

HOUSE BILL No. 5015

July 28, 1989, Introduced by Reps. Bartnik, DeMars, Hertel, Ouwinga, Muxlow, Giese, Stupak, Pitoniak, Kosteva, Gagliardi, Owen, Spaniola, Maynard, Hoffman, Gnodtke, Middaugh, Alley, Weeks, Pridnia, Ostling, Trim, Munsell, Emerson, Niederstadt and Hart and referred to the Committee on Taxation.

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. 141 of the Public Acts of 1989, 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. 141 of the Public Acts of 1989, 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 Beginning January 1, 1989, this exemption includes agricultural
25 land tile, which means fired clay or perforated plastic tubing
26 used as 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
2 used 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, cloth-
5 ing, or similar tangible personal property for personal living or
6 human consumption. This exemption shall not include tangible
7 personal property permanently affixed and becoming a structural
8 part of real estate.

9 (g) Property sold to the following:

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

16 PROPERTY USED OR CONSUMED IN INDUSTRIAL PROCESSING INCLUDES CON-
17 CRETE READY-MIX TRUCKS AND ANY PARTS OR ACCESSORIES. Industrial
18 processing does not include receipt and storage of raw materials
19 purchased or extracted by the user or consumer, or the prepara-
20 tion of food and beverages by a retailer for retail sale. As
21 used in this subdivision, "industrial processor" means a person
22 who transforms, alters, or modifies tangible personal property by
23 changing the form, composition, or character of the property for
24 ultimate sale at retail or sale to another industrial processor
25 to be further processed for ultimate sale at retail. Sales to a
26 person performing a service who does not act as an industrial

1 processor while performing the service may not be excluded under
2 this subdivision, except as provided in subparagraph (ii).

3 (ii) After December 31, 1984, a person, whether or not the
4 person is an industrial processor, when the property is a com-
5 puter used in operating industrial processing equipment; equip-
6 ment used in a computer assisted manufacturing system; equipment
7 used in a computer assisted design or engineering system integral
8 to an industrial process; or a subunit or electronic assembly
9 comprising a component in a computer integrated industrial pro-
10 cessing system.

11 (h) Property or services sold to the United States, an unin-
12 corporated agency or instrumentality of the United States, an
13 incorporated agency or instrumentality of the United States
14 wholly owned by the United States or by a corporation wholly
15 owned by the United States, the American red cross and its chap-
16 ters or branches, this state, a department or institution of this
17 state, or a political subdivision of this state.

18 (i) Property or services sold to a school, hospital, home
19 for the care and maintenance of children or aged persons, or
20 other health, welfare, educational, cultural arts, charitable, or
21 benevolent institution or agency, operated by an entity of gov-
22 ernment, a regularly organized church, religious, or fraternal
23 organization, a veterans' organization, or a corporation incorpo-
24 rated under the laws of this state, when not operated for profit,
25 and when the income or benefit from the operation does not inure,
26 in whole or in part, to an individual or private shareholder,
27 directly or indirectly, and when the activities of the entity or

1 agency are carried on exclusively for the benefit of the public
2 at large and are not limited to the advantage, interests, and
3 benefits of its members or a restricted group. The tax levied
4 shall not apply to property or services sold to a parent coopera-
5 tive preschool. As used in this subdivision, "parent cooperative
6 preschool" means a nonprofit, nondiscriminatory educational
7 institution, maintained as a community service and administered
8 by parents of children currently enrolled in the preschool, which
9 provides an educational and developmental program for children
10 younger than compulsory school age, which provides an educational
11 program for parents, including active participation with children
12 in preschool activities, which is directed by qualified preschool
13 personnel, and which is licensed by the department of social
14 services pursuant to Act No. 116 of the Public Acts of 1973, as
15 amended, being sections 722.111 to 722.128 of the Michigan
16 Compiled Laws.

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

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

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

25 (k) A vessel designed for commercial use of registered ton-
26 nage of 500 tons or more, when produced upon special order of the
27 purchaser, and bunker and galley fuel, provisions, supplies,

1 maintenance, and repairs for the exclusive use of a vessel of 500
2 tons or more engaged in interstate commerce.

3 (4) Property purchased by a person engaged in the business
4 of constructing, altering, repairing, or improving real estate
5 for others to the extent the property is affixed to and made a
6 structural part of the real estate of a nonprofit hospital or a
7 nonprofit housing entity qualified as exempt pursuant to section
8 15a of the State housing development authority act of 1966, Act
9 No. 346 of the Public Acts of 1966, as amended, being section
10 125.1415a of the Michigan Compiled Laws. A nonprofit hospital or
11 nonprofit housing includes only the property of a nonprofit hos-
12 pital or the homes or dwelling places constructed by a nonprofit
13 housing entity, the income or property of which does not directly
14 or indirectly inure to the benefit of an individual, private
15 stockholder, or other private person.

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

27 Tangible personal property used or consumed, and not becoming a

1 component part of a newspaper or periodical, except that portion
2 or percentage of tangible personal property used or consumed in
3 producing an advertising supplement that becomes a component part
4 of a newspaper or periodical, and a copyrighted motion picture
5 film is subject to tax. For purposes of this subdivision, tangi-
6 ble personal property that becomes a component part of a newspa-
7 per or periodical, and thereby not subject to tax, shall include
8 an advertising supplement inserted into and circulated with a
9 newspaper or periodical which is otherwise exempt from tax under
10 this subdivision, if the advertising supplement is delivered
11 directly to the newspaper or periodical by a person other than
12 the advertiser, or the advertising supplement is printed by the
13 newspaper or periodical.

14 (o) Property purchased by persons licensed to operate a com-
15 mercial radio or television station when the property is used in
16 the origination or integration of the various sources of program
17 material for commercial radio or television transmission. This
18 subdivision does not include a vehicle licensed and titled for
19 use on public highways or property used in the transmitting to or
20 receiving from an artificial satellite.

21 (p) A person who is a resident of this state who purchases
22 an automobile in another state while in the military service of
23 the United States and who pays a sales tax in the state where the
24 automobile is purchased.

25 (q) A vehicle for which a special registration is secured in
26 accordance with section 226(9) of the Michigan vehicle code, Act

1 No. 300 of the Public Acts of 1949, as amended, being section
2 257.226 of the Michigan Compiled Laws.

3 (r) A hearing aid, contact lenses if prescribed for a spe-
4 cific disease which precludes the use of eyeglasses, or any other
5 apparatus, device, or equipment used to replace or substitute for
6 any part of the human body, or used to assist the disabled person
7 to lead a reasonably normal life when the tangible personal prop-
8 erty is purchased on a written prescription or order issued by a
9 licensed health professional as defined by section 4 of former
10 Act No. 264 of the Public Acts of 1974, as amended, being section
11 325.904 of the Michigan Compiled Laws, or section 21005 of the
12 Public health code, Act No. 368 of the Public Acts of 1978, being
13 section 333.21005 of the Michigan Compiled Laws, or eyeglasses
14 prescribed or dispensed to correct the person's vision by an oph-
15 thalmologist, optometrist, or optician.

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

18 (t) The purchase of machinery and equipment for use or con-
19 sumption in the rendition of a service, the use or consumption of
20 which is taxable under section 3a(a) except that this exception
21 is limited to the tangible personal property located on the
22 premises of the subscriber and the necessary exchange equipment.

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

26 (v) 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 Act No. 222 of
2 the Public Acts of 1966, as amended, being sections 323.351 to
3 323.358 of the Michigan Compiled Laws, or an air pollution con-
4 trol facility for which a tax exemption certificate is issued
5 pursuant to Act No. 250 of the Public Acts of 1965, as amended,
6 being sections 336.1 to 336.8 of the Michigan Compiled Laws.

7 (w) Tangible real or personal property donated by a manufac-
8 turer, wholesaler, or retailer to an organization or entity
9 exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b)
10 of the General sales tax act, Act No. 167 of the Public Acts of
11 1933, as amended, being section 205.54a of the Michigan Compiled
12 Laws.

13 (x) The storage, use, or consumption of any aircraft owned
14 or used by a domestic passenger air carrier operating under a
15 certificate issued by the civil aeronautics board pursuant to
16 section 401 of title IV of the federal aviation act of 1958,
17 49 U.S.C. 1371, if the aircraft is used primarily in the regu-
18 larly scheduled commercial transport of passengers.