;  
9 or vehicles licensed and titled for use on public highways.

10 Industrial processing does not include receipt and storage of raw  
11 materials purchased or extracted by the user or consumer, or the  
12 preparation of food and beverages by a retailer for retail sale.

13 As used in this subdivision, "industrial processor" means a  
14 person who transforms, alters, or modifies tangible personal  
15 property by changing the form, composition, or character of the  
16 property for ultimate sale at retail or sale to another indus-  
17 trial processor to be further processed for ultimate sale at  
18 retail. Sales to a person performing a service who does not act  
19 as an industrial processor while performing the service may not  
20 be excluded under this subdivision, except as provided in sub-  
21 paragraph (ii).

22 (ii) After December 31, 1984, a person, whether or not the  
23 person is an industrial processor, when the property is a com-  
24 puter used in operating industrial processing equipment; equip-  
25 ment used in a computer assisted manufacturing system; equipment  
26 used in a computer assisted design or engineering system integral  
27 to an industrial process; or a subunit or electronic assembly

1 comprising a component in a computer integrated industrial  
2 processing system.

3 (h) Property or services sold to the United States, an unin-  
4 corporated agency or instrumentality of the United States, an  
5 incorporated agency or instrumentality of the United States  
6 wholly owned by the United States or by a corporation wholly  
7 owned by the United States, the American red cross and its chap-  
8 ters or branches, this state, a department or institution of this  
9 state, or a political subdivision of this state.

10 (i) Property or services sold to a school, hospital, home  
11 for the care and maintenance of children or aged persons, and  
12 other health, welfare, educational, cultural arts, charitable, or  
13 benevolent institutions, an agency operated by an entity of gov-  
14 ernment, a regularly organized church, religious, or fraternal  
15 organization, a veterans' organization, or a corporation incorpo-  
16 rated under the laws of this state, when not operated for profit,  
17 and when the income or benefit from the operation does not inure,  
18 in whole or in part, to an individual or private shareholder,  
19 directly or indirectly, and when the activities of the entity or  
20 agency are carried on exclusively for the benefit of the public  
21 at large and are not limited to the advantage, interests, and  
22 benefits of its members or a restricted group. The tax levied  
23 shall not apply to property or services sold to a parent coopera-  
24 tive preschool. As used in this subdivision, "parent cooperative  
25 preschool" means a nonprofit, nondiscriminatory educational  
26 institution, maintained as a community service and administered  
27 by parents of children currently enrolled in the preschool, which

1 provides an educational and developmental program for children  
2 younger than compulsory school age, which provides an educational  
3 program for parents, including active participation with children  
4 in preschool activities, which is directed by qualified preschool  
5 personnel, and which is licensed by the ~~department of social~~  
6 CHILDREN AND FAMILY services AGENCY pursuant to Act No. 116 of  
7 the Public Acts of 1973, as amended, being sections 722.111 to  
8 722.128 of the Michigan Compiled Laws.

9 (j) Property or services sold to a regularly organized  
10 church or house of religious worship except:

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

13 (ii) Sales of vehicles licensed for use on the public high-  
14 ways other than a passenger van or bus with a manufacturer's  
15 rated seating capacity of 10 or more that is used primarily for  
16 the transportation of persons for religious purposes.

17 (k) A vessel designed for commercial use of registered ton-  
18 nage of 500 tons or more, when produced upon special order of the  
19 purchaser, and bunker and galley fuel, provisions, supplies,  
20 maintenance, and repairs for the exclusive use of a vessel of 500  
21 tons or more engaged in interstate commerce.

22 (l) Property purchased by a person engaged in the business  
23 of constructing, altering, repairing, or improving real estate  
24 for others to the extent the property is affixed to and made a  
25 structural part of the real estate of a nonprofit hospital or a  
26 nonprofit housing entity qualified as exempt pursuant to section  
27 15a of Act No. 346 of the Public Acts of 1966, as amended, being

1 section 125.1415a of the Michigan Compiled Laws. A nonprofit  
2 hospital or nonprofit housing includes only the property of a  
3 nonprofit hospital or the homes or dwelling places constructed by  
4 a nonprofit housing entity, the income or property of which does  
5 not directly or indirectly inure to the benefit of an individual,  
6 private stockholder, or other private person.

7 (m) Property purchased for use in this state where actual  
8 personal possession is obtained outside this state, the purchase  
9 price or actual value of which does not exceed \$10.00 during 1  
10 calendar month.

11 (n) A newspaper or periodical classified under federal  
12 postal laws and regulations effective September 1, 1985 as second  
13 class mail matter or as a controlled circulation publication or  
14 qualified to accept legal notices for publication in this state,  
15 as defined by law, or any other newspaper or periodical of gen-  
16 eral circulation, established at least 2 years, and published at  
17 least once a week, and a copyrighted motion picture film.

18 Tangible personal property used or consumed, and not becoming a  
19 component part of a newspaper or periodical, except that portion  
20 or percentage of tangible personal property used or consumed in  
21 producing an advertising supplement that becomes a component part  
22 of a newspaper or periodical, and a copyrighted motion picture  
23 film is subject to tax. For purposes of this subdivision, tangi-  
24 ble personal property that becomes a component part of a newspa-  
25 per or periodical, and thereby not subject to tax, shall include  
26 an advertising supplement inserted into and circulated with a  
27 newspaper or periodical which is otherwise exempt from tax under

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

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

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

16 (q) A vehicle for which a special registration is secured in  
17 accordance with section 226(9) of Act No. 300 of the Public Acts  
18 of 1949, as amended, being section 257.226 of the Michigan  
19 Compiled Laws.

20 (r) A hearing aid, contact lenses if prescribed for a spe-  
21 cific disease which precludes the use of eyeglasses, or any other  
22 apparatus, device, or equipment used to replace or substitute for  
23 any part of the human body, or used to assist the disabled person  
24 to lead a reasonably normal life when the tangible personal prop-  
25 erty is purchased on a written prescription or order issued by a  
26 licensed health professional as defined by section 4 of former  
27 Act No. 264 of the Public Acts of 1974, as amended, being section



1 325.904 of the Michigan Compiled Laws, or section 21005 of Act  
2 No. 368 of the Public Acts of 1978, being section 333.21005 of  
3 the Michigan Compiled Laws, or eyeglasses prescribed or dispensed  
4 to correct the person's vision by an ophthalmologist, optome-  
5 trist, or optician.

6 (s) Water when delivered through water mains or in bulk  
7 tanks in quantities of not less than 500 gallons.

8 (t) The purchase of machinery and equipment for use or con-  
9 sumption in the rendition of a service, the use or consumption of  
10 which is taxable under section 3a(a) except that this exception  
11 shall be limited to the tangible personal property located on the  
12 premises of the subscriber and the necessary exchange equipment.

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

16 (v) 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 Act No. 222 of  
19 the Public Acts of 1966, as amended, being sections 323.351 to  
20 323.358 of the Michigan Compiled Laws, or an air pollution con-  
21 trol facility for which a tax exemption certificate is issued  
22 pursuant to Act No. 250 of the Public Acts of 1965, as amended,  
23 being sections 336.1 to 336.8 of the Michigan Compiled Laws.

24 (w) Tangible real or personal property donated by a manufac-  
25 turer, wholesaler, or retailer to an organization or entity  
26 exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b)

1 of Act No. 167 of the Public Acts of 1933, as amended, being  
2 section 205.54a of the Michigan Compiled Laws.

3 (x) The storage, use, or consumption of any aircraft owned  
4 or used by a domestic passenger air carrier operating under a  
5 certificate issued by the civil aeronautics board pursuant to  
6 section 401 of title IV of the federal aviation act of 1958,  
7 49 U.S.C. 1371, if the aircraft is used primarily in the regu-  
8 larly scheduled commercial transport of passengers.

9 Section 2. This amendatory act shall take effect October 1,  
10 1990.

11 Section 3. This amendatory act shall not take effect unless  
12 all of the following bills of the 85th Legislature are enacted  
13 into law:

14 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4251 (request  
15 no. 00593'89<sup>\*</sup>).

16 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4252 (request  
17 no. 00593'89 a).

18 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 4253 (request  
19 no. 00593'89 b).

20 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 4254 (request  
21 no. 00593'89 c).

22 (e) Senate Bill No. \_\_\_\_\_ or House Bill No. 4255 (request  
23 no. 00593'89 d).

24 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. 4256 (request  
25 no. 00593'89 e).

26 (g) Senate Bill No. \_\_\_\_\_ or House Bill No. 4257 (request  
27 no. 00593'89 f).

- 1 (h) Senate Bill No. \_\_\_\_\_ or House Bill No. 4258 (request  
2 no. 00593'89 g).
- 3 (i) Senate Bill No. \_\_\_\_\_ or House Bill No. 4259 (request  
4 no. 00593'89 h).
- 5 (j) Senate Bill No. \_\_\_\_\_ or House Bill No. 4260 (request  
6 no. 00593'89 i).
- 7 (k) Senate Bill No. \_\_\_\_\_ or House Bill No. 4261 (request  
8 no. 00593'89 j).
- 9 (l) Senate Bill No. \_\_\_\_\_ or House Bill No. 4263 (request  
10 no. 00593'89 l).
- 11 (m) Senate Bill No. \_\_\_\_\_ or House Bill No. 4264 (request  
12 no. 00593'89 m).
- 13 (n) Senate Bill No. \_\_\_\_\_ or House Bill No. 4265 (request  
14 no. 00593'89 n).
- 15 (o) Senate Bill No. \_\_\_\_\_ or House Bill No. 4266 (request  
16 no. 00593'89 o).
- 17 (p) Senate Bill No. \_\_\_\_\_ or House Bill No. 4267 (request  
18 no. 00593'89 p).
- 19 (q) Senate Bill No. \_\_\_\_\_ or House Bill No. 4268 (request  
20 no. 00593'89 q).
- 21 (r) Senate Bill No. \_\_\_\_\_ or House Bill No. 4269 (request  
22 no. 00593'89 r).
- 23 (s) Senate Bill No. \_\_\_\_\_ or House Bill No. 4270 (request  
24 no. 00593'89 s).