

HOUSE BILL No. 5016

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 4a of Act No. 167 of the Public Acts of 1933, entitled as amended

"General sales tax act,"

as amended by Act No. 519 of the Public Acts of 1988, being section 205.54a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4a of Act No. 167 of the Public Acts of
2 1933, as amended by Act No. 519 of the Public Acts of 1988, being
3 section 205.54a of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 4a. A person subject to tax under this act need not
6 include in the amount of the gross proceeds used for the computa-
7 tion of the tax, sales of tangible personal property:

8 (a) Not for resale, and when not operated for profit, to a
9 school, hospital, home for the care and maintenance of children

1 or aged persons, or other health, welfare, educational, cultural
2 arts, charitable, or benevolent institution or agency, operated
3 by an entity of government, a regularly organized church, reli-
4 gious, or fraternal organization, a veterans' organization, or a
5 corporation incorporated under the laws of the state, when the
6 income or benefit from the operation does not inure, in whole or
7 in part, to an individual or private shareholder, directly or
8 indirectly, and when the activities of the entity or agency are
9 carried on exclusively for the benefit of the public at large and
10 are not limited to the advantage, interests, and benefits of its
11 members or any restricted group. In these cases, at the time of
12 the transfer of the tangible personal property, the transferee
13 shall sign a statement, in a form approved by the department,
14 stating that the property is to be used or consumed in connection
15 with the operation of the institution or agency and that the
16 institution or agency qualifies as an exempt entity under this
17 subdivision. The statement shall be accepted by all courts as
18 prima facie evidence of the exemption and the statement shall
19 provide that if the claim for tax exemption is disallowed the
20 transferee will reimburse the transferor for the amount of tax
21 involved. A sale of tangible personal property to a parent coop-
22 erative preschool is exempt from taxation under this act. As
23 used in this subdivision, "parent cooperative preschool" means a
24 nonprofit, nondiscriminatory educational institution, maintained
25 as a community service and administered by parents of children
26 currently enrolled in the preschool, ~~which~~ THAT provides an
27 educational and developmental program for children younger than

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

8 (b) Not for resale to a regularly organized church or house
9 of religious worship, except:

10 (i) Sales in activities that are mainly commercial
11 enterprises.

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

16 (c) To bona fide enrolled students, of food by a school or
17 other educational institution not operated for profit.

18 (d) Affixed to and made a structural part of real estate
19 excepted from the definition of "sale at retail" under section
20 1(1)(c).

21 (e) To persons, of a vessel designated for commercial use of
22 registered tonnage of 500 tons or more, when produced upon spe-
23 cial order of the purchaser, and bunker and galley fuel, provi-
24 sions, supplies, maintenance, and repairs for the exclusive use
25 of the vessel engaged in interstate commerce.

26 (f) To persons engaged in a business enterprise and using or
27 consuming the tangible personal property in the tilling,

1 planting, caring for, or harvesting of the things of the soil; in
2 the breeding, raising, or caring for livestock, poultry, or
3 horticultural products, including transfers of livestock, poul-
4 try, or horticultural products for further growth or in the
5 direct gathering of fish, by net, line, or otherwise, only by an
6 owner-operator of the business enterprise, not including a
7 charter fishing business enterprise. This exemption includes
8 agricultural land tile, which means fired clay or perforated
9 plastic tubing used as part of a subsurface drainage system for
10 land used in the production of agricultural products as a busi-
11 ness enterprise. In these cases, at the time of the transfer of
12 the tangible personal property, the transferee shall sign a
13 statement, in a form approved by the department, stating that the
14 property is to be used or consumed in connection with the produc-
15 tion of horticultural or agricultural products as a business
16 enterprise, or in connection with fishing as an owner-operator
17 business enterprise. The statement shall be accepted by all
18 courts as prima facie evidence of the exemption. This exemption
19 includes a portable grain bin, which means a structure that is
20 used or is to be used to shelter grain and that is designed to be
21 disassembled without significant damage to its component parts.
22 This exemption does not include transfers of food, fuel, cloth-
23 ing, or any similar tangible personal property for personal
24 living or human consumption. This exemption does not include
25 tangible personal property permanently affixed and becoming a
26 structural part of real estate.

1 (g) To the following:

2 (i) An industrial processor for use or consumption in
3 industrial processing. Property used or consumed in industrial
4 processing does not include tangible personal property per-
5 manently affixed and becoming a structural part of real estate;
6 office furniture, office supplies, and administrative office
7 equipment; or vehicles licensed and titled for use on public
8 highways. PROPERTY USED OR CONSUMED IN INDUSTRIAL PROCESSING
9 INCLUDES CONCRETE READY-MIX TRUCKS AND ANY PARTS OR ACCESSORIES.
10 Industrial processing does not include receiving and storage of
11 raw materials purchased or extracted by the user or consumer; or
12 the preparation of food and beverages by a retailer for retail
13 sale. As used in this subdivision, "industrial processor" means
14 a 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 this service shall
20 not 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 tangible personal
24 property is a computer used in operating industrial processing
25 equipment; equipment used in a computer assisted manufacturing
26 system; equipment used in a computer assisted design or
27 engineering system integral to an industrial process; or a

1 subunit or electronic assembly comprising a component in a
2 computer integrated industrial processing system.

3 (h) To persons, of a newspaper or periodical admitted under
4 federal postal laws and regulations effective September 1, 1985
5 as second-class mail matter or as a controlled circulation publi-
6 cation or qualified to accept legal notices for publication in
7 this state, as defined by law, or any other newspaper or periodi-
8 cal of general circulation, established not less than 2 years,
9 and published not less than once a week, and copyrighted motion
10 picture films. Tangible personal property used or consumed, and
11 not becoming a component part of a newspaper or periodical,
12 except that portion or percentage of tangible personal property
13 used or consumed in producing an advertising supplement that
14 becomes a component part of a newspaper or periodical, and copy-
15 righted motion picture films are subject to tax. For purposes of
16 this subdivision, tangible personal property that becomes a com-
17 ponent part of a newspaper or periodical, and thereby not subject
18 to tax, shall include an advertising supplement inserted into and
19 circulated with a newspaper or periodical that is otherwise
20 exempt from tax under this subdivision, if the advertising sup-
21 plement is delivered directly to the newspaper or periodical by a
22 person other than the advertiser, or the advertising supplement
23 is printed by the newspaper or periodical.

24 (i) To persons licensed to operate commercial radio or tele-
25 vision stations when the property is used in the origination or
26 integration of the various sources of program material for
27 commercial radio or television transmission. This subdivision

1 does not include a vehicle licensed and titled for use on public
2 highways or property used in the transmission to or receiving
3 from an artificial satellite.

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

15 (l) To persons for use or consumption in the rendition of a
16 service, the use or consumption of which is taxable under section
17 3a(a) of the use tax act, Act No. 94 of the Public Acts of 1937,
18 as amended, being section 205.93a of the Michigan Compiled Laws,
19 except that this exemption shall be limited to the tangible per-
20 sonal property located on the premises of the subscriber and the
21 necessary exchange equipment.

22 (m) Not for resale of a vehicle to a Michigan nonprofit cor-
23 poration organized exclusively to provide a community with ambu-
24 lance or fire department services.

25 (n) To inmates in a penal or correction institution pur-
26 chased with scrip issued and redeemed by the institution.

1 (o) To or for the use of students enrolled in any part of a
2 kindergarten through twelfth grade program, of textbooks sold by
3 a public or nonpublic school.

4 (p) Installed as a component part of a water pollution con-
5 trol facility for which a tax exemption certificate is issued
6 pursuant to Act No. 222 of the Public Acts of 1966, as amended,
7 being sections 323.351 to 323.358 of the Michigan Compiled Laws,
8 or an air pollution control facility for which a tax exemption
9 certificate is issued pursuant to Act No. 250 of the Public Acts
10 of 1965, as amended, being sections 336.1 to 336.8 of the
11 Michigan Compiled Laws.