

HOUSE BILL No. 6148

November 8, 1990, Introduced by Reps. Jaye and Dunaskiss 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 consti-
5 tution 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~~ IF the property is used in this
23 state in a nontransitory business activity for a period exceeding
24 15 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~~ MEANING fired clay or perforated plastic
26 tubing used as part of a subsurface drainage system for land used
27 in the production of agricultural products as a business

1 enterprise, and includes a portable grain bin, ~~which means~~
2 MEANING a structure that is used or is to be used to shelter
3 grain and that is designed to be disassembled without significant
4 damage to its component parts. This exemption does not include
5 transfers of food, fuel, clothing, or similar tangible personal
6 property for personal living or human consumption. This exemp-
7 tion ~~shall~~ DOES not include tangible personal property per-
8 manently affixed and becoming a structural 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 Industrial processing does not include receipt and storage of raw
17 materials purchased or extracted by the user or consumer, or the
18 preparation of food and beverages by a retailer for retail sale.
19 As used in this subdivision, "industrial processor" means a
20 person who transforms, alters, or modifies tangible personal
21 property by changing the form, composition, or character of the
22 property for ultimate sale at retail or sale to another indus-
23 trial processor to be further processed for ultimate sale at
24 retail. Sales to a person performing a service who does not act
25 as an industrial processor while performing the service may not
26 be excluded under this subdivision, except as provided in
27 subparagraph (ii).

1 (ii) After December 31, 1984, a person, whether or not the
2 person is an industrial processor, ~~when~~ IF the property is a
3 computer used in operating industrial processing equipment;
4 equipment used in a computer assisted manufacturing system;
5 equipment used in a computer assisted design or engineering
6 system integral to an industrial process; or a subunit or elec-
7 tronic assembly comprising a component in a computer integrated
8 industrial processing system.

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

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

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

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

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

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

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

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

3 (l) 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~~
8 ~~include~~ INCLUDES an advertising supplement inserted into and
9 circulated with a newspaper or periodical ~~which~~ THAT is other-
10 wise exempt from tax under this subdivision, if the advertising
11 supplement is delivered directly to the newspaper or periodical
12 by a person other than the advertiser, or the advertising supple-
13 ment is printed by the newspaper or periodical.

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

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

26 (q) A vehicle for which a special registration is secured in
27 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~~ THAT precludes the use of eyeglasses, or
5 any other apparatus, device, or equipment used to replace or sub-
6 stitute for any part of the human body, or used to assist the
7 disabled person to lead a reasonably normal life ~~when~~ IF the
8 tangible personal property is purchased on a written prescription
9 or order issued by a ~~licensed~~ health professional as defined by
10 ~~section 4 of former Act No. 264 of the Public Acts of 1974, as~~
11 ~~amended, being section 325.904 of the Michigan Compiled Laws, or~~
12 section 21005 of the public health code, Act No. 368 of the
13 Public Acts of 1978, being section 333.21005 of the Michigan
14 Compiled Laws, or eyeglasses prescribed or dispensed to correct
15 the person's vision by an ophthalmologist, optometrist, or
16 optician.

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

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

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

1 (v) Tangible personal property purchased and installed as a
2 component part of a water pollution control facility for which a
3 tax exemption certificate is issued pursuant to Act No. 222 of
4 the Public Acts of 1966, as amended, being sections 323.351 to
5 323.358 of the Michigan Compiled Laws, or an air pollution con-
6 trol facility for which a tax exemption certificate is issued
7 pursuant to Act No. 250 of the Public Acts of 1965, as amended,
8 being sections 336.1 to 336.8 of the Michigan Compiled Laws.

9 (w) Tangible real or personal property donated by a manufac-
10 turer, wholesaler, or retailer to an organization or entity
11 exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b)
12 of the general sales tax act, Act No. 167 of the Public Acts of
13 1933, as amended, being section 205.54a of the Michigan Compiled
14 Laws.

15 (x) The storage, use, or consumption of any aircraft owned
16 or used by a domestic passenger air carrier operating under a
17 certificate issued by the civil aeronautics board pursuant to
18 section 401 of title IV of the federal aviation act of 1958,
19 49 U.S.C. 1371, if the aircraft is used primarily in the regu-
20 larly scheduled commercial transport of passengers.

21 (Y) THE PURCHASE OF A USED OR SECONDHAND VEHICLE AS DEFINED
22 BY SECTION 78 OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE
23 PUBLIC ACTS OF 1949, BEING SECTION 257.78 OF THE MICHIGAN
24 COMPILED LAWS.