

# HOUSE BILL NO. 4254

March 09, 2023, Introduced by Rep. Coleman and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending sections 1 and 25 (MCL 205.51 and 205.75), section 1 as  
amended by 2018 PA 2 and section 25 as amended by 2021 PA 108.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1       Sec. 1. (1) As used in this act:
- 2       (a) "Person" means an individual, firm, partnership, joint
- 3       venture, association, social club, fraternal organization,
- 4       municipal or private corporation whether organized for profit or
- 5       not, company, estate, trust, receiver, trustee, syndicate, the

1 United States, this state, county, or any other group or  
2 combination acting as a unit, and includes the plural as well as  
3 the singular number, unless the intention to give a more limited  
4 meaning is disclosed by the context.

5 (b) "Sale at retail" or "retail sale" means a sale, lease, or  
6 rental of tangible personal property for any purpose other than for  
7 resale, sublease, or subrent.

8 (c) "Gross proceeds" means sales price.

9 (d) "Sales price" means the total amount of consideration,  
10 including cash, credit, property, and services, for which tangible  
11 personal property or services are sold, leased, or rented, valued  
12 in money, whether received in money or otherwise, and applies to  
13 the measure subject to sales tax. Sales price includes the  
14 following subparagraphs (i) ~~through~~ ~~to~~ (vii) and excludes  
15 subparagraphs (viii) ~~through~~ ~~(xiv)~~ ~~to~~ (xv):

16 (i) Seller's cost of the property sold.

17 (ii) Cost of materials used, labor or service cost, interest,  
18 losses, costs of transportation to the seller, taxes imposed on the  
19 seller other than taxes imposed by this act, and any other expense  
20 of the seller.

21 (iii) Charges by the seller for any services necessary to  
22 complete the sale, other than the following:

23 (A) An amount received or billed by the taxpayer for  
24 remittance to the employee as a gratuity or tip, if the gratuity or  
25 tip is separately identified and itemized on the guest check or  
26 billed to the customer.

27 (B) Labor or service charges involved in maintenance and  
28 repair work on tangible personal property of others if separately  
29 itemized.

1           ~~(iv) Delivery~~ **Except as otherwise provided in subparagraph**  
 2 **(xv), delivery** charges. ~~incurred or to be incurred before the~~  
 3 ~~completion of the transfer of ownership of tangible personal~~  
 4 ~~property subject to the tax levied under this act from the seller~~  
 5 ~~to the purchaser.~~ A seller is not liable under this act for  
 6 delivery charges allocated to the delivery of exempt property.

7           ~~(v) Installation~~ **Except as otherwise provided in subparagraph**  
 8 **(xv), installation** charges. ~~incurred or to be incurred before the~~  
 9 ~~completion of the transfer of ownership of tangible personal~~  
 10 ~~property from the seller to the purchaser.~~

11           (vi) Except as otherwise provided in subparagraphs (xi), (xii),  
 12 and (xiv), credit for any trade-in.

13           (vii) Except as otherwise provided in subparagraph (x),  
 14 consideration received by the seller from third parties if all of  
 15 the following conditions are met:

16           (A) The seller actually receives consideration from a party  
 17 other than the purchaser and the consideration is directly related  
 18 to a price reduction or discount on the sale.

19           (B) The seller has an obligation to pass the price reduction  
 20 or discount through to the purchaser.

21           (C) The amount of the consideration attributable to the sale  
 22 is fixed and determinable by the seller at the time of the sale of  
 23 the item to the purchaser.

24           (D) One of the following criteria is met:

25           (I) The purchaser presents a coupon, certificate, or other  
 26 documentation to the seller to claim a price reduction or discount  
 27 where the coupon, certificate, or documentation is authorized,  
 28 distributed, or granted by a third party with the understanding  
 29 that the third party will reimburse any seller to whom the coupon,

1 certificate, or documentation is presented.

2 (II) The purchaser identifies himself or herself to the seller  
3 as a member of a group or organization entitled to a price  
4 reduction or discount. A preferred customer card that is available  
5 to any patron does not constitute membership in a group or  
6 organization.

7 (III) The price reduction or discount is identified as a third  
8 party price reduction or discount on the invoice received by the  
9 purchaser or on a coupon, certificate, or other documentation  
10 presented by the purchaser.

11 (viii) Interest, financing, or carrying charges from credit  
12 extended on the sale of personal property or services, if the  
13 amount is separately stated on the invoice, bill of sale, or  
14 similar document given to the purchaser.

15 (ix) Any taxes legally imposed directly on the consumer that  
16 are separately stated on the invoice, bill of sale, or similar  
17 document given to the purchaser.

18 (x) Beginning January 1, 2000, employee discounts that are  
19 reimbursed by a third party on sales of motor vehicles.

20 (xi) Beginning November 15, 2013, credit for the agreed-upon  
21 value of a titled watercraft used as part payment of the purchase  
22 price of a new titled watercraft or used titled watercraft  
23 purchased from a watercraft dealer if the agreed-upon value is  
24 separately stated on the invoice, bill of sale, or similar document  
25 given to the purchaser. This subparagraph does not apply to leases  
26 or rentals.

27 (xii) Beginning December 15, 2013, credit for the agreed-upon  
28 value of a motor vehicle or recreational vehicle used as part  
29 payment of the purchase price of a new motor vehicle or used motor

1 vehicle or recreational vehicle purchased from a dealer if the  
2 agreed-upon value is separately stated on the invoice, bill of  
3 sale, or similar document given to the purchaser. This subparagraph  
4 does not apply to leases or rentals. Except as otherwise provided  
5 under subparagraph (xiv), for purposes of this subparagraph, the  
6 agreed-upon value of a motor vehicle or recreational vehicle used  
7 as part payment ~~shall be~~ **is** limited as follows:

8 (A) Beginning December 15, 2013, subject to sub-subparagraphs  
9 (B) and (C), the lesser of the following:

10 (I) \$2,000.00.

11 (II) The agreed-upon value of the motor vehicle or  
12 recreational vehicle used as part payment.

13 (B) Beginning January 1, 2015 and each January 1 thereafter  
14 through December 31, 2018, the amount under sub-subparagraph (A) (I)  
15 ~~shall be~~ **is** increased by an additional \$500.00 each year.

16 (C) Beginning January 1, 2019, subject to sub-subparagraphs  
17 (D) and (E), the lesser of the following:

18 (I) \$5,000.00.

19 (II) The agreed-upon value of the motor vehicle used as part  
20 payment.

21 (D) Beginning January 1, 2020 and each January 1 thereafter,  
22 the amount under sub-subparagraph (C) (I) ~~shall be~~ **is** increased by  
23 an additional \$1,000.00 each year.

24 (E) Beginning on January 1 in the year in which the amount  
25 under sub-subparagraph (C) (I) exceeds \$14,000.00 and each January 1  
26 thereafter, there ~~shall be~~ **is** no limitation on the agreed-upon  
27 value of the motor vehicle used as part payment.

28 (xiii) Beginning January 1, 2017, credit for the core charge  
29 attributable to a recycling fee, deposit, or disposal fee for a

1 motor vehicle or recreational vehicle part or battery if the  
2 recycling fee, deposit, or disposal fee is separately stated on the  
3 invoice, bill of sale, or similar document given to the purchaser.

4 (xiv) Beginning January 1, 2018, credit for the agreed-upon  
5 value of a recreational vehicle used as part payment of the  
6 purchase price of a recreational vehicle purchased from a dealer if  
7 the agreed-upon value is separately stated on the invoice, bill of  
8 sale, or similar document given to the purchaser. This subparagraph  
9 does not apply to leases or rentals.

10 (xv) **Except as otherwise provided in this subparagraph,**  
11 **delivery or installation charges if such charges are separately**  
12 **stated on the invoice, bill of sale, or similar document provided**  
13 **to the purchaser, and the seller maintains its books and records to**  
14 **show separately the transactions used to determine the tax levied**  
15 **by this act. This subparagraph does not apply to charges for the**  
16 **delivery or installation of utilities and such delivery or**  
17 **installation charges must be included in sales price.**

18 (e) "Business" includes an activity engaged in by a person or  
19 caused to be engaged in by that person with the object of gain,  
20 benefit, or advantage, either direct or indirect.

21 (f) "Tax year" or "taxable year" means the fiscal year of the  
22 state or the taxpayer's fiscal year if permission is obtained by  
23 the taxpayer from the department to use the taxpayer's fiscal year  
24 as the tax period instead.

25 (g) "Department" means the department of treasury.

26 (h) "Taxpayer" means a person subject to a tax under this act.

27 (i) "Tax" includes a tax, interest, or penalty levied under  
28 this act.

29 (j) "Textiles" means goods that are made of or incorporate

1 woven or nonwoven fabric, including, but not limited to, clothing,  
2 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,  
3 pillows, pillow cases, tablecloths, napkins, aprons, linens, floor  
4 mops, floor mats, and thread. Textiles also include materials used  
5 to repair or construct textiles, or other goods used in the rental,  
6 sale, or cleaning of textiles.

7 (k) "New motor vehicle" means that term as defined in section  
8 33a of the Michigan vehicle code, 1949 PA 300, MCL 257.33a.

9 (l) "Recreational vehicle" means that term as defined in  
10 section 49a of the Michigan vehicle code, 1949 PA 300, MCL 257.49a.

11 (m) "Dealer" means that term as defined in section 11 of the  
12 Michigan vehicle code, 1949 PA 300, MCL 257.11.

13 (n) "Watercraft dealer" means a dealer as that term is defined  
14 in section 80102 of the natural resources and environmental  
15 protection act, 1994 PA 451, MCL 324.80102.

16 (2) If the department determines that it is necessary for the  
17 efficient administration of this act to regard an unlicensed  
18 person, including a salesperson, representative, peddler, or  
19 canvasser as the agent of the dealer, distributor, supervisor, or  
20 employer under whom the unlicensed person operates or from whom the  
21 unlicensed person obtains the tangible personal property sold by  
22 the unlicensed person, irrespective of whether the unlicensed  
23 person is making sales on the unlicensed person's own behalf or on  
24 behalf of the dealer, distributor, supervisor, or employer, the  
25 department may so regard the unlicensed person and may regard the  
26 dealer, distributor, supervisor, or employer as making sales at  
27 retail at the retail price for the purposes of this act.

28 **(3) Notwithstanding anything to the contrary in this act, the**  
29 **following applies only to delivery and installation charges**

1 described in subsection (1) (d) (iv) or (v) :

2 (a) Not later than 45 days after the effective date of the  
3 amendatory act that added this subsection, the department shall  
4 cancel all outstanding balances related to such delivery and  
5 installation charges on notices of intent to assess that were  
6 issued under section 21 of 1941 PA 122, MCL 205.21, for the tax  
7 levied under this act and that were issued before the effective  
8 date of the amendatory act that added this subsection.

9 (b) Not later than 45 days after the effective date of the  
10 amendatory act that added this subsection, the department shall  
11 cancel all outstanding balances related to such delivery and  
12 installation charges on final assessments that were issued under  
13 section 22 of 1941 PA 122, MCL 205.22, for the tax levied under  
14 this act, and that were issued before the effective date of the  
15 amendatory act that added this subsection.

16 (c) After the effective date of the amendatory act that added  
17 this subsection, the department shall not issue any new assessments  
18 for the tax levied under this act on such delivery and installation  
19 charges for any tax period before the effective date of the  
20 amendatory act that added this subsection that is open under the  
21 statute of limitations provided in section 27a of 1941 PA 122, MCL  
22 205.27a.

23 Sec. 25. (1) All money received and collected under this act  
24 must be deposited by the department in the state treasury to the  
25 credit of the general fund, except as otherwise provided in this  
26 section.

27 (2) Fifteen percent of the collections of the tax imposed at a  
28 rate of 4% must be distributed to cities, villages, and townships  
29 pursuant to the Glenn Steil state revenue sharing act of 1971, 1971



1 PA 140, MCL 141.901 to 141.921.

2 (3) Sixty percent of the collections of the tax imposed at a  
3 rate of 4% must be deposited in the state school aid fund  
4 ~~established in section 11 of article IX of the state constitution~~  
5 ~~of 1963~~ and distributed as provided by law. In addition, all of the  
6 collections of the tax imposed at the additional rate of 2%  
7 approved by the electors on March 15, 1994 must be deposited in the  
8 state school aid fund.

9 (4) Except as otherwise provided in this subsection, not less  
10 than 27.9% of 25% of the collections of the general sales tax  
11 imposed at a rate of 4% directly or indirectly on fuels sold to  
12 propel motor vehicles upon highways, on the sale of motor vehicles,  
13 and on the sale of the parts and accessories of motor vehicles by  
14 new and used car businesses, used car businesses, accessory dealer  
15 businesses, and gasoline station businesses as classified by the  
16 department must be deposited each year into the comprehensive  
17 transportation fund. For the fiscal year ending September 30, 2021  
18 only, the amount deposited into the comprehensive transportation  
19 fund under this subsection must be reduced by \$18,000,000.00 and  
20 that \$18,000,000.00 must be deposited into the transportation  
21 administration collection fund.

22 (5) Beginning October 1, 2016 and the first day of each  
23 calendar quarter thereafter, an amount equal to the collections for  
24 the calendar quarter that is 2 calendar quarters immediately  
25 preceding the current calendar quarter of the tax imposed under  
26 this act at the additional rate of 2% approved by the electors on  
27 March 15, 1994 from the sale at retail of aviation fuel must be  
28 distributed as follows:

29 (a) An amount equal to 35% of the collections of the tax

1 imposed at a rate of 2% on the sale at retail of aviation fuel must  
2 be deposited in the state aeronautics fund and must be expended, on  
3 appropriation, only for those purposes authorized in the  
4 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1  
5 to 259.208.

6 (b) An amount equal to 65% of the collections of the tax  
7 imposed at a rate of 2% on the sale at retail of aviation fuel must  
8 be deposited in the qualified airport fund and must be expended, on  
9 appropriation, only for those purposes authorized under section 35  
10 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL  
11 259.35.

12 (6) The department shall, on an annual basis, reconcile the  
13 amounts distributed under subsection (5) during each fiscal year  
14 with the amounts actually collected for a particular fiscal year  
15 and shall make any necessary adjustments, positive or negative, to  
16 the amounts to be distributed for the next successive calendar  
17 quarter that begins January 1. The state treasurer or ~~his or her~~  
18 **the state treasurer's** designee shall annually provide to the  
19 operator of each qualified airport a report of the reconciliation  
20 performed under this subsection. The reconciliation report is  
21 subject to the confidentiality restrictions and penalties provided  
22 in section 28(1)(f) of 1941 PA 122, MCL 205.28.

23 (7) An amount equal to the collections of the tax imposed at a  
24 rate of 4% under this act from the sale at retail of computer  
25 software must be deposited in the Michigan health initiative fund  
26 created in section 5911 of the public health code, 1978 PA 368, MCL  
27 333.5911, and must be considered in addition to, and is not  
28 intended as a replacement for any other money appropriated to the  
29 department of health and human services. The funds deposited in the

1 Michigan health initiative fund on an annual basis must not be less  
2 than \$9,000,000.00 or more than \$12,000,000.00.

3       (8) ~~An~~ **In addition to the money deposited in the state school**  
4 **aid fund under subsection (3), an** amount equal to ~~all revenue lost~~  
5 ~~to the state school aid fund as a result of the exemptions under~~  
6 ~~sections 4a(1)(u) and 4ee, the sum of the following,~~ as determined  
7 by the department, must be deposited into the state school aid  
8 fund: ~~established in section 11 of article IX of the state~~  
9 ~~constitution of 1963. Money deposited into the state school aid~~  
10 ~~fund under this subsection must not include and must be considered~~  
11 ~~in addition to money deposited in the state school aid fund under~~  
12 ~~subsection (3).~~

13       **(a) All revenue lost to the state school aid fund as a result**  
14 **of the exemption under section 4a(1)(u).**

15       **(b) All revenue lost to the state school aid fund as a result**  
16 **of the exemption under section 4ee.** A person that claims an  
17 exemption under section 4ee shall report the sales price of the  
18 data center equipment as defined in section 4ee and any other  
19 information necessary to determine the amount of revenue lost to  
20 the state school aid fund as a result of the exemption under  
21 section 4ee annually on a form at the time and in a manner  
22 prescribed by the department. The report required under this  
23 ~~subsection-subdivision~~ must not include any remittance for tax, and  
24 does not constitute a return or otherwise alleviate any obligations  
25 under section 6.

26       **(c) All revenue lost to the state school aid fund as a result**  
27 **of the exclusion under section 1(1)(d)(xv).**

28       (9) The balance in the state general fund shall be disbursed  
29 only on an appropriation or appropriations by the legislature.

1 (10) As used in this section:

2 (a) "Aviation fuel" means fuel as that term is defined in  
3 section 4 of the aeronautics code of the state of Michigan, 1945 PA  
4 327, MCL 259.4.

5 (b) "Comprehensive transportation fund" means the  
6 comprehensive transportation fund created in section 10b of 1951 PA  
7 51, MCL 247.660b.

8 (c) "Qualified airport" means that term as defined in section  
9 109 of the aeronautics code of the state of Michigan, 1945 PA 327,  
10 MCL 259.109.

11 (d) "Qualified airport fund" means the qualified airport fund  
12 created in section 34(2) of the aeronautics code of the state of  
13 Michigan, 1945 PA 327, MCL 259.34.

14 (e) "State aeronautics fund" means the state aeronautics fund  
15 created in section 34(1) of the aeronautics code of the state of  
16 Michigan, 1945 PA 327, MCL 259.34.

17 **(f) "State school aid fund" means the state school aid fund**  
18 **established in section 11 of article IX of the state constitution**  
19 **of 1963.**

20 **(g) ~~(f)~~**—"Transportation administration collection fund" means  
21 the transportation administration collection fund created in  
22 section 810b of the Michigan vehicle code, 1949 PA 300, MCL  
23 257.810b.