

# SENATE BILL No. 674

November 1, 1989, Introduced by Senators CARL, WELBORN,  
DINGELL and POLLACK and referred to the Committee on  
Criminal Justice and Urban Affairs.

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 sec-  
tion 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 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 the property is a com-  
3 puter used in operating industrial processing equipment; equip-  
4 ment used in a computer assisted manufacturing system; equipment  
5 used in a computer assisted design or engineering system integral  
6 to an industrial process; or a subunit or electronic assembly  
7 comprising a component in a computer integrated industrial pro-  
8 cessing 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 not operated for profit,  
23 and when the income or benefit from the operation does not inure,  
24 in whole or in part, to an individual or private shareholder,  
25 directly or indirectly, and when the activities of the entity or  
26 agency are carried on exclusively for the benefit of the public  
27 at large and are not limited to the advantage, interests, and

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

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

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

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

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

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

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

18           (n) A newspaper or periodical classified under federal  
19 postal laws and regulations effective September 1, 1985 as second  
20 class mail matter or as a controlled circulation publication or  
21 qualified to accept legal notices for publication in this state,  
22 as defined by law, or any other newspaper or periodical of gen-  
23 eral circulation, established at least 2 years, and published at  
24 least once a week, and a copyrighted motion picture film.  
25 Tangible personal property used or consumed, and not becoming a  
26 component part of a newspaper or periodical, except that portion  
27 or percentage of tangible personal property used or consumed in

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

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

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

23 (q) A vehicle for which a special registration is secured in  
24 accordance with section 226(9) of the Michigan vehicle code, Act  
25 No. 300 of the Public Acts of 1949, as amended, being section  
26 257.226 of the Michigan Compiled Laws.



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

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

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

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

24 (v) Tangible personal property purchased and installed as a  
25 component part of a water pollution control facility for which a  
26 tax exemption certificate is issued pursuant to Act No. 222 of  
27 the Public Acts of 1966, as amended, being sections 323.351 to

1 323.358 of the Michigan Compiled Laws, or an air pollution  
2 control facility for which a tax exemption certificate is issued  
3 pursuant to Act No. 250 of the Public Acts of 1965, as amended,  
4 being sections 336.1 to 336.8 of the Michigan Compiled Laws.

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

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

17 Section 2. This amendatory act shall not take effect unless  
18 Senate Bill No. 109 of the 85th Legislature is enacted into law.

19 Section 3. This amendatory act shall take effect  
20 October 1, 1990.