

HOUSE SUBSTITUTE FOR SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4561

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4a (MCL 205.54a), as amended by 2017 PA 219.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4a. (1) Subject to subsection (2), the following are
2 exempt from the tax under this act:

3 (a) A sale of tangible personal property not for resale to a
4 nonprofit school, nonprofit hospital, or nonprofit home for the
5 care and maintenance of children or aged persons operated by an
6 entity of government, a regularly organized church, religious, or
7 fraternal organization, a veterans' organization, or a corporation
8 incorporated under the laws of this state, if the income or benefit
9 from the operation does not inure, in whole or in part, to an

1 individual or private shareholder, directly or indirectly, and if
2 the activities of the entity or agency are carried on exclusively
3 for the benefit of the public at large and are not limited to the
4 advantage, interests, and benefits of its members or any restricted
5 group. A sale of tangible personal property to a parent cooperative
6 preschool is exempt from taxation under this act. As used in this
7 subdivision, "parent cooperative preschool" means a nonprofit,
8 nondiscriminatory educational institution, maintained as a
9 community service and administered by parents of children currently
10 enrolled in the preschool, that provides an educational and
11 developmental program for children younger than compulsory school
12 age, that provides an educational program for parents, including
13 active participation with children in preschool activities, that is
14 directed by qualified preschool personnel, and that is licensed
15 pursuant to 1973 PA 116, MCL 722.111 to 722.128.

16 (b) A sale of tangible personal property not for resale to a
17 regularly organized church or house of religious worship, except
18 the following:

19 (i) Sales in activities that are mainly commercial
20 enterprises.

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

25 (c) The sale of food to bona fide enrolled students by a
26 school or other educational institution not operated for profit.

27 (d) The sale of a vessel designated for commercial use of

1 registered tonnage of 500 tons or more, if produced upon special
2 order of the purchaser, and bunker and galley fuel, provisions,
3 supplies, maintenance, and repairs for the exclusive use of the
4 vessel engaged in interstate commerce.

5 (e) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (3), A**
6 sale of tangible personal property to ~~persons~~ **A PERSON** engaged in a
7 business enterprise and ~~using or consuming~~ **THAT USES OR CONSUMES**
8 the tangible personal property, ~~in the tilling, planting, draining,~~
9 ~~earing for, or harvesting of the things of the soil; in the~~
10 ~~breeding, raising, or caring for livestock, poultry, or~~
11 ~~horticultural products, including transfers of livestock, poultry,~~
12 ~~or horticultural products for further growth; or in the direct~~
13 ~~gathering of fish, by net, line, or otherwise only by an owner-~~
14 ~~operator of the business enterprise, not including a charter~~
15 ~~fishing business enterprise. This exemption includes machinery that~~
16 ~~is capable of simultaneously harvesting grain or other crops and~~
17 ~~biomass and machinery used for the purpose of harvesting biomass.~~
18 ~~This exemption includes agricultural land tile, which means fired~~
19 ~~clay or perforated plastic tubing used as part of a subsurface~~
20 ~~drainage system for land, and subsurface irrigation pipe, if the~~
21 ~~land tile or irrigation pipe is used in the production of~~
22 ~~agricultural products as a business enterprise. This exemption~~
23 ~~includes a portable grain bin, which means a structure that is used~~
24 ~~or is to be used to shelter grain and that is designed to be~~
25 ~~disassembled without significant damage to its component parts.~~
26 ~~This exemption also includes grain drying equipment and the fuel or~~
27 ~~energy source that powers that equipment for agricultural purposes.~~

~~1 This exemption also includes tangible personal property affixed to
2 or to be affixed to and directly used in the operation of either a
3 portable grain bin or grain drying equipment. This exemption
4 includes a sale of agricultural land tile, subsurface irrigation
5 pipe, portable grain bins, and grain drying equipment to a person
6 in the business of constructing, altering, repairing, or improving
7 real estate for others to the extent that it is affixed to or made
8 a structural part of real estate and is used for a purpose exempt
9 under this subsection. This exemption does not include transfers of
10 food, fuel, clothing, or any similar tangible personal property for
11 personal living or human consumption. Except for agricultural land
12 tile, subsurface irrigation pipe, portable grain bins, and grain
13 drying equipment, this exemption does not include tangible personal
14 property permanently affixed and becoming a structural part of real
15 estate. As used in this subdivision, "biomass" means crop residue
16 used to produce energy or agricultural crops grown specifically for
17 the production of energy.~~**DIRECTLY OR INDIRECTLY, FOR EITHER THE
18 TILLING, PLANTING, DRAINING, CARING FOR, MAINTAINING, OR HARVESTING
19 OF THINGS OF THE SOIL OR THE BREEDING, RAISING, OR CARING FOR
20 LIVESTOCK, POULTRY, OR HORTICULTURAL PRODUCTS, INCLUDING THE
21 TRANSFERS OF LIVESTOCK, POULTRY, OR HORTICULTURAL PRODUCTS FOR
22 FURTHER GROWTH.**

**23 (F) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (3), A SALE
24 OF ANY OF THE FOLLOWING TO A PERSON ENGAGED IN A BUSINESS
25 ENTERPRISE THAT USES OR CONSUMES THE FOLLOWING FOR PURPOSES AS
26 DESCRIBED IN SUBDIVISION (E):**

27 (i) MACHINERY THAT IS CAPABLE OF SIMULTANEOUSLY HARVESTING

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1 GRAIN OR OTHER CROPS AND BIOMASS AND MACHINERY USED FOR THE PURPOSE
2 OF HARVESTING BIOMASS.

3 (ii) AGRICULTURAL LAND TILE AND SUBSURFACE IRRIGATION PIPE.

4 (iii) PORTABLE GRAIN BINS, INCLUDING TANGIBLE PERSONAL
5 PROPERTY AFFIXED OR TO BE AFFIXED TO PORTABLE GRAIN BINS AND
6 DIRECTLY USED IN THE OPERATION OF A PORTABLE GRAIN BIN.

7 (iv) GRAIN DRYING EQUIPMENT AND THE FUEL OR ENERGY SOURCE THAT
8 POWERS THAT EQUIPMENT, INCLUDING TANGIBLE PERSONAL PROPERTY AFFIXED
9 OR TO BE AFFIXED TO THAT EQUIPMENT AND DIRECTLY USED IN THE
10 OPERATION OF GRAIN DRYING EQUIPMENT.

11 (v) TANGIBLE PERSONAL PROPERTY PURCHASED AND INSTALLED AS A
12 COMPONENT PART OF A STRUCTURE [SUCH AS A BARN OR SHOP], INCLUDING, BUT
13 NOT LIMITED TO, A
14 [] WATER SUPPLY SYSTEM, HEATING AND COOLING SYSTEM,
15 LIGHTING SYSTEM, MILKING SYSTEM, OR ANY OTHER APPURTENANCE USED FOR
16 PURPOSES DESCRIBED IN THIS SUBDIVISION OR SUBDIVISION (E),
17 INCLUDING THE MAINTENANCE OR IMPROVEMENT OF EXISTING STRUCTURES, TO
18 THE EXTENT THAT IT IS NOT PERMANENTLY AFFIXED TO AND DOES NOT
19 BECOME A STRUCTURAL PART OF REAL ESTATE. FOR PURPOSES OF THIS
20 SUBPARAGRAPH AND SUBSECTION (3), PROPERTY INSTALLED AS A COMPONENT
21 PART OF A STRUCTURE AS PROVIDED IN THIS SUBPARAGRAPH IS NOT
22 PERMANENTLY AFFIXED TO OR A STRUCTURAL PART OF REAL ESTATE IF IT IS
23 ASSEMBLED AND INSTALLED IN A MANNER THAT IT CAN BE DISASSEMBLED
24 WITHOUT AFFECTING THE PHYSICAL STRUCTURAL FUNCTIONALITY OF THE
25 ORIGINAL STRUCTURE AND REASSEMBLED AND REUSED FOR ANY OF THE
26 PURPOSES DESCRIBED IN THIS SUBDIVISION OR SUBDIVISION (E).

27 (vi) GREENHOUSES, INCLUDING TANGIBLE PERSONAL PROPERTY AFFIXED
TO OR TO BE AFFIXED TO GREENHOUSES AND DIRECTLY USED IN THE

1 OPERATION OF A GREENHOUSE. FOR PURPOSES OF SUBSECTION (3), A
2 GREENHOUSE IS NOT PERMANENTLY AFFIXED TO OR A STRUCTURAL PART OF
3 REAL ESTATE IF IT IS ASSEMBLED AND INSTALLED IN A MANNER THAT IT
4 CAN BE DISASSEMBLED AND REASSEMBLED WITHOUT AFFECTING THE
5 FUNCTIONALITY OF THE GREENHOUSE UPON BEING REASSEMBLED.

6 (G) THE SALE OF AGRICULTURAL LAND TILE, SUBSURFACE IRRIGATION
7 PIPE, PORTABLE GRAIN BINS, GREENHOUSES, AND GRAIN DRYING EQUIPMENT
8 TO A PERSON IN THE BUSINESS OF CONSTRUCTING, ALTERING, REPAIRING,
9 OR IMPROVING REAL ESTATE FOR OTHERS TO THE EXTENT THAT IT IS
10 AFFIXED TO AND MADE A STRUCTURAL PART OF REAL ESTATE FOR OTHERS AND
11 IS USED FOR AN EXEMPT PURPOSE DESCRIBED UNDER SUBDIVISION (E) OR
12 (F).

13 (H) THE SALE OF TANGIBLE PERSONAL PROPERTY USED IN THE DIRECT
14 GATHERING OF FISH, BY NET, LINE, OR OTHERWISE, BY AN OWNER-OPERATOR
15 OF A BUSINESS ENTERPRISE, NOT INCLUDING A CHARTER FISHING BUSINESS
16 ENTERPRISE.

17 (I) ~~(f)~~—The sale of a copyrighted motion picture film or a
18 newspaper or periodical admitted under federal postal laws and
19 regulations effective September 1, 1985 as second-class mail matter
20 or as a controlled circulation publication or qualified to accept
21 legal notices for publication in this state, as defined by law, or
22 any other newspaper or periodical of general circulation,
23 established not less than 2 years, and published not less than once
24 a week. Tangible personal property used or consumed in producing a
25 copyrighted motion picture film, a newspaper published more than 14
26 times per year, or a periodical published more than 14 times per
27 year, and not becoming a component part of that film, newspaper, or

1 periodical is subject to the tax. Tangible personal property used
2 or consumed in producing a newspaper published 14 times or less per
3 year or a periodical published 14 times or less per year and that
4 portion or percentage of tangible personal property used or
5 consumed in producing an advertising supplement that becomes a
6 component part of a newspaper or periodical is exempt from the tax
7 under this subdivision. For purposes of this subdivision, tangible
8 personal property that becomes a component part of a newspaper or
9 periodical and consequently not subject to tax includes an
10 advertising supplement inserted into and circulated with a
11 newspaper or periodical that is otherwise exempt from tax under
12 this subdivision, if the advertising supplement is delivered
13 directly to the newspaper or periodical by a person other than the
14 advertiser, or the advertising supplement is printed by the
15 newspaper or periodical.

16 **(J)** ~~(g)~~—A sale of tangible personal property to persons
17 licensed to operate commercial radio or television stations if the
18 property is used in the origination or integration of the various
19 sources of program material for commercial radio or television
20 transmission. This subdivision does not include a vehicle licensed
21 and titled for use on public highways or property used in the
22 transmission to or receiving from an artificial satellite.

23 **(K)** ~~(h)~~—The sale of a prosthetic device, durable medical
24 equipment, or mobility enhancing equipment.

25 **(L)** ~~(i)~~—The sale of a vehicle not for resale to a Michigan
26 nonprofit corporation organized exclusively to provide a community
27 with ambulance or fire department services.

1 **(M)** ~~(j)~~—Before October 1, 2012, a sale of tangible personal
2 property to inmates in a penal or correctional institution
3 purchased with scrip or its equivalent issued and redeemed by the
4 institution.

5 **(N)** ~~(k)~~—A sale of textbooks sold by a public or nonpublic
6 school to or for the use of students enrolled in any part of a
7 kindergarten through twelfth grade program.

8 **(O)** ~~(l)~~—A sale of tangible personal property installed as a
9 component part of a water pollution control facility for which a
10 tax exemption certificate is issued pursuant to part 37 of the
11 natural resources and environmental protection act, 1994 PA 451,
12 MCL 324.3701 to 324.3708, or an air pollution control facility for
13 which a tax exemption certificate is issued pursuant to part 59 of
14 the natural resources and environmental protection act, 1994 PA
15 451, MCL 324.5901 to 324.5908.

16 **(P)** ~~(m)~~—The sale or lease of the following to an industrial
17 laundry after December 31, 1997:

18 (i) Textiles and disposable products including, but not
19 limited to, soap, paper, chemicals, tissues, deodorizers and
20 dispensers, and all related items such as packaging, supplies,
21 hangers, name tags, and identification tags.

22 (ii) Equipment, whether owned or leased, used to repair and
23 dispense textiles including, but not limited to, roll towel
24 cabinets, slings, hardware, lockers, mop handles and frames, and
25 carts.

26 (iii) Machinery, equipment, parts, lubricants, and repair
27 services used to clean, process, and package textiles and related

1 items, whether owned or leased.

2 (iv) Utilities such as electric, gas, water, or oil.

3 (v) Production washroom equipment and mending and packaging
4 supplies and equipment.

5 (vi) Material handling equipment including, but not limited
6 to, conveyors, racks, and elevators and related control equipment.

7 (vii) Wastewater pretreatment equipment and supplies and
8 related maintenance and repair services.

9 (Q) ~~(n)~~—A sale of tangible personal property to a person
10 holding a direct payment permit under section 8 of the use tax act,
11 1937 PA 94, MCL 205.98.

12 (R) ~~(o)~~—The sale of a dental prosthesis.

13 (S) **A SALE OF TANGIBLE PERSONAL PROPERTY THAT IS SPECIFICALLY**
14 **DESIGNED FOR, AND DIRECTLY USED IN, THE HARVESTING OF AQUATIC**
15 **VEGETATION FROM THE WATERS OF THE STATE, INCLUDING PARTS AND**
16 **MATERIALS USED FOR REPAIRS OF THAT TANGIBLE PERSONAL PROPERTY, TO A**
17 **PERSON ENGAGED IN A BUSINESS ENTERPRISE OF HARVESTING AQUATIC**
18 **VEGETATION AND ULTIMATELY USED FOR PURPOSES DESCRIBED IN**
19 **SUBDIVISION (E) OR (F). THIS EXEMPTION DOES NOT INCLUDE A MOTOR**
20 **VEHICLE LICENSED OR REQUIRED TO BE LICENSED FOR USE ON THE PUBLIC**
21 **ROADS OR HIGHWAYS OF THIS STATE OR TANGIBLE PERSONAL PROPERTY**
22 **PERMANENTLY AFFIXED TO AND BECOMING A STRUCTURAL PART OF REAL**
23 **ESTATE.**

24 (2) The tangible personal property under subsection (1) is
25 exempt only to the extent that that property is used for the exempt
26 purpose if one is stated in subsection (1). The exemption is
27 limited to the percentage of exempt use to total use determined by

1 a reasonable formula or method approved by the department.

2 (3) THE EXEMPTIONS UNDER SUBSECTION (1) (E), (F), (G), AND (H)
3 DO NOT INCLUDE TRANSFERS OF FOOD, FUEL, CLOTHING, OR ANY SIMILAR
4 TANGIBLE PERSONAL PROPERTY FOR PERSONAL LIVING OR HUMAN CONSUMPTION
5 OR TANGIBLE PERSONAL PROPERTY PERMANENTLY AFFIXED TO AND BECOMING A
6 STRUCTURAL PART OF REAL ESTATE UNLESS IT IS AGRICULTURAL LAND TILE,
7 SUBSURFACE IRRIGATION PIPE, A PORTABLE GRAIN BIN, OR GRAIN DRYING
8 EQUIPMENT.

9 (4) SUBSECTIONS (1) (E), (F), AND (G) AS AMENDED BY THE
10 AMENDATORY ACT THAT ADDED THIS SUBSECTION ARE INTENDED TO BE
11 RETROACTIVE AND TO APPLY TO ALL PERIODS OPEN UNDER SECTION 27A OF
12 1941 PA 122, MCL 205.27A, BUT DO NOT APPLY TO ANY REFUND CLAIMS
13 FILED PRIOR TO APRIL 9, 2018.

14 (5) AS USED IN THIS SECTION:

15 (A) "AGRICULTURAL LAND TILE" MEANS FIRED CLAY OR PERFORATED
16 PLASTIC TUBING USED AS PART OF A SUBSURFACE DRAINAGE SYSTEM FOR
17 LAND.

18 (B) "ALGAE" MEANS ANY OF THE GROUP OF NONVASCULAR AQUATIC
19 PLANTS WHICH DO NOT HAVE STEMS, FLOWERS, LEAVES, AND ROOTS, AND
20 WHICH ARE SINGLE-CELLED, COLONIAL, OR FILAMENTOUS FORMS.

21 (C) "AQUATIC VEGETATION" MEANS BOTH ALGAE AND HIGHER AQUATIC
22 PLANTS.

23 (D) "BIOMASS" MEANS CROP RESIDUE USED TO PRODUCE ENERGY OR
24 AGRICULTURAL CROPS GROWN SPECIFICALLY FOR THE PRODUCTION OF ENERGY.

25 (E) "GREENHOUSE" MEANS A STRUCTURE COVERED WITH TRANSPARENT OR
26 TRANSLUCENT MATERIALS FOR THE PURPOSE OF ADMITTING NATURAL LIGHT
27 AND CONTROLLING THE ATMOSPHERE FOR GROWING HORTICULTURAL PRODUCTS.

1 GREENHOUSE DOES NOT INCLUDE A STRUCTURE PRIMARILY USED TO GROW
2 MARIHUANA.

3 (F) "HIGHER AQUATIC PLANT" MEANS ANY OF THE GROUP OF
4 VASCULARIZED PLANTS WHICH HAVE TRUE STEMS, FLOWERS, LEAVES, AND
5 ROOTS, WHICH LIVE IN WATER, AND WHICH BELONG TO THE CLASS
6 ANGIOSPERMAE.

7 (G) "PORTABLE GRAIN BIN" MEANS A STRUCTURE THAT IS USED OR IS
8 TO BE USED TO SHELTER GRAIN AND THAT IS DESIGNED TO BE DISASSEMBLED
9 WITHOUT SIGNIFICANT DAMAGE TO ITS COMPONENT PARTS.

10 (H) "WATERS OF THE STATE" MEANS THAT TERM AS DEFINED IN
11 SECTION 3302 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
12 ACT, 1994 PA 451, MCL 324.3302.

13 Enacting section 1. This amendatory act does not apply to a
14 claim for a refund filed prior to April 9, 2018.