

SENATE BILL NO. 123

February 26, 2019, Introduced by Senators MCMORROW, GEISS, CHANG, ALEXANDER, MCCANN, ANANICH, WOJNO, POLEHANKI, IRWIN, HERTEL, MOSS, BULLOCK and HOLLIER and referred to the Committee on Finance.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4a (MCL 205.54a), as amended by 2018 PA 113.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (a) A sale of tangible personal property not for resale to a
4 nonprofit school, nonprofit hospital, or nonprofit home for the
5 care and maintenance of children or aged persons operated by an
6 entity of government, a regularly organized church, religious

1 **organization**, or fraternal organization, a veterans' organization,
2 or a corporation incorporated under the laws of this state, if the
3 income or benefit from the operation does not inure, in whole or in
4 part, to an individual or private shareholder, directly or
5 indirectly, and if the activities of the entity or agency are
6 carried on exclusively for the benefit of the public at large and
7 are not limited to the advantage, interests, and benefits of its
8 members or any restricted group. A sale of tangible personal
9 property to a parent cooperative preschool is exempt from taxation
10 under this act. As used in this subdivision, "parent cooperative
11 preschool" means a nonprofit, nondiscriminatory educational
12 institution, maintained as a community service and administered by
13 parents of children currently enrolled in the preschool, that
14 provides an educational and developmental program for children
15 younger than compulsory school age, that provides an educational
16 program for parents, including active participation with children
17 in preschool activities, that is directed by qualified preschool
18 personnel, and that is licensed pursuant to 1973 PA 116, MCL
19 722.111 to 722.128.

20 (b) A sale of tangible personal property not for resale to a
21 regularly organized church or house of religious worship, except
22 the following:

23 (i) Sales in activities that are mainly commercial enterprises.

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

28 (c) The sale of food to bona fide enrolled students by a
29 school or other educational institution not operated for profit.

1 (d) The sale of a vessel designated for commercial use of
2 registered tonnage of 500 tons or more, if produced upon special
3 order of the purchaser, and bunker and galley fuel, provisions,
4 supplies, maintenance, and repairs for the exclusive use of the
5 vessel engaged in interstate commerce.

6 (e) Except as otherwise provided under subsection (3), a sale
7 of tangible personal property to a person engaged in a business
8 enterprise that uses or consumes the tangible personal property,
9 directly or indirectly, for either the tilling, planting, draining,
10 caring for, maintaining, or harvesting of things of the soil or the
11 breeding, raising, or caring for livestock, poultry, or
12 horticultural products, including the transfers of livestock,
13 poultry, or horticultural products for further growth.

14 (f) Except as otherwise provided under subsection (3), a sale
15 of any of the following to a person engaged in a business
16 enterprise that uses or consumes the following for purposes as
17 described in subdivision (e):

18 (i) Machinery that is capable of simultaneously harvesting
19 grain or other crops and biomass and machinery used for the purpose
20 of harvesting biomass.

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

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

25 (iv) Grain drying equipment and the fuel or energy source that
26 powers that equipment, including tangible personal property affixed
27 or to be affixed to that equipment and directly used in the
28 operation of grain drying equipment.

29 (v) Tangible personal property purchased and installed as a

1 component part of a structure such as a barn or shop, including,
2 but not limited to, a water supply system, heating and cooling
3 system, lighting system, milking system, or any other appurtenance
4 used for purposes described in this subdivision or subdivision (e),
5 including the maintenance or improvement of existing structures, to
6 the extent that it is not permanently affixed to and does not
7 become a structural part of real estate. For purposes of this
8 subparagraph and subsection (3), property installed as a component
9 part of a structure as provided in this subparagraph is not
10 permanently affixed to or a structural part of real estate if it is
11 assembled and installed in a manner that it can be disassembled
12 without affecting the physical structural functionality of the
13 original structure and reassembled and reused for any of the
14 purposes described in this subdivision or subdivision (e).

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

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

29 (h) The sale of tangible personal property used in the direct

1 gathering of fish, by net, line, or otherwise, by an owner-operator
2 of a business enterprise, not including a charter fishing business
3 enterprise.

4 (i) The sale of a copyrighted motion picture film or a
5 newspaper or periodical admitted under federal postal laws and
6 regulations effective September 1, 1985 as second-class mail matter
7 or as a controlled circulation publication or qualified to accept
8 legal notices for publication in this state, as defined by law, or
9 any other newspaper or periodical of general circulation,
10 established not less than 2 years, and published not less than once
11 a week. Tangible personal property used or consumed in producing a
12 copyrighted motion picture film, a newspaper published more than 14
13 times per year, or a periodical published more than 14 times per
14 year, and not becoming a component part of that film, newspaper, or
15 periodical is subject to the tax. Tangible personal property used
16 or consumed in producing a newspaper published 14 times or less per
17 year or a periodical published 14 times or less per year and that
18 portion or percentage of tangible personal property used or
19 consumed in producing an advertising supplement that becomes a
20 component part of a newspaper or periodical is exempt from the tax
21 under this subdivision. For purposes of this subdivision, tangible
22 personal property that becomes a component part of a newspaper or
23 periodical and consequently not subject to tax includes an
24 advertising supplement inserted into and circulated with a
25 newspaper or periodical that is otherwise exempt from tax under
26 this subdivision, if the advertising supplement is delivered
27 directly to the newspaper or periodical by a person other than the
28 advertiser, or the advertising supplement is printed by the
29 newspaper or periodical.

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

8 (k) The sale of a prosthetic device, durable medical
9 equipment, or mobility enhancing equipment.

10 (l) The sale of a vehicle not for resale to a Michigan
11 nonprofit corporation organized exclusively to provide a community
12 with ambulance or fire department services.

13 (m) Before October 1, 2012, a sale of tangible personal
14 property to inmates in a penal or correctional institution
15 purchased with scrip or its equivalent issued and redeemed by the
16 institution.

17 (n) A sale of textbooks sold by a public or nonpublic school
18 to or for the use of students enrolled in any part of a
19 kindergarten through twelfth grade program.

20 (o) A sale of tangible personal property installed as a
21 component part of a water pollution control facility for which a
22 tax exemption certificate is issued pursuant to part 37 of the
23 natural resources and environmental protection act, 1994 PA 451,
24 MCL 324.3701 to 324.3708, or an air pollution control facility for
25 which a tax exemption certificate is issued pursuant to part 59 of
26 the natural resources and environmental protection act, 1994 PA
27 451, MCL 324.5901 to 324.5908.

28 (p) The sale or lease of the following to an industrial
29 laundry: ~~after December 31, 1997:~~

1 (i) Textiles and disposable products including, but not limited
2 to, soap, paper, chemicals, tissues, deodorizers and dispensers,
3 and all related items such as packaging, supplies, hangers, name
4 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
7 cabinets, 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 to,
16 conveyors, racks, and elevators and related control equipment.

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

19 (q) A sale of tangible personal property to a person holding a
20 direct payment permit under section 8 of the use tax act, 1937 PA
21 94, MCL 205.98.

22 (r) The sale of a dental prosthesis.

23 (s) A sale of tangible personal property that is specifically
24 designed for, and directly used in, the harvesting of aquatic
25 vegetation from the waters of the state, including parts and
26 materials used for repairs of that tangible personal property, to a
27 person engaged in a business enterprise of harvesting aquatic
28 vegetation and ultimately used for purposes described in
29 subdivision (e) or (f). This exemption does not include a motor

1 vehicle licensed or required to be licensed for use on the public
2 roads or highways of this state or tangible personal property
3 permanently affixed to and becoming a structural part of real
4 estate.

5 **(t) The sale of feminine hygiene products after June 30, 2019.**
6 **As used in this subdivision, "feminine hygiene products" means**
7 **tampons, sanitary napkins, and other similar tangible personal**
8 **property.**

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

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

21 (4) ~~Subsections~~ **Subsection** (1)(e), (f), and (g) as amended by
22 ~~the amendatory act that added this subsection are~~ **2018 PA 113 is**
23 intended to be retroactive and to apply to all periods open under
24 section 27a of 1941 PA 122, MCL 205.27a, but ~~do~~ **does** not apply to
25 any refund claims filed prior to April 9, 2018.

26 (5) As used in this section:

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

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

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

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

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

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

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

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

23 Enacting section 1. The legislature shall annually appropriate
24 sufficient funds from the state general fund to the state school
25 aid fund created in section 11 of article IX of the state
26 constitution of 1963 to fully compensate for any loss of revenue to
27 the state school aid fund resulting from the enactment of this
28 amendatory act.