

GENERAL SALES TAX ACT (EXCERPT)
Act 167 of 1933

205.54q Sales of tangible personal property not for resale; exemption; applicability; duties of transferee; evidence of exemption; limitation.

Sec. 4q. (1) A sale of tangible personal property not for resale to the following, subject to subsection (5), is exempt from the tax under this act:

(a) A health, welfare, educational, cultural arts, charitable, or benevolent organization not operated for profit that has been issued an exemption ruling letter to purchase items exempt from tax before July 17, 1998 signed by the administrator of the sales, use, and withholding taxes division of the department.

(b) An organization not operated for profit and exempt from federal income tax under section 501(c)(3) or 501(c)(4) of the internal revenue code, 26 USC 501.

(c) An organization not operated for profit and exempt from federal income tax under section 501(c)(19) of the internal revenue code, 26 USC 501.

(2) The exemptions provided for in subsection (1) do not apply to any of the following:

(a) Sales of tangible personal property and sales of vehicles licensed for use on public highways that are not used primarily to carry out the purposes of the organization or to raise funds or obtain resources necessary to carry out the purposes of the organization as stated in the bylaws or articles of incorporation of the exempt entity.

(b) Sales of tangible personal property or vehicles used for purposes of raising funds or obtaining resources if the sales price exceeds the following:

(i) For an organization exempt under subsection (1)(a) or (b), \$5,000.00.

(ii) For an organization exempt under subsection (1)(c), \$25,000.00.

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

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

(b) Present a signed statement, on a form approved by the department, stating that the property is to be used or consumed in connection with the operation of the organization, to carry out the purpose or purposes of the organization, or to raise funds or obtain resources necessary for the operation of the organization, that the organization qualifies as an exempt organization under this section, and that the sales price of any single item of tangible personal property or vehicle purchased for purposes of raising funds or obtaining resources does not exceed the applicable cap amount established in subsection (2)(b). The transferee shall also provide to the transferor a copy of the federal exemption letter. However, a copy of the federal exemption letter is not required if the organization is exempt from filing an application for exempt status with the internal revenue service.

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

(5) The tangible personal property under subsection (1) is exempt only to the extent that the property is used to carry out the purposes of the organization or to raise funds or obtain resources necessary to carry out the purposes of the organization as stated in the organization's bylaws or articles of incorporation. The exemption for purposes of carrying out the purposes of the organization as stated in its bylaws or articles of incorporation is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department. The exemption for any single item of tangible personal property or vehicle used to raise funds or obtain resources is limited to a sales price that does not exceed \$5,000.00 for an organization exempt under subsection (1)(a) or (b) and \$25,000.00 for an organization exempt under subsection (1)(c).

History: Add. 1998, Act 258, Imd. Eff. July 17, 1998;—Am. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2012, Act 573, Eff. Mar. 28, 2013;—Am. 2018, Act 530, Eff. Mar. 28, 2019.

Compiler's note: Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that

are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a.”