

SENATE BILL No. 478

May 25, 1989, Introduced by Senators N. SMITH, CARL and SHINKLE and referred to the Committee on Finance.

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 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.

1 This exemption shall not include transfers of food, fuel,
2 clothing, or similar tangible personal property for personal
3 living or human consumption. This exemption shall not include
4 tangible personal property permanently affixed and becoming a
5 structural part of real estate.

6 (g) Property sold to the following:

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

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

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

25 (ii) After December 31, 1984, a person, whether or not the
26 person is an industrial processor, when the property is a
27 computer used in operating industrial processing equipment;

1 equipment used in a computer assisted manufacturing system;
2 equipment used in a computer assisted design or engineering
3 system integral to an industrial process; or a subunit or elec-
4 tronic assembly comprising a component in a computer integrated
5 industrial processing system.

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

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

1 cooperative preschool" means a nonprofit, nondiscriminatory
2 educational institution, maintained as a community service and
3 administered by parents of children currently enrolled in the
4 preschool, which provides an educational and developmental pro-
5 gram for children younger than compulsory school age, which pro-
6 vides an educational program for parents, including active par-
7 ticipation with children in preschool activities, which is
8 directed by qualified preschool personnel, and which is licensed
9 by the department of social services pursuant to Act No. 116 of
10 the Public Acts of 1973, as amended, being sections 722.111 to
11 722.128 of the Michigan Compiled Laws.

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

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

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

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

25 (l) Property purchased by a person engaged in the business
26 of constructing, altering, repairing, or improving real estate
27 for others to the extent the property is affixed to and made a

1 structural part of the real estate of a nonprofit hospital or a
2 nonprofit housing entity qualified as exempt pursuant to section
3 15a of THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, Act
4 No. 346 of the Public Acts of 1966, as amended, being section
5 125.1415a of the Michigan Compiled Laws. A nonprofit hospital or
6 nonprofit housing includes only the property of a nonprofit hos-
7 pital or the homes or dwelling places constructed by a nonprofit
8 housing entity, the income or property of which does not directly
9 or indirectly inure to the benefit of an individual, private
10 stockholder, or other private person.

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

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

22 Tangible personal property used or consumed, and not becoming a
23 component part of a newspaper or periodical, except that portion
24 or percentage of tangible personal property used or consumed in
25 producing an advertising supplement that becomes a component part
26 of a newspaper or periodical, and a copyrighted motion picture
27 film is subject to tax. For purposes of this subdivision,

1 tangible personal property that becomes a component part of a
2 newspaper or periodical, and thereby not subject to tax, shall
3 include an advertising supplement inserted into and circulated
4 with a newspaper or periodical which is otherwise exempt from tax
5 under this subdivision, if the advertising supplement is deliv-
6 ered directly to the newspaper or periodical by a person other
7 than the advertiser, or the advertising supplement is printed by
8 the newspaper or periodical.

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

16 (p) A person who is a resident of this state who purchases
17 an automobile in another state while in the military service of
18 the United States and who pays a sales tax in the state where the
19 automobile is purchased.

20 (q) A vehicle for which a special registration is secured in
21 accordance with section 226(9) of THE MICHIGAN VEHICLE CODE, Act
22 No. 300 of the Public Acts of 1949, as amended, being section
23 257.226 of the Michigan Compiled Laws.

24 (r) A hearing aid, contact lenses if prescribed for a spe-
25 cific disease which precludes the use of eyeglasses, or any other
26 apparatus, device, or equipment used to replace or substitute for
27 any part of the human body, or used to assist the disabled person

1 to lead a reasonably normal life when the tangible personal
2 property is purchased on a written prescription or order issued
3 by a licensed health professional as defined by section 4 of
4 former Act No. 264 of the Public Acts of 1974, as amended, being
5 section 325.904 of the Michigan Compiled Laws, or section 21005
6 of THE PUBLIC HEALTH CODE, Act No. 368 of the Public Acts of
7 1978, being section 333.21005 of the Michigan Compiled Laws, or
8 eyeglasses prescribed or dispensed to correct the person's vision
9 by an ophthalmologist, optometrist, or optician.

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

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

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

21 (v) Tangible personal property purchased and installed as a
22 component part of a water pollution control facility for which a
23 tax exemption certificate is issued pursuant to Act No. 222 of
24 the Public Acts of 1966, as amended, being sections 323.351 to
25 323.358 of the Michigan Compiled Laws, or an air pollution con-
26 trol facility for which a tax exemption certificate is issued

1 pursuant to Act No. 250 of the Public Acts of 1965, as amended,
2 being sections 336.1 to 336.8 of the Michigan Compiled Laws.

3 (w) Tangible real or personal property donated by a manufac-
4 turer, wholesaler, or retailer to an organization or entity
5 exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b)
6 of THE GENERAL SALES TAX ACT, Act No. 167 of the Public Acts of
7 1933, as amended, being section 205.54a of the Michigan Compiled
8 Laws.

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