



HOUSE BILL No. 5090

November 2, 1999, Introduced by Rep. Jamnick 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 1999 PA 117.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) The tax levied under this act does not apply to
2 the following, subject to subsection (2):

3 (a) Property sold in this state on which transaction a tax
4 is paid under the general sales tax act, 1933 PA 167, MCL 205.51
5 to 205.78, if the tax was due and paid on the retail sale to a
6 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~~ EQUAL TO the differ-
9 ence between the rate provided in this act and the rate by which
10 the previous 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 or services sold to the United States, an unin-
8 corporated agency or instrumentality of the United States, an
9 incorporated agency or instrumentality of the United States
10 wholly owned by the United States or by a corporation wholly
11 owned by the United States, the American red cross and its chap-
12 ters or branches, this state, a department or institution of this
13 state, or a political subdivision of this state.

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

1 nondiscriminatory educational institution, maintained as a
2 community service and administered by parents of children cur-
3 rently enrolled in the preschool that provides an educational and
4 developmental program for children younger than compulsory school
5 age, that provides an educational program for parents, including
6 active participation with children in preschool activities, that
7 is directed by qualified preschool personnel, and that is
8 licensed by the department of consumer and industry services pur-
9 suant to 1973 PA 116, MCL 722.111 to 722.128.

10 (i) Property or services sold to a regularly organized
11 church or house of religious worship except the following:

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

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

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

23 (k) Property purchased for use in this state where actual
24 personal possession is obtained outside this state, the purchase
25 price or actual value of which does not exceed \$10.00 during 1
26 calendar month.

1 (1) A newspaper or periodical classified under federal
2 postal laws and regulations effective September 1, 1985 as
3 second-class mail matter or as a controlled circulation publica-
4 tion or qualified to accept legal notices for publication in this
5 state, as defined by law, or any other newspaper or periodical of
6 general circulation, established at least 2 years, and published
7 at least once a week, and a copyrighted motion picture film.
8 Tangible personal property used or consumed in producing a copy-
9 righted motion picture film, a newspaper published more than 14
10 times per year, or a periodical published more than 14 times per
11 year, and not becoming a component part of that film, newspaper,
12 or periodical is subject to the tax. After December 31, 1993,
13 tangible personal property used or consumed in producing a news-
14 paper published 14 times or less per year or a periodical pub-
15 lished 14 times or less per year and that portion or percentage
16 of tangible personal property used or consumed in producing an
17 advertising supplement that becomes a component part of a newspa-
18 per or periodical is exempt from the tax under this subdivision.
19 A claim for a refund for taxes paid before January 1, 1999 under
20 this subdivision shall be made before June 30, 1999. For pur-
21 poses of this subdivision, tangible personal property that
22 becomes a component part of a newspaper or periodical and conse-
23 quently not subject to tax, includes an advertising supplement
24 inserted into and circulated with a newspaper or periodical that
25 is otherwise exempt from tax under this subdivision, if the
26 advertising supplement is delivered directly to the newspaper or
27 periodical by a person other than the advertiser, or the

1 advertising supplement is printed by the newspaper or
2 periodical.

3 (m) Property purchased by persons licensed BY THE FEDERAL
4 COMMUNICATIONS COMMISSION to operate a ~~commercial~~ radio or
5 television station if the property is used ~~in~~ DIRECTLY AND PRI-
6 MARILY FOR the origination or integration of the various sources
7 of program material for ~~commercial radio or television~~
8 ~~transmission~~ BROADCAST OR FOR THE PRODUCTION AND BROADCAST OF A
9 BROADCAST SIGNAL. This ~~subdivision~~ PROPERTY INCLUDES, BUT IS
10 NOT LIMITED TO, PROPERTY REQUIRED BY THE FEDERAL COMMUNICATIONS
11 COMMISSION, PROPERTY USED IN THE TRANSMISSION TO OR RECEPTION
12 FROM AN ARTIFICIAL SATELLITE, AND ELECTRICITY, BUT does not
13 include a vehicle licensed and titled for use on public highways.
14 ~~or property used in the transmitting to or receiving from an~~
15 ~~artificial satellite.~~

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

20 (o) A vehicle for which a special registration is secured in
21 accordance with section 226(12) of the Michigan vehicle code,
22 1949 PA 300, MCL 257.226.

23 (p) A hearing aid, contact lenses if prescribed for a spe-
24 cific disease that precludes the use of eyeglasses, or any other
25 apparatus, device, or equipment used to replace or substitute for
26 any part of the human body, or used to assist the disabled person
27 to lead a reasonably normal life when the tangible personal

1 property is purchased on a written prescription or order issued
2 by a health professional as defined by section 4 of former 1974
3 PA 264, or section 21005 of the public health code, 1978 PA 368,
4 MCL 333.21005, or eyeglasses prescribed or dispensed to correct
5 the person's vision by an ophthalmologist, optometrist, or
6 optician.

7 (q) Water when delivered through water mains or in bulk
8 tanks in quantities of not less than 500 gallons.

9 (r) A vehicle not for resale used by a nonprofit corporation
10 organized exclusively to provide a community with ambulance or
11 fire department services.

12 (s) Tangible personal property purchased and installed as a
13 component part of a water pollution control facility for which a
14 tax exemption certificate is issued pursuant to part 37 of the
15 natural resources and environmental protection act, 1994 PA 451,
16 MCL 324.3701 to 324.3708, or an air pollution control facility
17 for which a tax exemption certificate is issued pursuant to part
18 59 of the natural resources and environmental protection act,
19 1994 PA 451, MCL 324.5901 to 324.5908.

20 (t) Tangible real or personal property donated by a manufac-
21 turer, wholesaler, or retailer to an organization or entity
22 exempt pursuant to subdivision (h) or (i) or section 4a(a) or (b)
23 of the general sales tax act, 1933 PA 167, MCL 205.54a.

24 (u) The storage, use, or consumption by a domestic air car-
25 rier of an aircraft purchased after December 31, 1992 for use
26 solely in the transport of air cargo that has a maximum
27 certificated takeoff weight of at least 12,500 pounds. For

1 purposes of this subdivision, the term "domestic air carrier" is
2 limited to entities engaged in the commercial transport for hire
3 of cargo or entities engaged in the commercial transport of pas-
4 sengers as a business activity.

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

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

22 (x) Property or services sold to an organization not oper-
23 ated for profit and exempt from federal income tax under section
24 501(c)(3) or 501(c)(4) of the internal revenue code of 1986, 26
25 U.S.C. 501; or to a health, welfare, educational, cultural arts,
26 charitable, or benevolent organization not operated for profit
27 that has been issued before June 13, 1994 an exemption ruling

1 letter to purchase items exempt from tax signed by the
2 administrator of the sales, use, and withholding taxes division
3 of the department. The department shall reissue an exemption
4 letter after June 13, 1994 to each of those organizations that
5 had an exemption letter that shall remain in effect unless the
6 organization fails to meet the requirements that originally enti-
7 tled it to this exemption. The exemption does not apply to sales
8 of tangible personal property and sales of vehicles licensed for
9 use on public highways, that are not used primarily to carry out
10 the purposes of the organization as stated in the bylaws or arti-
11 cles of incorporation of the exempt organization.

12 (y) The use or consumption of services described in
13 section 3a(a) or (c) by means of a prepaid telephone calling
14 card, a prepaid authorization number for telephone use, or a
15 charge for internet access.

16 (z) The purchase, lease, use, or consumption of the follow-
17 ing by an industrial laundry after December 31, 1997:

18 (i) Textiles and disposable products including, but not
19 limited to, soap, paper, chemicals, tissues, deodorizers and dis-
20 pensers, and all related items such as packaging, supplies, hang-
21 ers, name tags, and identification tags.

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

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

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

5 (v) Production washroom equipment and mending and packaging
6 supplies and equipment.

7 (vi) Material handling equipment including, but not limited
8 to, conveyors, racks, and elevators and related control
9 equipment.

10 (vii) Wastewater pretreatment equipment and supplies and
11 related maintenance and repair services.

12 (2) The property or services under subsection (1) are exempt
13 only to the extent that the property or services are used for the
14 exempt purposes if one is stated in subsection (1). The exemp-
15 tion is limited to the percentage of exempt use to total use
16 determined by a reasonable formula or method approved by the
17 department.