

HOUSE BILL No. 4561

May 2, 2017, Introduced by Reps. Lauwers, VanderWall, Rendon and Barrett and referred to the Committee on Agriculture.

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 4a (MCL 205.54a), as amended by 2016 PA 431.

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

~~1 or to be affixed to and directly used in the operation of either a~~
~~2 portable grain bin or grain drying equipment. This exemption~~
~~3 includes a sale of agricultural land tile, subsurface irrigation~~
~~4 pipe, portable grain bins, and grain drying equipment to a person~~
~~5 in the business of constructing, altering, repairing, or improving~~
~~6 real estate for others to the extent that it is affixed to or made~~
~~7 a structural part of real estate and is used for a purpose exempt~~
~~8 under this subsection. This exemption does not include transfers of~~
~~9 food, fuel, clothing, or any similar tangible personal property for~~
~~10 personal living or human consumption. Except for agricultural land~~
~~11 tile, subsurface irrigation pipe, portable grain bins, and grain~~
~~12 drying equipment, this exemption does not include tangible personal~~
~~13 property permanently affixed and becoming a structural part of real~~
~~14 estate. As used in this subdivision, "biomass" means crop residue~~
~~15 used to produce energy or agricultural crops grown specifically for~~
~~16 the production of energy.~~**FOR EITHER THE TILLING, PLANTING,**
~~17 DRAINING, CARING FOR, OR HARVESTING OF THINGS OF THE SOIL FOR~~
~~18 AGRICULTURAL PURPOSES OR THE BREEDING, RAISING, OR CARING FOR~~
~~19 LIVESTOCK, POULTRY, OR HORTICULTURAL PRODUCTS, INCLUDING THE~~
~~20 TRANSFERS OF LIVESTOCK, POULTRY, OR HORTICULTURAL PRODUCTS FOR~~
~~21 FURTHER GROWTH. EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (3),~~
~~22 THIS EXEMPTION INCLUDES THE SALE OF ANY OF THE FOLLOWING TO A~~
~~23 PERSON DESCRIBED IN THIS SUBDIVISION:~~

~~24 (i) MACHINERY THAT IS CAPABLE OF SIMULTANEOUSLY HARVESTING~~
~~25 GRAIN OR OTHER CROPS AND BIOMASS AND MACHINERY USED FOR THE PURPOSE~~
~~26 OF HARVESTING BIOMASS.~~

~~27 (ii) AGRICULTURAL LAND TILE AND SUBSURFACE IRRIGATION PIPE.~~

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

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

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

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

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

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

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

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

26 **(K)** ~~(i)~~—The sale of a vehicle not for resale to a Michigan
27 nonprofit corporation organized exclusively to provide a community

1 with ambulance or fire department services.

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

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

9 (N) ~~(l)~~—A sale of tangible personal property installed as a
10 component part of a water pollution control facility for which a
11 tax exemption certificate is issued pursuant to part 37 of the
12 natural resources and environmental protection act, 1994 PA 451,
13 MCL 324.3701 to 324.3708, or an air pollution control facility for
14 which a tax exemption certificate is issued pursuant to part 59 of
15 the natural resources and environmental protection act, 1994 PA
16 451, MCL 324.5901 to 324.5908.

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

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

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

27 (iii) Machinery, equipment, parts, lubricants, and repair

1 services used to clean, process, and package textiles and related
2 items, whether owned or leased.

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

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

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

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

10 (P) ~~(n)~~—A sale of tangible personal property to a person
11 holding a direct payment permit under section 8 of the use tax act,
12 1937 PA 94, MCL 205.98.

13 (2) The tangible personal property under subsection (1) is
14 exempt only to the extent that that property is used for the exempt
15 purpose if one is stated in subsection (1). The exemption is
16 limited to the percentage of exempt use to total use determined by
17 a reasonable formula or method approved by the department.

18 (3) **THE EXEMPTIONS UNDER SUBSECTION (1) (E), (F), AND (G) DO**
19 **NOT INCLUDE EITHER OF THE FOLLOWING:**

20 (A) **THE TRANSFERS OF FOOD, FUEL, CLOTHING, OR ANY SIMILAR**
21 **TANGIBLE PERSONAL PROPERTY FOR PERSONAL LIVING OR HUMAN**
22 **CONSUMPTION.**

23 (B) **EXCEPT AS PROVIDED UNDER SUBSECTION (1) (F), TANGIBLE**
24 **PERSONAL PROPERTY PERMANENTLY AFFIXED TO AND BECOMING A STRUCTURAL**
25 **PART OF REAL ESTATE.**

26 (4) **AS USED IN THIS SECTION:**

27 (A) **"AGRICULTURAL LAND TILE" MEANS FIRED CLAY OR PERFORATED**

1 PLASTIC TUBING USED AS PART OF A SUBSURFACE DRAINAGE SYSTEM FOR
2 LAND.

3 (B) "BIOMASS" MEANS CROP RESIDUE USED TO PRODUCE ENERGY OR
4 AGRICULTURAL CROPS GROWN SPECIFICALLY FOR THE PRODUCTION OF ENERGY.

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

8 Enacting section 1. This amendatory act clarifies the original
9 intent of the legislature that the exemption provided for by
10 section 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL
11 205.54a, in regard to the tilling, planting, draining, caring for,
12 or harvesting of things of the soil is only applicable when these
13 activities are performed in a business enterprise that constitutes
14 an agricultural purpose.