

USE TAX ACT (EXCERPT)
Act 94 of 1937

205.94p Extractive operations; exemption; limitation; eligible property; definitions.

Sec. 4p. (1) The tax under this act does not apply to property sold to an extractive operator for use or consumption in extractive operations.

(2) The property under subsection (1) is exempt only to the extent that the property is used for the exempt purposes stated in this section. 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) Extractive operations include the actual production of oil, gas, brine, or other natural resources. Property eligible for the exemption includes the following:

- (a) Casing pipe or drive pipe.
- (b) Tubing.
- (c) Well-pumping equipment.
- (d) Chemicals.
- (e) Explosives or acids used in fracturing, acidizing, or shooting wells.
- (f) Christmas trees, derricks, or other wellhead equipment.
- (g) Treatment tanks.
- (h) Piping, valves, or pumps used before movement or transportation of the natural resource from the production area.
- (i) Chemicals or acids used in the treatment of crude oil, gas, brine, or other natural resources.
- (j) Tangible personal property used or consumed in depositing tailings from hard rock mining processing.
- (k) Tangible personal property used or consumed in extracting the lithologic units necessary to process iron ore.

(4) The extractive operation exemption does not include the following:

(a) Tangible personal property consumed or used in the construction, alteration, improvement, or repair of buildings, storage tanks, and storage and housing facilities.

(b) Tangible personal property consumed or used in transporting the product from the place of extraction, except for tangible personal property consumed or used in transporting extracted materials from the extraction site to the place where the extracted materials first come to rest in finished goods inventory storage.

(c) Tangible personal property that is a product the extractive operator produces and that is consumed or used by the extractive operator for a purpose other than the manufacturing or producing of a product for ultimate sale. The extractor shall account for and remit the tax to the state based upon the product's fair market value.

(d) Equipment, materials, and supplies used in exploring, prospecting, or drilling for oil, gas, brine, or other natural resources.

(e) Equipment, materials, and supplies used in the storing, withdrawing, or distribution of oil, gas, or brine from a storage facility.

(f) Vehicles, including special bodies or attachments, required to display a vehicle permit or license plate to operate on public highways.

(5) As used in this section:

(a) "Extractive operations" means the activity of taking or extracting for resale ore, oil, gas, coal, timber, stone, gravel, clay, minerals, or other natural resource material. An extractive operation begins when contact is made with the actual type of natural raw product being recovered. Extractive operation includes all necessary processing operations before shipment from the place of extraction. Extractive operations include all necessary processing operations and movement of the natural resource material until the point at which the natural raw product being recovered first comes to rest in finished goods inventory storage at the extraction site. Extractive operations for timber include transporting timber from the point of extraction to a place of temporary storage at the extraction site and loading or transporting timber from a place of temporary storage at the extraction site to a vehicle or other equipment located at the extraction site that will remove the timber from the extraction site.

(b) An extractive operator is a person who, either directly or by contract, performs extractive operations.

History: Add. 1999, Act 117, Imd. Eff. July 14, 1999;—Am. 2008, Act 555, Eff. Jan. 20, 2009.

Compiler's note: Enacting section 1 of Act 117 of 1999 provides:

"Enacting section 1. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, the tax levied does not apply to the price of property or services to the extent that the property or services are stored, used, or consumed for exempt purposes. For telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as

originally intended provides for a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a.”