

Act No. 113
Public Acts of 2018
Approved by the Governor
April 25, 2018
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April 25, 2018
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Lauwers, VanderWall, Rendon and Barrett

ENROLLED HOUSE BILL No. 4561

AN ACT to amend 1933 PA 167, entitled “An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act,” by amending section 4a (MCL 205.54a), as amended by 2017 PA 219.

The People of the State of Michigan enact:

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

(a) A sale of tangible personal property not for resale to a nonprofit school, nonprofit hospital, or nonprofit home for the care and maintenance of children or aged persons operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans’ organization, or a corporation incorporated under the laws of this state, if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or any restricted group. A sale of tangible personal property to a parent cooperative preschool is exempt from taxation under this act. As used in this subdivision, “parent cooperative preschool” means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool, that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed pursuant to 1973 PA 116, MCL 722.111 to 722.128.

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

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

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

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

(d) The sale of a vessel designated for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of the vessel engaged in interstate commerce.

(e) Except as otherwise provided under subsection (3), a sale of tangible personal property to a person engaged in a business enterprise that uses or consumes the tangible personal property, directly or indirectly, for either the tilling, planting, draining, caring for, maintaining, or harvesting of things of the soil or the breeding, raising, or caring for livestock, poultry, or horticultural products, including the transfers of livestock, poultry, or horticultural products for further growth.

(f) Except as otherwise provided under subsection (3), a sale of any of the following to a person engaged in a business enterprise that uses or consumes the following for purposes as described in subdivision (e):

(i) Machinery that is capable of simultaneously harvesting grain or other crops and biomass and machinery used for the purpose of harvesting biomass.

(ii) Agricultural land tile and subsurface irrigation pipe.

(iii) Portable grain bins, including tangible personal property affixed or to be affixed to portable grain bins and directly used in the operation of a portable grain bin.

(iv) Grain drying equipment and the fuel or energy source that powers that equipment, including tangible personal property affixed or to be affixed to that equipment and directly used in the operation of grain drying equipment.

(v) Tangible personal property purchased and installed as a component part of a structure such as a barn or shop, including, but not limited to, a water supply system, heating and cooling system, lighting system, milking system, or any other appurtenance used for purposes described in this subdivision or subdivision (e), including the maintenance or improvement of existing structures, to the extent that it is not permanently affixed to and does not become a structural part of real estate. For purposes of this subparagraph and subsection (3), property installed as a component part of a structure as provided in this subparagraph is not permanently affixed to or a structural part of real estate if it is assembled and installed in a manner that it can be disassembled without affecting the physical structural functionality of the original structure and reassembled and reused for any of the purposes described in this subdivision or subdivision (e).

(vi) Greenhouses, including tangible personal property affixed to or to be affixed to greenhouses and directly used in the operation of a greenhouse. For purposes of subsection (3), a greenhouse is not permanently affixed to or a structural part of real estate if it is assembled and installed in a manner that it can be disassembled and reassembled without affecting the functionality of the greenhouse upon being reassembled.

(g) The sale of agricultural land tile, subsurface irrigation pipe, portable grain bins, greenhouses, and grain drying equipment to a person in the business of constructing, altering, repairing, or improving real estate for others to the extent that it is affixed to and made a structural part of real estate for others and is used for an exempt purpose described under subdivision (e) or (f).

(h) The sale of tangible personal property used in the direct gathering of fish, by net, line, or otherwise, by an owner-operator of a business enterprise, not including a charter fishing business enterprise.

(i) The sale of a copyrighted motion picture film or a newspaper or periodical admitted under federal postal laws and regulations effective September 1, 1985 as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established not less than 2 years, and published not less than once a week. Tangible personal property used or consumed in producing a copyrighted motion picture film, a newspaper published more than 14 times per year, or a periodical published more than 14 times per year, and not becoming a component part of that film, newspaper, or periodical is subject to the tax. Tangible personal property used or consumed in producing a newspaper published 14 times or less per year or a periodical published 14 times or less per year and that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical is exempt from the tax under this subdivision. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical and consequently not subject to tax includes an advertising supplement inserted into and circulated with a newspaper or periodical that is otherwise exempt from tax under this subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

(j) A sale of tangible personal property to persons licensed to operate commercial radio or television stations if the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmission to or receiving from an artificial satellite.

(k) The sale of a prosthetic device, durable medical equipment, or mobility enhancing equipment.

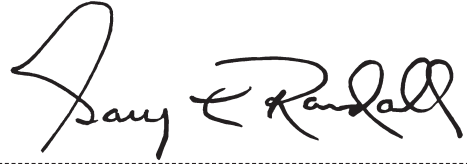
(l) The sale of a vehicle not for resale to a Michigan nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

(m) Before October 1, 2012, a sale of tangible personal property to inmates in a penal or correctional institution purchased with scrip or its equivalent issued and redeemed by the institution.

- (n) A sale of textbooks sold by a public or nonpublic school to or for the use of students enrolled in any part of a kindergarten through twelfth grade program.
- (o) A sale of tangible personal property installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to part 37 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air pollution control facility for which a tax exemption certificate is issued pursuant to part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.
- (p) The sale or lease of the following to an industrial laundry after December 31, 1997:
- (i) Textiles and disposable products including, but not limited to, soap, paper, chemicals, tissues, deodorizers and dispensers, and all related items such as packaging, supplies, hangers, name tags, and identification tags.
 - (ii) Equipment, whether owned or leased, used to repair and dispense textiles including, but not limited to, roll towel cabinets, slings, hardware, lockers, mop handles and frames, and carts.
 - (iii) Machinery, equipment, parts, lubricants, and repair services used to clean, process, and package textiles and related items, whether owned or leased.
 - (iv) Utilities such as electric, gas, water, or oil.
 - (v) Production washroom equipment and mending and packaging supplies and equipment.
 - (vi) Material handling equipment including, but not limited to, conveyors, racks, and elevators and related control equipment.
 - (vii) Wastewater pretreatment equipment and supplies and related maintenance and repair services.
- (q) A sale of tangible personal property to a person holding a direct payment permit under section 8 of the use tax act, 1937 PA 94, MCL 205.98.
- (r) The sale of a dental prosthesis.
- (s) A sale of tangible personal property that is specifically designed for, and directly used in, the harvesting of aquatic vegetation from the waters of the state, including parts and materials used for repairs of that tangible personal property, to a person engaged in a business enterprise of harvesting aquatic vegetation and ultimately used for purposes described in subdivision (e) or (f). This exemption does not include a motor vehicle licensed or required to be licensed for use on the public roads or highways of this state or tangible personal property permanently affixed to and becoming a structural part of real estate.
- (2) The tangible personal property under subsection (1) is exempt only to the extent that that property is used for the exempt purpose if one is stated in subsection (1). The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.
- (3) The exemptions under subsection (1)(e), (f), (g), and (h) do not include transfers of food, fuel, clothing, or any similar tangible personal property for personal living or human consumption or tangible personal property permanently affixed to and becoming a structural part of real estate unless it is agricultural land tile, subsurface irrigation pipe, a portable grain bin, or grain drying equipment.
- (4) Subsections (1)(e), (f), and (g) as amended by the amendatory act that added this subsection are intended to be retroactive and to apply to all periods open under section 27a of 1941 PA 122, MCL 205.27a, but do not apply to any refund claims filed prior to April 9, 2018.
- (5) As used in this section:
- (a) “Agricultural land tile” means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land.
 - (b) “Algae” means any of the group of nonvascular aquatic plants which do not have stems, flowers, leaves, and roots, and which are single-celled, colonial, or filamentous forms.
 - (c) “Aquatic vegetation” means both algae and higher aquatic plants.
 - (d) “Biomass” means crop residue used to produce energy or agricultural crops grown specifically for the production of energy.
 - (e) “Greenhouse” means a structure covered with transparent or translucent materials for the purpose of admitting natural light and controlling the atmosphere for growing horticultural products. Greenhouse does not include a structure primarily used to grow marihuana.
 - (f) “Higher aquatic plant” means any of the group of vascularized plants which have true stems, flowers, leaves, and roots, which live in water, and which belong to the class Angiospermae.
 - (g) “Portable grain bin” means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts.
 - (h) “Waters of the state” means that term as defined in section 3302 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3302.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor