

HOUSE BILL No. 5254

October 17, 2001, Introduced by Reps. Cassis, Shulman, George, Julian, Howell, Richardville, Stewart, Woronchak, Basham, Scranton, Ehardt, Jelinek, Patterson, Voorhees, Raczkowski, Shackleton, Vear, Plakas, Pappageorge, Hummel, Meyer, Gilbert, Kuipers, Vander Veen, Stamas, Allen, Anderson, Kooiman, Pumford, Middaugh, Kowall, Van Woerkom, DeVuyst, Cameron Brown, Sanborn, Faunce, Neumann and Toy and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending sections 4q and 4w (MCL 205.54q and 205.54w), section
4q as amended and section 4w as added by 1999 PA 116.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4q. (1) A person subject to the tax under this act may
2 exclude from the gross proceeds used for the computation of this
3 tax, sales of tangible personal property not for resale to the
4 following subject to subsection (5):

5 (a) A health, welfare, educational, cultural arts, charita-
6 ble, or benevolent organization not operated for profit that has
7 been issued an exemption ruling letter to purchase items exempt
8 from tax before the effective date of this section signed by the
9 administrator of the sales, use, and withholding taxes division
10 of the department.

1 (b) An organization not operated for profit and exempt from
2 federal income tax under section 501(c)(3) or 501(c)(4) of the
3 internal revenue code of 1986.

4 (2) The exemptions provided for in subsection (1) do not
5 apply to sales of tangible personal property and sales of vehi-
6 cles licensed for use on public highways, that are not used pri-
7 marily to carry out the purposes of the organization as stated in
8 the bylaws or articles of incorporation of the exempt entity.

9 (3) At the time of the transfer of the tangible personal
10 property exempt under subsection (1), the transferee shall do
11 of the following:

12 (a) Present the exemption ruling letter signed by the admin-
13 istrator of the sales, use, and withholding taxes division of the
14 department certifying that the property is to be used or consumed
15 in connection with the operation of the organization.

16 (b) Present a signed statement, on a form approved by the
17 department, stating that the property is to be used or consumed
18 in connection with the operation of the organization and that the
19 organization qualifies as an exempt organization under this
20 section. The transferee shall also provide to the transferor a
21 copy of the federal exemption letter.

22 (4) The letter provided under subsection (3)(a) and the
23 statement with the accompanying letter provided under subsection
24 (3)(b) shall be accepted by all courts as prima facie evidence of
25 the exemption and the statement shall provide that if the claim
26 for tax exemption is disallowed, the transferee will reimburse
27 the transferor for the amount of tax involved.

1 (5) The tangible personal property under subsection (1) is
2 exempt only to the extent that the property is used to carry out
3 the purposes of the organization as stated in the organization's
4 bylaws or articles of incorporation. The exemption is limited to
5 the percentage of exempt use to total use determined by a reason-
6 able formula or method approved by the department. THIS SUBSEC-
7 TION DOES NOT APPLY TO PURCHASES MADE FOR FUND-RAISING PURPOSES
8 NECESSARY TO FUND PATIENT CARE BY A HOSPICE LICENSED UNDER PART
9 214 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.21401 TO
10 333.21420.

11 Sec. 4w. (1) For taxes levied after June 30, 1999, a person
12 subject to the tax under this act may exclude from the gross pro-
13 ceeds used for the computation of the tax the sale of tangible
14 personal property to a person directly engaged in the business of
15 constructing, altering, repairing, or improving real estate for
16 others to the extent that the property is affixed to and made a
17 structural part of a nonprofit hospital or a nonprofit housing
18 entity qualified as exempt under section 15a of the state housing
19 development authority act of 1966, 1966 PA 346, MCL 125.1415a.

20 (2) An exemption shall not be granted under this section for
21 any portion of property otherwise qualifying for exemption under
22 this section if income or a benefit inures directly or indirectly
23 to an individual, private stockholder, or other private person
24 from the independent or nonessential operation of that portion of
25 property.

26 (3) As used in this section:

1 (a) "Nonprofit hospital" means 1 of the following:

2 (i) That portion of a building to which 1 of the following
3 applies:

4 (A) Is owned or operated by an entity exempt under section
5 501(c)(3) of the internal revenue code of 1986 that is licensed
6 as a hospital under part 215 of the public health code, 1978
7 PA 368, MCL 333.21501 to 333.21568.

8 (B) Is owned or operated by a governmental unit in which
9 medical attention is provided.

10 (C) Is owned or operated by an entity or entities exempt
11 under section 501(c)(2) or (3) of the internal revenue code of
12 1986 in which medical attention is provided.

13 (D) IS OWNED OR OPERATED BY A HOSPICE LICENSED UNDER PART
14 214 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.21401 TO
15 333.21420.

16 (ii) That portion of real property necessary and related to
17 a building described in subparagraph (i) in which medical atten-
18 tion is provided.

19 (iii) A county long-term medical care facility built after
20 December 31, 1995.

21 (b) "Nonprofit hospital" does not include the following:

22 (i) A freestanding building or other real property of a
23 nursing home or skilled nursing facility licensed under part 217
24 of the public health code, 1978 PA 368, MCL 333.21701 to
25 333.21799e.

26 ~~(ii) A hospice licensed under part 214 of the public health~~
27 ~~code, 1978 PA 368, MCL 333.21401 to 333.21421.~~

1 (ii) ~~(iii)~~ A home for the aged licensed under part 213 of
2 the public health code, 1978 PA 368, MCL 333.21301 to 333.21333.

3 (c) "Medical attention" means that level of medical care in
4 which a physician provides acute care or active treatment of med-
5 ical, surgical, obstetrical, psychiatric, chronic, or rehabilita-
6 tive conditions, that require the observation, diagnosis, and
7 daily treatment by a physician.