

HOUSE BILL NO. 5176

June 29, 2021, Introduced by Reps. Koleszar, Haadsma, Steckloff, Tyrone Carter and Aiyash and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
(MCL 205.91 to 205.111) by adding sections 4kk and 20a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 **Sec. 4kk. (1) Subject to subsection (2), the tax under this**
2 **act does not apply to the purchase of any of the following items if**
3 **the purchase is made between 12:01 a.m. and 11:59 p.m. on the third**
4 **Saturday of August each year:**
5 **(a) Clothing if the purchase price of each individual item is**

1 not greater than \$100.00.

2 (b) School supplies if the purchase price of each individual
3 item is not greater than \$20.00.

4 (c) A computer purchased for noncommercial home or personal
5 use, if the purchase price, less any manufacturer's rebate, of each
6 individual computer is not greater than \$1,000.00.

7 (d) A school computer supply purchased for noncommercial home
8 or personal use, if the purchase price, less any manufacturer's
9 rebate, of each individual school computer supply is not greater
10 than \$500.00.

11 (2) The exemption in subsection (1) does not apply to any of
12 the following:

13 (a) Clothing accessories or equipment.

14 (b) Sport or recreational equipment.

15 (c) Protective equipment.

16 (d) Any item sold for use in a trade or business.

17 (e) Furniture.

18 (3) As used in this section:

19 (a) "Clothing" means, except as otherwise provided in
20 subdivision (b), all human wearing apparel suitable for general
21 use, including, but not limited to, the following:

22 (i) Aprons, household and shop.

23 (ii) Athletic supporters.

24 (iii) Baby receiving blankets.

25 (iv) Bathing suits and caps.

26 (v) Beach capes and coats.

27 (vi) Belts and suspenders.

28 (vii) Boots.

29 (viii) Coats and jackets.

- 1 (ix) Costumes.
- 2 (x) Diapers, children and adult, including disposable diapers.
- 3 (xi) Ear muffs.
- 4 (xii) Footlets.
- 5 (xiii) Formal wear.
- 6 (xiv) Garters and garter belts.
- 7 (xv) Girdles.
- 8 (xvi) Gloves and mittens for general use.
- 9 (xvii) Hats and caps.
- 10 (xviii) Hosiery.
- 11 (xix) Insoles for shoes.
- 12 (xx) Lab coats.
- 13 (xxi) Neckties.
- 14 (xxii) Overshoes.
- 15 (xxiii) Pantyhose.
- 16 (xxiv) Rainwear.
- 17 (xxv) Rubber pants.
- 18 (xxvi) Sandals.
- 19 (xxvii) Scarves.
- 20 (xxviii) Shoes and shoe laces.
- 21 (xxix) Slippers.
- 22 (xxx) Sneakers.
- 23 (xxxi) Socks and stockings.
- 24 (xxxii) Steel-toed shoes.
- 25 (xxxiii) Underwear.
- 26 (xxxiv) Uniforms, athletic and nonathletic.
- 27 (xxxv) Wedding apparel.

1 (b) Clothing does not include any of the following:

2 (i) Belt buckles sold separately.

3 (ii) Costume masks sold separately.

4 (iii) Patches and emblems sold separately.

5 (iv) Sewing equipment and supplies, including, but not limited
6 to, knitting needles, patterns, pins, scissors, sewing machines,
7 sewing needles, tape measures, and thimbles.

8 (v) Sewing materials that become part of clothing, including,
9 but not limited to, buttons, fabric, lace, thread, yarn, and
10 zippers.

11 (c) "Clothing accessories or equipment" means incidental items
12 worn on the person or in conjunction with clothing, including, but
13 not limited to, the following:

14 (i) Briefcases.

15 (ii) Cosmetics.

16 (iii) Hair notions, including, but not limited to, barrettes,
17 hair bows, and hair nets.

18 (iv) Handbags.

19 (v) Handkerchiefs.

20 (vi) Jewelry.

21 (vii) Sun glasses, nonprescription.

22 (viii) Umbrellas.

23 (ix) Wallets.

24 (x) Watches.

25 (xi) Wigs and hair pieces.

26 (d) "Computer" means an electronic device that accepts
27 information in a digital or similar form and manipulates it for a
28 result based on a sequence of instructions.

1 (e) "Protective equipment" means items for human wear and
2 designed as protection of the wearer against injury or disease or
3 as protections against damage or injury of other persons or
4 property but not suitable for general use. Protective equipment
5 includes, but is not limited to, the following:

- 6 (i) Breathing masks.
7 (ii) Clean room apparel and equipment.
8 (iii) Ear and hearing protectors.
9 (iv) Face shields.
10 (v) Hard hats.
11 (vi) Helmets.
12 (vii) Paint or dust respirators.
13 (viii) Protective gloves.
14 (ix) Safety glasses and goggles.
15 (x) Safety belts.
16 (xi) Tool belts.
17 (xii) Welder's gloves and masks.
18 (f) "School computer supply" means an item commonly used by a
19 student in a course of study in which a computer is used and
20 includes only the following items:
21 (i) Computer storage media, including diskettes and compact
22 disks.
23 (ii) Handheld electronic schedulers, except devices that are
24 cellular phones.
25 (iii) Personal digital assistants, except devices that are
26 cellular phones.
27 (iv) Computer printers.
28 (v) Printer supplies for computers, including printer paper

1 and printer ink.

2 (g) "School supplies" means items commonly used by a student
3 in a course of study and includes only the following items:

4 (i) Binders.

5 (ii) Book bags.

6 (iii) Calculators.

7 (iv) Cellophane tape.

8 (v) Blackboard chalk.

9 (vi) Compasses.

10 (vii) Composition books.

11 (viii) Crayons.

12 (ix) Erasers.

13 (x) Folders, including expandable, pocket, plastic, and
14 manila.

15 (xi) Glue, paste, and paste sticks.

16 (xii) Highlighters.

17 (xiii) Index cards.

18 (xiv) Index card boxes.

19 (xv) Legal pads.

20 (xvi) Lunch boxes.

21 (xvii) Markers.

22 (xviii) Notebooks.

23 (xix) Paper, including loose leaf ruled notebook paper, copy
24 paper, graph paper, tracing paper, manila paper, colored paper,
25 poster board, and construction paper.

26 (xx) Pencil boxes and other school supply boxes.

27 (xxi) Pencil sharpeners.

28 (xxii) Pencils.

1 (xxiii) Pens.

2 (xxiv) Protractors.

3 (xxv) Rulers.

4 (xxvi) Scissors.

5 (xxvii) Writing tablets.

6 (h) "Sport or recreational equipment" means items designed for
7 human use and worn in conjunction with an athletic or recreational
8 activity that are not suitable for general use. Sport or
9 recreational equipment includes, but is not limited to, the
10 following:

11 (i) Ballet and tap shoes.

12 (ii) Cleated or spiked athletic shoes.

13 (iii) Gloves, including, but not limited to, baseball, bowling,
14 boxing, hockey, and golf.

15 (iv) Goggles.

16 (v) Hand and elbow guards.

17 (vi) Life preservers and vests.

18 (vii) Mouth guards.

19 (viii) Roller and ice skates.

20 (ix) Shin guards.

21 (x) Shoulder pads.

22 (xi) Ski boots.

23 (xii) Waders.

24 (xiii) Wetsuits and fins.

25 Sec. 20a. (1) The department shall provide notice of a use tax
26 holiday under this act not less than 60 days before the first day
27 of the calendar month in which the exemption period will begin.

28 (2) A purchase of eligible property under a layaway sale

1 qualifies for a use tax holiday exemption if either of the
2 following applies:

3 (a) Final payment on a layaway order is made by, and the
4 property is given to, the purchaser during the exemption period.

5 (b) The purchaser selects the property and the retailer
6 accepts the order for the item during the exemption period, for
7 immediate delivery upon full payment, even if delivery is made
8 after the exemption period.

9 (3) If the seller offers a discount on eligible property, the
10 discount reduces the purchase price of the property and the
11 discounted purchase price determines whether the purchase price is
12 within a use tax holiday price threshold. If a discount applies to
13 the total amount paid by a purchaser rather than to the purchase
14 price of a particular item and the purchaser has purchased both
15 eligible property and taxable property, the seller must allocate
16 the discount based on the total purchase prices of the taxable
17 property compared to the total purchase prices of all property sold
18 in that same transaction.

19 (4) A coupon that reduces the purchase price is treated as a
20 discount under subsection (3) if the seller is not reimbursed for
21 the coupon amount by a third party.

22 (5) Articles normally sold as a single unit must continue to
23 be sold as a single unit during a use tax holiday. Such articles
24 must not be priced separately and sold as individual items in order
25 to obtain a use tax holiday exemption.

26 (6) Eligible property that a customer purchases during the
27 exemption period with the use of a rain check qualifies for the use
28 tax holiday exemption regardless of when the rain check was issued.
29 Issuance of a rain check during the exemption period does not

1 qualify eligible property for the use tax holiday exemption if the
2 property is actually purchased after the exemption period.

3 (7) All of the following provisions apply to an exchange made
4 in regard to a use tax holiday:

5 (a) If a customer purchases an item of eligible property
6 during the exemption period, but later exchanges the item for a
7 similar eligible item, even if a different size, different color,
8 or different with respect to another feature, no additional tax is
9 due even if the exchange is made after the exemption period.

10 (b) If a customer purchases an item of eligible property
11 during the exemption period, but after the exemption period has
12 ended, the customer returns the item and receives credit on the
13 purchase of a different item, the appropriate use tax is due on the
14 sale of the newly purchased item.

15 (c) If a customer purchases an item of eligible property
16 before the exemption period, but during the exemption period the
17 customer returns the item and receives credit on the purchase of a
18 different item of eligible property, no use tax is due on the
19 purchase of the new item if the new item is purchased during the
20 exemption period.

21 (8) For purposes of determining a use tax holiday price
22 threshold, if all the property in a shipment qualifies as eligible
23 property and the purchase price for each item in the shipment is
24 within the use tax holiday price threshold, then the seller does
25 not have to allocate the delivery, handling, or service charge to
26 determine if the price threshold is exceeded and the shipment is
27 considered a sale of eligible products. If the shipment includes
28 eligible property and taxable property, including an eligible item
29 with a purchase price in excess of the price threshold, the seller

1 must allocate the delivery charge by using 1 of the following
2 methods and tax the delivery charge allocated to the taxable
3 property:

4 (a) A percentage based on the total purchase prices of the
5 taxable property compared to the total purchase prices of all
6 property in the shipment.

7 (b) A percentage based on the total weight of the taxable
8 property compared to the total weight of all property in the
9 shipment.

10 (9) For the purpose of a use tax holiday, eligible property
11 qualifies for exemption if either of the following requirements is
12 met:

13 (a) The item is both delivered to and paid for by the customer
14 during the exemption period.

15 (b) The customer orders and pays for the item and the seller
16 accepts the order during the exemption period for immediate
17 shipment, even if delivery is made after the exemption period. The
18 seller accepts an order when the seller has taken action to fill
19 the order for immediate shipment. Actions to fill an order include
20 placement of an "in date" stamp on a mail order or assignment of an
21 "order number" to a telephone order. An order is for immediate
22 shipment if the customer does not request delayed shipment. An
23 order is for immediate shipment notwithstanding that the shipment
24 may be delayed because of a backlog of orders or because stock is
25 currently unavailable to, or on back order by, the seller.

26 (10) For a 60-day period immediately after a use tax holiday
27 exemption period, if a customer returns an item that would qualify
28 for the exemption, no credit for or refund of use tax shall be
29 given unless the customer provides a receipt or invoice that shows

1 that use tax was paid, or the seller has sufficient documentation
2 to show that use tax was paid on the specific item. The 60-day
3 period under this subsection is set solely for the purpose of
4 designating a time period during which the customer must provide
5 documentation that shows that use tax was paid on returned
6 merchandise. The 60-day period under this subsection does not
7 change a seller's policy on the time period during which the seller
8 will accept returns.

9 (11) The time zone of the seller's location determines the
10 authorized time period for a use tax holiday when the purchaser is
11 located in one time zone and a seller is located in another.

12 (12) As used in this section:

13 (a) "Eligible property" means an item of a type that qualifies
14 for a use tax holiday under this act.

15 (b) "Layaway sale" means a transaction in which property is
16 set aside for future delivery to a customer who makes a deposit,
17 agrees to pay the balance of the purchase price over a period of
18 time, and, at the end of the payment period, receives the property.
19 An order is accepted for layaway by the seller when the seller
20 removes the property from normal inventory or clearly identifies
21 the property as sold to the purchaser.

22 (c) "Rain check" means the seller allows a customer to
23 purchase an item at a certain price at a later time because the
24 particular item was out of stock.