

# HOUSE BILL No. 4164

January 30, 1997, Introduced by Reps. Dalman, Jelinek, McBryde, Kaza, Bodem, Cropsey, Birkholz, Jansen, Goschka, Profit, Wetters and Perricone and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending section 4 (MCL 205.94), as amended by 1996 PA 436.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 4. The tax levied does not apply to the following:
- 2       (a) Property sold in this state on which transaction a tax
- 3 is paid under the general sales tax act, ~~Act No. 167 of the~~
- 4 ~~Public Acts of 1933, being sections 205.51 to 205.78 of the~~
- 5 ~~Michigan Compiled Laws~~ 1933 PA 167, MCL 205.51 TO 205.78, if the
- 6 tax was due and paid on the retail sale to a consumer.
- 7       (b) Property, the storage, use, or other consumption of
- 8 which this state is prohibited from taxing under the constitution
- 9 or laws of the United States, or under the constitution of this
- 10 state.

1 (c) Property purchased for resale, demonstration purposes,  
2 or lending or leasing to a public or parochial school offering a  
3 course in automobile driving except that a vehicle purchased by  
4 the school shall be certified for driving education and shall not  
5 be reassigned for personal use by the school's administrative  
6 personnel. For a dealer selling a new car or truck, exemption  
7 for demonstration purposes shall be determined by the number of  
8 new cars and trucks sold during the current calendar year or the  
9 immediately preceding year without regard to specific make or  
10 style according to the following schedule of 0 to 25, 2 units; 26  
11 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but  
12 not to exceed 25 cars and trucks in 1 calendar year for demon-  
13 stration purposes. Property purchased for resale includes promo-  
14 tional merchandise transferred pursuant to a redemption offer to  
15 a person located outside this state or any packaging material,  
16 other than promotional merchandise, acquired for use in fulfill-  
17 ing a redemption offer or rebate to a person located outside this  
18 state.

19 (d) Property that is brought into this state by a nonresi-  
20 dent person for storage, use, or consumption while temporarily  
21 within this state, except if the property is used in this state  
22 in a nontransitory business activity for a period exceeding 15  
23 days.

24 (e) Property the sale or use of which was already subjected  
25 to a sales tax or use tax equal to, or in excess of, that imposed  
26 by this act under the law of any other state or a local  
27 governmental unit within a state if the tax was due and paid on

1 the retail sale to the consumer and the state or local  
2 governmental unit within a state in which the tax was imposed  
3 accords like or complete exemption on property the sale or use of  
4 which was subjected to the sales or use tax of this state. If  
5 the sale or use of property was already subjected to a tax under  
6 the law of any other state or local governmental unit within a  
7 state in an amount less than the tax imposed by this act, this  
8 act shall apply, but at a rate measured by the difference between  
9 the rate provided in this act and the rate by which the previous  
10 tax was computed.

11 (f) Property sold to a person engaged in a business enter-  
12 prise and using and consuming the property in the tilling, plant-  
13 ing, caring for, or harvesting of the things of the soil or in  
14 the breeding, raising, or caring for livestock, poultry, or  
15 horticultural products, including transfers of livestock, poul-  
16 try, or horticultural products for further growth. At the time  
17 of the transfer of that tangible personal property, the trans-  
18 feree shall sign a statement, in a form approved by the depart-  
19 ment, stating that the property is to be used or consumed in con-  
20 nection with the production of horticultural or agricultural pro-  
21 ducts as a business enterprise. The statement shall be accepted  
22 by the courts as prima facie evidence of the exemption. This  
23 exemption includes agricultural land tile, which means fired clay  
24 or perforated plastic tubing used as part of a subsurface drain-  
25 age system for land used in the production of agricultural pro-  
26 ducts as a business enterprise and includes a portable grain bin,  
27 which means a structure that is used or is to be used to shelter

1 grain and that is designed to be disassembled without significant  
2 damage to its component parts. This exemption does not include  
3 transfers of food, fuel, clothing, or similar tangible personal  
4 property for personal living or human consumption. This exemp-  
5 tion does not include tangible personal property permanently  
6 affixed and becoming a structural part of real estate.

7 (g) Property sold to the following:

8 (i) An industrial processor for use or consumption in indus-  
9 trial processing. Property used or consumed in industrial pro-  
10 cessing does not include tangible personal property permanently  
11 affixed and becoming a structural part of real estate; office  
12 furniture, office supplies, and administrative office equipment;  
13 or vehicles licensed and titled for use on public highways other  
14 than a specially designed vehicle, together with parts, used to  
15 mix and agitate materials added at a plant or jobsite in the con-  
16 crete manufacturing process. Industrial processing does not  
17 include receipt and storage of raw materials purchased or  
18 extracted by the user or consumer, or the preparation of food and  
19 beverages by a retailer for retail sale. As used in this subdi-  
20 vision, "industrial processor" means a person who transforms,  
21 alters, or modifies tangible personal property by changing the  
22 form, composition, or character of the property for ultimate sale  
23 at retail or sale to another industrial processor to be further  
24 processed for ultimate sale at retail. Sales to a person per-  
25 forming a service who does not act as an industrial processor  
26 while performing the service may not be excluded under this  
27 subdivision, except as provided in subparagraph (ii).

1           (ii) A person, whether or not the person is an industrial  
2 processor, when the property is a computer used in operating  
3 industrial processing equipment; equipment used in a computer  
4 assisted manufacturing system; equipment used in a computer  
5 assisted design or engineering system integral to an industrial  
6 process; or a subunit or electronic assembly comprising a compo-  
7 nent in a computer integrated industrial processing system.

8           (h) Property or services sold to the United States, an unin-  
9 corporated agency or instrumentality of the United States, an  
10 incorporated agency or instrumentality of the United States  
11 wholly owned by the United States or by a corporation wholly  
12 owned by the United States, the American red cross and its chap-  
13 ters or branches, this state, a department or institution of this  
14 state, or a political subdivision of this state.

15           (i) Property or services sold to a school, hospital, or home  
16 for the care and maintenance of children or aged persons, oper-  
17 ated by an entity of government, a regularly organized church,  
18 religious, or fraternal organization, a veterans' organization,  
19 or a corporation incorporated under the laws of this state, if  
20 not operated for profit, and if the income or benefit from the  
21 operation does not inure, in whole or in part, to an individual  
22 or private shareholder, directly or indirectly, and if the activ-  
23 ities of the entity or agency are carried on exclusively for the  
24 benefit of the public at large and are not limited to the advan-  
25 tage, interests, and benefits of its members or a restricted  
26 group. The tax levied does not apply to property or services  
27 sold to a parent cooperative preschool. As used in this

1 subdivision, "parent cooperative preschool" means a nonprofit,  
2 nondiscriminatory educational institution, maintained as a commu-  
3 nity service and administered by parents of children currently  
4 enrolled in the preschool that provides an educational and devel-  
5 opmental program for children younger than compulsory school age,  
6 that provides an educational program for parents, including  
7 active participation with children in preschool activities, that  
8 is directed by qualified preschool personnel, and that is  
9 licensed by the department of consumer and industry services pur-  
10 suant to ~~Act No. 116 of the Public Acts of 1973, being sections~~  
11 ~~722.111 to 722.128 of the Michigan Compiled Laws~~ 1973 PA 116,  
12 MCL 722.111 TO 722.128.

13 (j) Property or services sold to a regularly organized  
14 church or house of religious worship except the following:

15 (i) Sales in which the property is used in activities that  
16 are mainly commercial enterprises.

17 (ii) Sales of vehicles licensed for use on the public high-  
18 ways other than a passenger van or bus with a manufacturer's  
19 rated seating capacity of 10 or more that is used primarily for  
20 the transportation of persons for religious purposes.

21 (k) A vessel designed for commercial use of registered ton-  
22 nage of 500 tons or more, if produced upon special order of the  
23 purchaser, and bunker and galley fuel, provisions, supplies,  
24 maintenance, and repairs for the exclusive use of a vessel of 500  
25 tons or more engaged in interstate commerce.

26 (l) Property purchased by a person engaged in the business  
27 of constructing, altering, repairing, or improving real estate

1 for others to the extent the property is affixed to and made a  
2 structural part of the real estate of a REGULARLY ORGANIZED  
3 CHURCH OR HOUSE OF WORSHIP, nonprofit hospital, or a nonprofit  
4 housing entity qualified as exempt pursuant to section 15a of the  
5 state housing development authority act of 1966, ~~Act No. 346 of~~  
6 ~~the Public Acts of 1966, being section 125.1415a of the Michigan~~  
7 ~~Compiled Laws~~ 1966 PA 346, MCL 125.1415A. A nonprofit hospital  
8 or nonprofit housing includes only the property of a nonprofit  
9 hospital or the homes or dwelling places constructed by a non-  
10 profit housing entity, the income or property of which does not  
11 directly or indirectly inure to the benefit of an individual,  
12 private stockholder, or other private person.

13 (m) Property purchased for use in this state where actual  
14 personal possession is obtained outside this state, the purchase  
15 price or actual value of which does not exceed \$10.00 during 1  
16 calendar month.

17 (n) A newspaper or periodical classified under federal  
18 postal laws and regulations effective September 1, 1985 as second  
19 class mail matter or as a controlled circulation publication or  
20 qualified to accept legal notices for publication in this state,  
21 as defined by law, or any other newspaper or periodical of gen-  
22 eral circulation, established at least 2 years, and published at  
23 least once a week, and a copyrighted motion picture film.

24 Tangible personal property used or consumed, and not becoming a  
25 component part of a copyrighted motion picture film, newspaper or  
26 periodical, except that portion or percentage of tangible  
27 personal property used or consumed in producing an advertising

1 supplement that becomes a component part of a newspaper or  
2 periodical is subject to tax. For purposes of this subdivision,  
3 tangible personal property that becomes a component part of a  
4 newspaper or periodical and consequently not subject to tax,  
5 includes an advertising supplement inserted into and circulated  
6 with a newspaper or periodical that is otherwise exempt from tax  
7 under this subdivision, if the advertising supplement is deliv-  
8 ered directly to the newspaper or periodical by a person other  
9 than the advertiser, or the advertising supplement is printed by  
10 the newspaper or periodical.

11 (o) Property purchased by persons licensed to operate a com-  
12 mercial radio or television station if the property is used in  
13 the origination or integration of the various sources of program  
14 material for commercial radio or television transmission. This  
15 subdivision does not include a vehicle licensed and titled for  
16 use on public highways or property used in the transmitting to or  
17 receiving from an artificial satellite.

18 (p) A person who is a resident of this state who purchases  
19 an automobile in another state while in the military service of  
20 the United States and who pays a sales tax in the state where the  
21 automobile is purchased.

22 (q) A vehicle for which a special registration is secured in  
23 accordance with section 226(12) of the Michigan vehicle code,  
24 ~~Act No. 300 of the Public Acts of 1949, being section 257.226 of~~  
25 ~~the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.226.

26 (r) A hearing aid, contact lenses if prescribed for a  
27 specific disease ~~which~~ THAT precludes the use of eyeglasses, or

1 any other apparatus, device, or equipment used to replace or  
2 substitute for any part of the human body, or used to assist the  
3 disabled person to lead a reasonably normal life when the tangi-  
4 ble personal property is purchased on a written prescription or  
5 order issued by a health professional as defined by section 4 of  
6 former ~~Act No. 264 of the Public Acts of 1974~~ 1974 PA 264, or  
7 section 21005 of the public health code, ~~Act No. 368 of the~~  
8 ~~Public Acts of 1978, being section 333.21005 of the Michigan~~  
9 ~~Compiled Laws~~ 1978 PA 368, MCL 333.21005, or eyeglasses pre-  
10 scribed or dispensed to correct the person's vision by an oph-  
11 thalmologist, optometrist, or optician.

12 (s) Water when delivered through water mains or in bulk  
13 tanks in quantities of not less than 500 gallons.

14 (t) The purchase of machinery and equipment for use or con-  
15 sumption in the rendition of any combination of services, the use  
16 or consumption of which is taxable under section 3a(a) or (c)  
17 except that this exemption is limited to the tangible personal  
18 property located on the premises of the subscriber and to central  
19 office equipment or wireless equipment, directly used or consumed  
20 in transmitting, receiving, or switching or the monitoring of  
21 switching of a 2-way interactive communication. As used in this  
22 subdivision, central office equipment or wireless equipment does  
23 not include distribution equipment including cable or wire  
24 facilities.

25 (u) A vehicle not for resale used by a nonprofit corporation  
26 organized exclusively to provide a community with ambulance or  
27 fire department services.

1 (v) Tangible personal property purchased and installed as a  
2 component part of a water pollution control facility for which a  
3 tax exemption certificate is issued pursuant to part 37 (water  
4 pollution control facilities; tax exemption) of the natural  
5 resources and environmental protection act, ~~Act No. 451 of the~~  
6 ~~Public Acts of 1994, being sections 324.3701 to 324.3708 of the~~  
7 ~~Michigan Compiled Laws~~ 1994 PA 451, MCL 324.3701 TO 324.3708, or  
8 an air pollution control facility for which a tax exemption cer-  
9 tificate is issued pursuant to part 59 (air pollution control  
10 facility; tax exemption) of ~~Act No. 451 of the Public Acts of~~  
11 ~~1994, being sections 324.5901 to 324.5908 of the Michigan~~  
12 ~~Compiled Laws~~ THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION  
13 ACT, 1994 PA 451, MCL 324.5901 TO 324.5908.

14 (w) Tangible real or personal property donated by a manufac-  
15 turer, wholesaler, or retailer to an organization or entity  
16 exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b)  
17 of ~~Act No. 167 of the Public Acts of 1933, being section 205.54a~~  
18 ~~of the Michigan Compiled Laws~~ 1933 PA 167, MCL 205.54A.

19 (x) The storage, use, or consumption by a domestic air car-  
20 rier of an aircraft purchased after December 31, 1992 for use  
21 solely in the transport of air cargo that has a maximum certifi-  
22 cated takeoff weight of at least 12,500 pounds. For purposes of  
23 this subdivision, the term "domestic air carrier" is limited to  
24 entities engaged in the commercial transport for hire of cargo or  
25 entities engaged in the commercial transport of passengers as a  
26 business activity.

1 (y) The storage, use, or consumption by a domestic air  
2 carrier of an aircraft purchased after June 30, 1994 that is used  
3 solely in the regularly scheduled transport of passengers. For  
4 purposes of this subdivision, the term "domestic air carrier" is  
5 limited to entities engaged in the commercial transport for hire  
6 of cargo or entities engaged in the commercial transport of pas-  
7 sengers as a business activity.

8 (z) The storage, use, or consumption by a domestic air car-  
9 rier of an aircraft, other than an aircraft described under  
10 subdivision (y), purchased after December 31, 1994, that has a  
11 maximum certificated takeoff weight of at least 12,500 pounds and  
12 that is designed to have a maximum passenger seating configura-  
13 tion of more than 30 seats and used solely in the transport of  
14 passengers. For purposes of this subdivision, the term "domestic  
15 air carrier" is limited to entities engaged in the commercial  
16 transport for hire of cargo or entities engaged in the commercial  
17 transport of passengers as a business activity.

18 (aa) Property or services sold to a health, welfare, educa-  
19 tional, cultural arts, charitable, or benevolent organization not  
20 operated for profit that has been issued before June 13, 1994 an  
21 exemption ruling letter to purchase items exempt from tax signed  
22 by the administrator of the sales, use, and withholding taxes  
23 division of the department. The department shall reissue an  
24 exemption letter to each of those organizations after June 13,  
25 1994 that shall remain in effect unless the organization fails to  
26 meet the requirements that originally entitled it to this  
27 exemption; or to an organization not operated for profit and

1 exempt from federal income tax under section 501(c)(3) or  
2 501(c)(4) of the internal revenue code of 1986, 26 U.S.C. 501.  
3 The exemption does not apply to sales of tangible personal prop-  
4 erty and sales of vehicles licensed for use on public highways,  
5 that are not used primarily to carry out the purposes of the  
6 organization as stated in the bylaws or articles of incorporation  
7 of the exempt organization.