

**SUBSTITUTE FOR
SENATE BILL NO. 907**

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 4 (MCL 205.94), as amended by 2018 PA 114.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) The following are exempt from the tax levied under
2 this act, subject to subsection (2):

3 (a) Property sold in this state on which transaction a tax is
4 paid under the general sales tax act, 1933 PA 167, MCL 205.51 to
5 205.78, 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 which
8 this state is prohibited from taxing under the constitution or laws
9 of the United States, or under the constitution of this state.

10 (c) All of the following:

1 (i) Property purchased for resale. Property purchased for
2 resale includes promotional merchandise transferred pursuant to a
3 redemption offer to a person located outside this state or any
4 packaging material, other than promotional merchandise, acquired
5 for use in fulfilling a redemption offer or rebate to a person
6 located outside this state.

7 (ii) Property purchased for lending or leasing to a public or
8 parochial school offering a course in automobile driving except
9 that a vehicle purchased by the school shall be certified for
10 driving education and shall not be reassigned for personal use by
11 the school's administrative personnel.

12 (iii) Property purchased for demonstration purposes. For a new
13 vehicle dealer selling a new car or truck, exemption for
14 demonstration purposes shall be determined by the number of new
15 cars and trucks sold during the current calendar year or the
16 immediately preceding calendar year, without regard to specific
17 make or style, according to the following schedule but not to
18 exceed 25 cars and trucks in 1 calendar year for demonstration
19 purposes:

20 (A) 0 to 25, 2 units.

21 (B) 26 to 100, 7 units.

22 (C) 101 to 500, 20 units.

23 (D) 501 or more, 25 units.

24 (iv) Motor vehicles purchased for resale purposes by a new
25 vehicle dealer licensed under section 248(8)(a) of the Michigan
26 vehicle code, 1949 PA 300, MCL 257.248.

27 (d) Property that is brought into this state by a nonresident

1 person for storage, use, or consumption while temporarily within
2 this state, except if the property is used in this state in a
3 nontransitory business activity for a period exceeding 15 days.

4 (e) Property the sale or use of which was already subjected to
5 a sales tax or use tax equal to, or in excess of, that imposed by
6 this act under the law of any other state or a local governmental
7 unit within a state if the tax was due and paid on the retail sale
8 to the consumer and the state or local governmental unit within a
9 state in which the tax was imposed accords like or complete
10 exemption on property the sale or use of which was subjected to the
11 sales or use tax of this state. If the sale or use of property was
12 already subjected to a tax under the law of any other state or
13 local governmental unit within a state in an amount less than the
14 tax imposed by this act, this act shall apply, but at a rate
15 measured by the difference between the rate provided in this act
16 and the rate by which the previous tax was computed.

17 (f) Except as otherwise provided under subsection (3),
18 property sold to a person engaged in a business enterprise that
19 uses or consumes the property, directly or indirectly, for either
20 the tilling, planting, draining, caring for, maintaining, or
21 harvesting of things of the soil or the breeding, raising, or
22 caring for livestock, poultry, or horticultural products, including
23 the transfers of livestock, poultry, or horticultural products for
24 further growth.

25 (g) Property or services sold to the United States, an
26 unincorporated agency or instrumentality of the United States, an
27 incorporated agency or instrumentality of the United States wholly

1 owned by the United States or by a corporation wholly owned by the
2 United States, the American Red Cross and its chapters or branches,
3 this state, a department or institution of this state, or a
4 political subdivision of this state.

5 (h) Property or services sold to a school, hospital, or home
6 for the care and maintenance of children or aged persons, operated
7 by an entity of government, a regularly organized church, religious
8 **ORGANIZATION**, or fraternal organization, a veterans' organization,
9 or a corporation incorporated under the laws of this state, if not
10 operated for profit, and if the income or benefit from the
11 operation does not inure, in whole or in part, to an individual or
12 private shareholder, directly or indirectly, and if the activities
13 of the entity or agency are carried on exclusively for the benefit
14 of the public at large and are not limited to the advantage,
15 interests, and benefits of its members or a restricted group. The
16 tax levied does not apply to property or services sold to a parent
17 cooperative preschool. As used in this subdivision, "parent
18 cooperative preschool" means a nonprofit, nondiscriminatory
19 educational institution, maintained as a community service and
20 administered by parents of children currently enrolled in the
21 preschool that provides an educational and developmental program
22 for children younger than compulsory school age, that provides an
23 educational program for parents, including active participation
24 with children in preschool activities, that is directed by
25 qualified preschool personnel, and that is licensed pursuant to
26 1973 PA 116, MCL 722.111 to 722.128.

27 (i) Property or services sold to a regularly organized church

1 or house of religious worship except the following:

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

4 (ii) Sales of vehicles licensed for use on the public highways
5 other than a passenger van or bus with a manufacturer's rated
6 seating capacity of 10 or more that is used primarily for the
7 transportation of persons for religious purposes.

8 (j) A vessel designed for commercial use of registered tonnage
9 of 500 tons or more, if produced upon special order of the
10 purchaser, and bunker and galley fuel, provisions, supplies,
11 maintenance, and repairs for the exclusive use of a vessel of 500
12 tons or more engaged in interstate commerce.

13 (k) 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 (l) A newspaper or periodical classified under federal postal
18 laws and regulations effective September 1, 1985 as second-class
19 mail matter or as a controlled circulation publication or qualified
20 to accept legal notices for publication in this state, as defined
21 by law, or any other newspaper or periodical of general
22 circulation, established at least 2 years, and published at least
23 once a week, and a copyrighted motion picture film. Tangible
24 personal property used or consumed in producing a copyrighted
25 motion picture film, a newspaper published more than 14 times per
26 year, or a periodical published more than 14 times per year, and
27 not becoming a component part of that film, newspaper, or

1 periodical is subject to the tax. ~~After December 31, 1993, tangible~~
2 **TANGIBLE** personal property used or consumed in producing a
3 newspaper published 14 times or less per year or a periodical
4 published 14 times or less per year and that portion or percentage
5 of tangible personal property used or consumed in producing an
6 advertising supplement that becomes a component part of a newspaper
7 or periodical is exempt from the tax under this subdivision. ~~A~~
8 ~~claim for a refund for taxes paid before January 1, 1999 under this~~
9 ~~subdivision shall be made before June 30, 1999.~~ For purposes of
10 this subdivision, tangible personal property that becomes a
11 component part of a newspaper or periodical and consequently not
12 subject to tax, includes an advertising supplement inserted into
13 and circulated with a newspaper or periodical that is otherwise
14 exempt from tax under this subdivision, if the advertising
15 supplement is delivered directly to the newspaper or periodical by
16 a person other than the advertiser, or the advertising supplement
17 is printed by the newspaper or periodical.

18 (m) Property purchased by persons licensed to operate a
19 commercial radio or television station if the property is used in
20 the origination or integration of the various sources of program
21 material for commercial radio or television transmission. This
22 subdivision does not include a vehicle licensed and titled for use
23 on public highways or property used in the transmitting to or
24 receiving from an artificial satellite.

25 (n) A person who is a resident of this state who purchases an
26 automobile in another state while in the military service of the
27 United States and who pays a sales tax in the state where the

1 automobile is purchased.

2 (o) A vehicle for which a special registration is secured in
3 accordance with section 226(9) of the Michigan vehicle code, 1949
4 PA 300, MCL 257.226.

5 (p) The sale of a prosthetic device, durable medical
6 equipment, or mobility enhancing equipment.

7 (q) Water when delivered through water mains, water sold in
8 bulk tanks in quantities of not less than 500 gallons, or the sale
9 of bottled water.

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

13 (s) Tangible personal property purchased and installed as a
14 component part of a water pollution control facility for which a
15 tax exemption certificate is issued pursuant to part 37 of the
16 natural resources and environmental protection act, 1994 PA 451,
17 MCL 324.3701 to 324.3708, or an air pollution control facility for
18 which a tax exemption certificate is issued pursuant to part 59 of
19 the natural resources and environmental protection act, 1994 PA
20 451, MCL 324.5901 to 324.5908.

21 (t) Tangible real or personal property donated by a
22 manufacturer, wholesaler, or retailer to an organization or entity
23 exempt pursuant to subdivision (h) or (i) or section 4a(1)(a) or
24 (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

25 (u) The storage, use, or consumption of an aircraft by a
26 domestic air carrier for use solely in the transport of air cargo,
27 passengers, or a combination of air cargo and passengers, that has

1 a maximum certificated takeoff weight of at least 6,000 pounds. For
2 purposes of this subdivision, the term "domestic air carrier" is
3 limited to a person engaged primarily in the commercial transport
4 for hire of air cargo, passengers, or a combination of air cargo
5 and passengers as a business activity. The state treasurer shall
6 estimate on January 1 each year the revenue lost by this act from
7 the school aid fund and deposit that amount into the school aid
8 fund from the general fund.

9 (v) The storage, use, or consumption of an aircraft by a
10 person who purchases the aircraft for subsequent lease to a
11 domestic air carrier operating under a certificate issued by the
12 federal aviation administration under 14 CFR part 121, for use
13 solely in the regularly scheduled transport of passengers.

14 (w) Property or services sold to an organization not operated
15 for profit and exempt from federal income tax under section
16 501(c)(3) or 501(c)(4) of the internal revenue code, 26 USC 501; or
17 to a health, welfare, educational, cultural arts, charitable, or
18 benevolent organization not operated for profit that has been
19 issued before June 13, 1994 an exemption ruling letter to purchase
20 items exempt from tax signed by the administrator of the sales,
21 use, and withholding taxes division of the department. The
22 department shall reissue an exemption letter after June 13, 1994 to
23 each of those organizations that had an exemption letter that shall
24 remain in effect unless the organization fails to meet the
25 requirements that originally entitled it to this exemption. The
26 exemption does not apply to sales of tangible personal property and
27 sales of vehicles licensed for use on public highways, that are not

1 used primarily to carry out the purposes of the organization as
2 stated in the bylaws or articles of incorporation of the exempt
3 organization.

4 (x) The use or consumption of services described in section
5 3a(1)(a) or (b) or 3b by means of a prepaid telephone calling card,
6 a prepaid authorization number for telephone use, or a charge for
7 internet access.

8 (y) The purchase, lease, use, or consumption of the following
9 by an industrial laundry: ~~after December 31, 1997:~~

10 (i) Textiles and disposable products including, but not
11 limited to, soap, paper, chemicals, tissues, deodorizers and
12 dispensers, and all related items such as packaging, supplies,
13 hangers, name tags, and identification tags.

14 (ii) Equipment, whether owned or leased, used to repair and
15 dispense textiles including, but not limited to, roll towel
16 cabinets, slings, hardware, lockers, mop handles and frames, and
17 carts.

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

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

22 (v) Production washroom equipment and mending and packaging
23 supplies and equipment.

24 (vi) Material handling equipment including, but not limited
25 to, conveyors, racks, and elevators and related control equipment.

26 (vii) Wastewater pretreatment equipment and supplies and
27 related maintenance and repair services.

1 (z) Property purchased or manufactured by a person engaged in
2 the business of constructing, altering, repairing, or improving
3 real estate for others, to the extent that the property is affixed
4 to and made a structural part of real estate located in another
5 state, regardless of whether sales or use tax was due and paid in
6 the state in which the property is affixed to real estate.

7 (aa) The sale of a dental prosthesis.

8 (bb) Except as otherwise provided under subsection (3), a sale
9 of any of the following to a person engaged in a business
10 enterprise that uses or consumes the following for purposes as
11 described in subdivision (f):

12 (i) Machinery that is capable of simultaneously harvesting
13 grain or other crops and biomass and machinery used for the purpose
14 of harvesting biomass.

15 (ii) Agricultural land tile and subsurface irrigation pipe.

16 (iii) Portable grain bins, including tangible personal
17 property affixed or to be affixed to portable grain bins and
18 directly used in the operation of a portable grain bin.

19 (iv) Grain drying equipment and the fuel or energy source that
20 powers that equipment, including tangible personal property affixed
21 or to be affixed to that equipment and directly used in the
22 operation of grain drying equipment.

23 (v) Tangible personal property purchased and installed as a
24 component part of a structure such as a barn or shop, including,
25 but not limited to, a water supply system, heating and cooling
26 system, lighting system, milking system, or any other appurtenance
27 used for purposes described in this subdivision or subdivision (f),

1 including the maintenance or improvement of existing structures, to
2 the extent that it is not permanently affixed to and does not
3 become a structural part of real estate. For purposes of this
4 subparagraph and subsection (3), property installed as a component
5 part of a structure as provided in this subparagraph is not
6 permanently affixed to or a structural part of real estate if it is
7 assembled and installed in a manner that it can be disassembled
8 without affecting the physical structural functionality of the
9 original structure and reassembled and reused for any of the
10 purposes described in this subdivision or subdivision (f).

11 (vi) Greenhouses, including tangible personal property affixed
12 to or to be affixed to greenhouses and directly used in the
13 operation of a greenhouse. For purposes of subsection (3), a
14 greenhouse is not permanently affixed to or a structural part of
15 real estate if it is assembled and installed in a manner that it
16 can be disassembled and reassembled without affecting the
17 functionality of the greenhouse upon being reassembled.

18 (cc) The sale of agricultural land tile, subsurface irrigation
19 pipe, portable grain bins, greenhouses, and grain drying equipment
20 to a person in the business of constructing, altering, repairing,
21 or improving real estate for others to the extent that it is
22 affixed to and made a structural part of real estate for others and
23 is used for an exempt purpose described under subdivision (f) or
24 (bb).

25 (dd) The sale of tangible personal property used in the direct
26 gathering of fish, by net, line, or otherwise, by an owner-operator
27 of a business enterprise, not including a charter fishing business

1 enterprise.

2 (ee) A sale of tangible personal property that is specifically
3 designed for, and directly used in, the harvesting of aquatic
4 vegetation from the waters of the state, including parts and
5 materials used for repairs of that tangible personal property, to a
6 person engaged in a business enterprise of harvesting aquatic
7 vegetation and ultimately used for purposes described in
8 subdivision (f) or (bb). This exemption does not include a motor
9 vehicle licensed or required to be licensed for use on the public
10 roads or highways of this state or tangible personal property
11 permanently affixed to and becoming a structural part of real
12 estate.

13 (FF) THE PURCHASE OR LEASE OF A SCHOOL BUS OR TRANSPORTATION-
14 RELATED SERVICES, AND PARTS OR ADAPTIVE EQUIPMENT AFFIXED OR TO BE
15 AFFIXED TO A SCHOOL BUS WHICH ARE USED IN THE REPAIR, MAINTENANCE,
16 ACCOMMODATION, OR MODIFICATION OF A SCHOOL BUS, IF THE SCHOOL BUS
17 OR SERVICES ARE PRIMARILY USED IN THE PERFORMANCE OF A CONTRACT
18 ENTERED INTO WITH AN AUTHORIZED REPRESENTATIVE OF A SCHOOL FOR THE
19 TRANSPORTATION OF PREPRIMARY, PRIMARY, OR SECONDARY SCHOOL PUPILS
20 TO OR FROM A SCHOOL OR SCHOOL-RELATED EVENTS AUTHORIZED BY THE
21 ADMINISTRATION OF THE SCHOOL. HOWEVER, IF THE SCHOOL BUS IS USED TO
22 PROVIDE TRANSPORTATION-RELATED SERVICES OTHER THAN TO OR FROM A
23 SCHOOL OR SCHOOL-RELATED EVENT AUTHORIZED BY THE ADMINISTRATION OF
24 THE SCHOOL TO A NONEXEMPT ENTITY, THEN THE AMOUNT PAID FOR THOSE
25 SERVICES BY THE NONEXEMPT ENTITY IS NOT EXEMPT UNDER THIS
26 SUBDIVISION. AS USED IN THIS SUBDIVISION:

27 (i) "LEASE" MEANS ANY TRANSFER OF POSSESSION OR CONTROL FOR A

1 FIXED OR INDETERMINATE TERM FOR CONSIDERATION AND MAY INCLUDE
2 FUTURE OPTIONS TO PURCHASE OR EXTEND.

3 (ii) "SCHOOL" MEANS A PUBLIC SCHOOL OR PUBLIC SCHOOL ACADEMY
4 AS DEFINED IN SECTION 5 OF THE REVISED SCHOOL CODE, 1976 PA 451,
5 MCL 380.5.

6 (iii) "SCHOOL BUS" MEANS THAT TERM AS DEFINED IN SECTION 7 OF
7 THE PUPIL TRANSPORTATION ACT, 1990 PA 187, MCL 257.1807.

8 (2) The property or services under subsection (1) are exempt
9 only to the extent that the property or services are used for the
10 exempt purposes if one is stated in subsection (1). The exemption
11 is limited to the percentage of exempt use to total use determined
12 by a reasonable formula or method approved by the department.

13 (3) The exemptions under subsection (1)(f), (bb), (cc), and
14 (dd) do not include the transfers of food, fuel, clothing, or any
15 similar tangible personal property for personal living or human
16 consumption or tangible personal property permanently affixed to
17 and becoming a structural part of real estate unless it is
18 agricultural land tile, subsurface irrigation pipe, a portable
19 grain bin, or grain drying equipment.

20 (4) Subsections (1)(f), (bb), and (cc) as amended by ~~the~~
21 ~~amendatory act that added this subsection~~ **2018 PA 114** are intended
22 to be retroactive and to apply to all periods open under section
23 27a of 1941 PA 122, MCL 205.27a, but do not apply to any refund
24 claims filed prior to April 9, 2018.

25 (5) As used in this section:

26 (a) "Agricultural land tile" means fired clay or perforated
27 plastic tubing used as part of a subsurface drainage system for

1 land.

2 (b) "Algae" means any of the group of nonvascular aquatic
3 plants which do not have stems, flowers, leaves, and roots, and
4 which are single-celled, colonial, or filamentous forms.

5 (c) "Aquatic vegetation" means both algae and higher aquatic
6 plants.

7 (d) "Biomass" means crop residue used to produce energy or
8 agricultural crops grown specifically for the production of energy.

9 (e) "Greenhouse" means a structure covered with transparent or
10 translucent materials for the purpose of admitting natural light
11 and controlling the atmosphere for growing horticultural products.
12 Greenhouse does not include a structure primarily used to grow
13 marihuana.

14 (f) "Higher aquatic plant" means any of the group of
15 vascularized plants which have true stems, flowers, leaves, and
16 roots, which live in water, and which belong to the class
17 Angiospermae.

18 (g) "Portable grain bin" means a structure that is used or is
19 to be used to shelter grain and that is designed to be disassembled
20 without significant damage to its component parts.

21 (h) "Waters of the state" means that term as defined in
22 section 3302 of the natural resources and environmental protection
23 act, 1994 PA 451, MCL 324.3302.