

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5968

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 4 (MCL 205.94), as amended by 1998 PA 366.

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, 1933 PA 167, MCL 205.51
4 to 205.78, if the tax was due and paid on the retail sale to a
5 consumer.

6 (b) Property, the storage, use, or other consumption of
7 which this state is prohibited from taxing under the constitution
8 or laws of the United States, or under the constitution of this
9 state.

10 (c) Property purchased for resale, demonstration purposes,
11 or lending or leasing to a public or parochial school offering a

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

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

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

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

9 (f) Property sold to a person engaged in a business enter-
10 prise and using and consuming the property in the tilling, plant-
11 ing, caring for, or harvesting of the things of the soil or in
12 the breeding, raising, or caring for livestock, poultry, or
13 horticultural products, including transfers of livestock, poul-
14 try, or horticultural products for further growth. At the time
15 of the transfer of that tangible personal property, the trans-
16 feree shall sign a statement, in a form approved by the depart-
17 ment, stating that the property is to be used or consumed in con-
18 nection with the production of horticultural or agricultural pro-
19 ducts as a business enterprise. The statement shall be accepted
20 by the courts as prima facie evidence of the exemption. This
21 exemption includes agricultural land tile, which means fired clay
22 or perforated plastic tubing used as part of a subsurface drain-
23 age system for land used in the production of agricultural pro-
24 ducts as a business enterprise and includes a portable grain bin,
25 which means a structure that is used or is to be used to shelter
26 grain and that is designed to be disassembled without significant
27 damage to its component parts. This exemption does not include

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1 transfers of food, fuel, clothing, or similar tangible personal
2 property for personal living or human consumption. This exemp-
3 tion does not include tangible personal property permanently
4 affixed and becoming a structural part of real estate.

5 (g) Property sold to the following:

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

26 (ii) A person, whether or not the person is an industrial
27 processor, when the property is a computer used in operating

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1 industrial processing equipment; equipment used in a computer
2 assisted manufacturing system; equipment used in a computer
3 assisted design or engineering system integral to an industrial
4 process; or a subunit or electronic assembly comprising a compo-
5 nent in a computer integrated industrial processing system; OR
6 COMPUTER EQUIPMENT USED IN CONNECTION WITH THE COMPUTER ASSISTED
7 PRODUCTION, STORAGE, AND TRANSMISSION OF DATA IF THE EQUIPMENT
8 WOULD HAVE BEEN EXEMPT HAD THE DATA TRANSFER BEEN MADE USING
9 TAPES, DISKS, CD-ROMS, OR SIMILAR MEDIA BY A COMPANY WHOSE BUSI-
10 NESS INCLUDES PUBLISHING DOCTORAL DISSERTATIONS AND INFORMATION
11 ARCHIVING, AND THAT SELLS THE MAJORITY OF THE COMPANY'S PRODUCTS
12 TO NONPROFIT ORGANIZATIONS EXEMPT UNDER SUBDIVISION (AA).

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

20 (i) Property or services sold to a school, hospital, or home
21 for the care and maintenance of children or aged persons, oper-
22 ated by an entity of government, a regularly organized church,
23 religious, or fraternal organization, a veterans' organization,
24 or a corporation incorporated under the laws of this state, if
25 not operated for profit, and if the income or benefit from the
26 operation does not inure, in whole or in part, to an individual
27 or private shareholder, directly or indirectly, and if the

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1 activities of the entity or agency are carried on exclusively for
2 the benefit of the public at large and are not limited to the
3 advantage, interests, and benefits of its members or a restricted
4 group. The tax levied does not apply to property or services
5 sold to a parent cooperative preschool. As used in this subdivi-
6 sion, "parent cooperative preschool" means a nonprofit, nondis-
7 criminatory educational institution, maintained as a community
8 service and administered by parents of children currently
9 enrolled in the preschool that provides an educational and devel-
10 opmental program for children younger than compulsory school age,
11 that provides an educational program for parents, including
12 active participation with children in preschool activities, that
13 is directed by qualified preschool personnel, and that is
14 licensed by the department of consumer and industry services pur-
15 suant to 1973 PA 116, MCL 722.111 to 722.128.

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

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

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

24 (k) A vessel designed for commercial use of registered ton-
25 nage of 500 tons or more, if produced upon special order of the
26 purchaser, and bunker and galley fuel, provisions, supplies,

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1 maintenance, and repairs for the exclusive use of a vessel of 500
2 tons or more engaged in interstate commerce.

3 (1) Property purchased by a person engaged in the business
4 of constructing, altering, repairing, or improving real estate
5 for others to the extent the property is affixed to and made a
6 structural part of the real estate of a nonprofit hospital or a
7 nonprofit housing entity qualified as exempt pursuant to section
8 15a of the state housing development authority act of 1966, 1966
9 PA 346, MCL 125.1415a. A nonprofit hospital or nonprofit housing
10 includes only the property of a nonprofit hospital or the homes
11 or dwelling places constructed by a nonprofit housing entity, the
12 income or property of which does not directly or indirectly inure
13 to the benefit of an individual, private stockholder, or other
14 private person. FOR TAXES ASSESSED AFTER DECEMBER 31, 1990 AND
15 BEFORE JANUARY 1, 1996, AS USED IN THIS SUBDIVISION, "HOSPITAL"
16 INCLUDES, BUT IS NOT LIMITED TO, AN ENTITY THAT MEETS ALL OF THE
17 FOLLOWING QUALIFICATIONS:

18 (i) IS A SEPARATELY ORGANIZED ENTITY, OR A GROUP OF ENTITIES
19 SUFFICIENTLY RELATED TO BE CONSIDERED A SINGLE EMPLOYER FOR PUR-
20 POSES OF SECTION 414 OF THE INTERNAL REVENUE CODE OF 1986, THE
21 PRIMARY PURPOSE OF WHICH IS TO PROVIDE MEDICAL, OBSTETRICAL, PSY-
22 CHIATRIC, OR SURGICAL CARE OR NURSING. NURSING INCLUDES CARE
23 PROVIDED BY SKILLED NURSES IN A LONG-TERM CARE FACILITY.

24 (ii) PRIOR TO JANUARY 1, 1996, INITIATED AN APPEAL OF TAXES
25 ASSESSED UNDER THIS ACT ON TANGIBLE PERSONAL PROPERTY USED TO
26 CONSTRUCT A FACILITY AFTER DECEMBER 31, 1990 AND BEFORE JANUARY
27 1, 1996, THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE MEDICAL,

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1 OBSTETRICAL, PSYCHIATRIC, OR SURGICAL CARE OR NURSING. NURSING
2 INCLUDES A LONG-TERM CARE FACILITY.

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

7 (n) A newspaper or periodical classified under federal
8 postal laws and regulations effective September 1, 1985 as
9 ~~second class~~ SECOND-CLASS mail matter or as a controlled circu-
10 lation publication or qualified to accept legal notices for pub-
11 lication in this state, as defined by law, or any other newspaper
12 or periodical of general circulation, established at least 2
13 years, and published at least once a week, and a copyrighted
14 motion picture film. TANGIBLE PERSONAL PROPERTY USED OR CONSUMED IN
15 PRODUCING A COPYRIGHTED MOTION PICTURE FILM, A NEWSPAPER PUBLISHED
16 MORE THAN 14 TIMES PER YEAR, OR A PERIODICAL PUBLISHED MORE THAN 14
17 TIMES PER YEAR, AND NOT BECOMING A COMPONENT PART OF THAT FILM,
18 NEWSPAPER, OR PERIODICAL IS SUBJECT TO THE TAX. AFTER DECEMBER 31,
19 1993, 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. A CLAIM
FOR A REFUND FOR TAXES PAID BEFORE JANUARY 1, 1999 UNDER THIS
SUBDIVISION SHALL BE MADE BEFORE JUNE 30, 1999. For purposes of
20 this subdivision, tangible personal property that becomes a com-
21 ponent part of a newspaper or periodical and consequently not
22 subject to tax, includes an advertising supplement inserted into
23 and circulated with a newspaper or periodical that is otherwise
24 exempt from tax under this subdivision, if the advertising sup-
25 plement is delivered directly to the newspaper or periodical by a
26 person other than the advertiser, or the advertising supplement
27 is printed by the newspaper or periodical.

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1 (o) Property purchased by persons licensed to operate a
2 commercial radio or television station if the property is used in
3 the origination or integration of the various sources of program
4 material for commercial radio or television transmission. This
5 subdivision does not include a vehicle licensed and titled for
6 use on public highways or property used in the transmitting to or
7 receiving from an artificial satellite.

8 (p) A person who is a resident of this state who purchases
9 an automobile in another state while in the military service of
10 the United States and who pays a sales tax in the state where the
11 automobile is purchased.

12 (q) A vehicle for which a special registration is secured in
13 accordance with section 226(12) of the Michigan vehicle code,
14 1949 PA 300, MCL 257.226.

15 (r) A hearing aid, contact lenses if prescribed for a spe-
16 cific disease that precludes the use of eyeglasses, or any other
17 apparatus, device, or equipment used to replace or substitute for
18 any part of the human body, or used to assist the disabled person
19 to lead a reasonably normal life when the tangible personal prop-
20 erty is purchased on a written prescription or order issued by a
21 health professional as defined by section 4 of former 1974 PA
22 264, or section 21005 of the public health code, 1978 PA 368, MCL
23 333.21005, or eyeglasses prescribed or dispensed to correct the
24 person's vision by an ophthalmologist, optometrist, or optician.

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

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1 (t) The purchase of machinery and equipment for use or
2 consumption in the rendition of any combination of services, the
3 use or consumption of which is taxable under section 3a(a) or (c)
4 except that this exemption is limited to the tangible personal
5 property located on the premises of the subscriber and to central
6 office equipment or wireless equipment, directly used or consumed
7 in transmitting, receiving, or switching or the monitoring of
8 switching of a 2-way interactive communication. As used in this
9 subdivision, central office equipment or wireless equipment does
10 not include distribution equipment including cable or wire
11 facilities.

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

15 (v) Tangible personal property purchased and installed as a
16 component part of a water pollution control facility for which a
17 tax exemption certificate is issued pursuant to part 37 ~~-(water~~
18 ~~pollution control facilities; tax exemption)-~~ of the natural
19 resources and environmental protection act, 1994 PA 451,
20 MCL 324.3701 to 324.3708, or an air pollution control facility
21 for which a tax exemption certificate is issued pursuant to part
22 59 ~~-(air pollution control facility; tax exemption)-~~ of the natu-
23 ral resources and environmental protection act, 1994 PA 451,
24 MCL 324.5901 to 324.5908.

25 (w) Tangible real or personal property donated by a manufac-
26 turer, wholesaler, or retailer to an organization or entity

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1 exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b)
2 of the general sales tax act, 1933 PA 167, MCL 205.54a.

3 (x) The storage, use, or consumption by a domestic air car-
4 rier of an aircraft purchased after December 31, 1992 for use
5 solely in the transport of air cargo that has a maximum certifi-
6 cated takeoff weight of at least 12,500 pounds. For purposes of
7 this subdivision, the term "domestic air carrier" is limited to
8 entities engaged in the commercial transport for hire of cargo or
9 entities engaged in the commercial transport of passengers as a
10 business activity.

11 (y) The storage, use, or consumption by a domestic air car-
12 rier of an aircraft purchased after June 30, 1994 that is used
13 solely in the regularly scheduled transport of passengers. For
14 purposes of this subdivision, the term "domestic air carrier" is
15 limited to entities engaged in the commercial transport for hire
16 of cargo or entities engaged in the commercial transport of pas-
17 sengers as a business activity.

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

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1 (aa) Property or services sold TO AN ORGANIZATION NOT
2 OPERATED FOR PROFIT AND EXEMPT FROM FEDERAL INCOME TAX UNDER
3 SECTION 501(c)(3) OR 501(c)(4) OF THE INTERNAL REVENUE CODE OF
4 1986, 26 U.S.C. 501; OR to a health, welfare, educational, cul-
5 tural arts, charitable, or benevolent organization not operated
6 for profit that has been issued before June 13, 1994 an exemption
7 ruling letter to purchase items exempt from tax signed by the
8 administrator of the sales, use, and withholding taxes division
9 of the department. The department shall reissue an exemption
10 letter AFTER JUNE 13, 1994 to each of those organizations ~~after~~
11 ~~June 13, 1994~~ THAT HAD AN EXEMPTION LETTER that shall remain in
12 effect unless the organization fails to meet the requirements
13 that originally entitled it to this exemption. ~~or to an organ-~~
14 ~~ization not operated for profit and exempt from federal income~~
15 ~~tax under section 501(c)(3) or 501(c)(4) of the internal revenue~~
16 ~~code of 1986, 26 U.S.C. 501.~~ The exemption does not apply to
17 sales of tangible personal property and sales of vehicles
18 licensed for use on public highways, that are not used primarily
19 to carry out the purposes of the organization as stated in the
20 bylaws or articles of incorporation of the exempt organization.
21 (bb) The use or consumption of services described in
22 section 3a(a) or (c) by means of a prepaid telephone calling
23 card, a prepaid authorization number for telephone use, or a
24 charge for internet access.
25 (cc) The purchase, lease, use, or consumption of the follow-
26 ing by an industrial laundry after December 31, 1997:

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1 (i) Textiles and disposable products including, but not
2 limited to, soap, paper, chemicals, tissues, deodorizers and
3 dispensers, and all related items such as packaging, supplies,
4 hangers, name tags, and identification tags.

5 (ii) Equipment, whether owned or leased, used to repair and
6 dispense textiles including, but not limited to, roll towel cabi-
7 nets, slings, hardware, lockers, mop handles and frames, and
8 carts.

9 (iii) Machinery, equipment, parts, lubricants, and repair
10 services used to clean, process, and package textiles and related
11 items, whether owned or leased.

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

13 (v) Production washroom equipment and mending and packaging
14 supplies and equipment.

15 (vi) Material handling equipment including, but not limited
16 to, conveyors, racks, and elevators and related control
17 equipment.

18 (vii) Wastewater pretreatment equipment and supplies and
19 related maintenance and repair services.