

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 198

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 4o (MCL 205.94o), as amended by 2004 PA 172.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4o. (1) The tax levied under this act does not apply to
2 property sold to the following after March 30, 1999, subject to
3 subsection (2):

4 (a) An industrial processor for use or consumption in
5 industrial processing.

6 (b) A person, whether or not the person is an industrial
7 processor, if the tangible personal property is intended for
8 ultimate use in and is used in industrial processing by an
9 industrial processor.

1 (c) A person, whether or not the person is an industrial
2 processor, if the tangible personal property is used by that person
3 to perform an industrial processing activity for or on behalf of an
4 industrial processor.

5 (d) A person, whether or not the person is an industrial
6 processor, if the tangible personal property is 1 of the following:

7 (i) A computer used in operating industrial processing
8 equipment.

9 (ii) Equipment used in a computer assisted manufacturing
10 system.

11 (iii) Equipment used in a computer assisted design or
12 engineering system integral to an industrial process.

13 (iv) A subunit or electronic assembly comprising a component in
14 a computer integrated industrial processing system.

15 (v) Computer equipment used in connection with the computer
16 assisted production, storage, and transmission of data if the
17 equipment would have been exempt had the data transfer been made
18 using tapes, disks, CD-ROMs, or similar media by a company whose
19 business includes publishing doctoral dissertations and information
20 archiving, and that sells the majority of the company's products to
21 nonprofit organizations exempt under section ~~4(1)(z)~~ **4(1)(w)**.

22 (vi) Equipment used in the production of prewritten computer
23 software or software modified or adapted to the user's needs or
24 equipment by the seller, only if the software is available for sale
25 from a seller of software on an as-is basis or as an end product
26 without modification or adaption.

27 (2) The property under subsection (1) is exempt only to the

1 extent that the property is used for the exempt purpose stated in
2 this section. The exemption is limited to the percentage of exempt
3 use to total use determined by a reasonable formula or method
4 approved by the department.

5 (3) Industrial processing includes the following activities:

6 (a) Production or assembly.

7 (b) Research or experimental activities.

8 (c) Engineering related to industrial processing.

9 (d) Inspection, quality control, or testing to determine
10 whether particular units of materials or products or processes
11 conform to specified parameters at any time before materials or
12 products first come to rest in finished goods inventory storage.

13 (e) Planning, scheduling, supervision, or control of
14 production or other exempt activities.

15 (f) Design, construction, or maintenance of production or
16 other exempt machinery, equipment, and tooling.

17 (g) Remanufacturing.

18 (h) Processing of production scrap and waste up to the point
19 it is stored for removal from the plant of origin.

20 (i) Recycling of used materials for ultimate sale at retail or
21 reuse.

22 (j) Production material handling.

23 (k) Storage of in-process materials.

24 (4) Property that is eligible for an industrial processing
25 exemption includes the following:

26 (a) Property that becomes an ingredient or component part of
27 the finished product to be sold ultimately at retail.

1 (b) Machinery, equipment, tools, dies, patterns, foundations
2 for machinery or equipment, or other processing equipment used in
3 an industrial processing activity and in their repair and
4 maintenance.

5 (c) Property that is consumed or destroyed or that loses its
6 identity in an industrial processing activity.

7 (d) Tangible personal property, not permanently affixed and
8 not becoming a structural part of real estate, that becomes a part
9 of, or is used and consumed in installation and maintenance of,
10 systems used for an industrial processing activity.

11 (e) Fuel or energy used or consumed for an industrial
12 processing activity.

13 (f) Machinery, equipment, or materials used within a plant
14 site or between plant sites operated by the same person for
15 movement of tangible personal property in the process of
16 production. **PROPERTY EXEMPT UNDER THIS SUBDIVISION INCLUDES FRONT**
17 **END LOADERS, FORKLIFTS, PETTIBONE LIFTS, SKIDSTERS, MULTIPURPOSE**
18 **LOADERS, KNUCKLE-BOOM LOG LOADERS, TRACTORS, AND LOG LOADERS USED**
19 **TO UNLOAD LOGS FROM TRUCKS AT A SAW MILL SITE FOR THE PURPOSE OF**
20 **PROCESSING AT THE SITE AND TO LOAD LUMBER ONTO TRUCKS AT A SAW MILL**
21 **SITE FOR PURPOSES OF TRANSPORTATION FROM THE SITE.**

22 (g) Office equipment, including data processing equipment,
23 used for an industrial processing activity.

24 (5) Property that is not eligible for an industrial processing
25 exemption includes the following:

26 (a) Tangible personal property permanently affixed and
27 becoming a structural part of real estate including building

1 utility systems such as heating, air conditioning, ventilating,
2 plumbing, lighting, and electrical distribution, to the point of
3 the last transformer, switch, valve, or other device at which point
4 usable power, water, gas, steam, or air is diverted from
5 distribution circuits for use in industrial processing.

6 (b) Office equipment, including data processing equipment used
7 for nonindustrial processing purposes.

8 (c) Office furniture or office supplies.

9 (d) An industrial processor's own product or finished good
10 that it uses or consumes for purposes other than industrial
11 processing.

12 (e) Tangible personal property used for receiving and storage
13 of materials, supplies, parts, or components purchased by the user
14 or consumer.

15 (f) Tangible personal property used for receiving or storage
16 of natural resources extracted by the user or consumer.

17 (g) Vehicles, including special bodies or attachments,
18 required to display a vehicle permit or license plate to operate on
19 public highways, except for a vehicle bearing a manufacturer's
20 plate or a specially designed vehicle, together with parts, used to
21 mix and agitate materials at a plant or job site in the concrete
22 manufacturing process.

23 (h) Tangible personal property used for the preparation of
24 food or beverages by a retailer for ultimate sale at retail through
25 its own locations.

26 (i) Tangible personal property used or consumed for the
27 preservation or maintenance of a finished good once it first comes

1 to rest in finished goods inventory storage.

2 (j) Returnable shipping containers or materials, except as
3 provided in subsection (4)(f).

4 (k) Tangible personal property used in the production of
5 computer software originally designed for the exclusive use and
6 special needs of the purchaser.

7 (6) Industrial processing does not include the following
8 activities:

9 (a) Purchasing, receiving, or storage of raw materials.

10 (b) Sales, distribution, warehousing, shipping, or advertising
11 activities.

12 (c) Administrative, accounting, or personnel services.

13 (d) Design, engineering, construction, or maintenance of real
14 property and nonprocessing equipment.

15 (e) Plant security, fire prevention, or medical or hospital
16 services.

17 (7) As used in this section:

18 (a) "Industrial processing" means the activity of converting
19 or conditioning tangible personal property by changing the form,
20 composition, quality, combination, or character of the property for
21 ultimate sale at retail or for use in the manufacturing of a
22 product to be ultimately sold at retail. Industrial processing
23 begins when tangible personal property begins movement from raw
24 materials storage to begin industrial processing and ends when
25 finished goods first come to rest in finished goods inventory
26 storage.

27 (b) "Industrial processor" means a person who performs the

1 activity of converting or conditioning tangible personal property
2 for ultimate sale at retail or use in the manufacturing of a
3 product to be ultimately sold at retail.

4 (c) "Product", as used in subdivision (e), includes, but is
5 not limited to, a prototype, pilot model, process, formula,
6 invention, technique, patent, or similar property, whether intended
7 to be used in a trade or business or to be sold, transferred,
8 leased, or licensed.

9 (d) "Remanufacturing" means the activity of overhauling,
10 retrofitting, fabricating, or repairing a product or its component
11 parts for ultimate sale at retail.

12 (e) "Research or experimental activity" means activity
13 incident to the development, discovery, or modification of a
14 product or a product related process. Research or experimental
15 activity also includes activity necessary for a product to satisfy
16 a government standard or to receive government approval. Research
17 or experimental activity does not include the following:

18 (i) Ordinary testing or inspection of materials or products for
19 quality control purposes.

20 (ii) Efficiency surveys.

21 (iii) Management surveys.

22 (iv) Market or consumer surveys.

23 (v) Advertising or promotions.

24 (vi) Research in connection with literacy, historical, or
25 similar projects.

26 Enacting section 1. This amendatory act does not take effect
27 unless House Bill No. 4404 of the 95th Legislature is enacted into

1 law.