

**SUBSTITUTE FOR
HOUSE BILL NO. 4270**

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 4 and 21 (MCL 205.94 and 205.111), section 4
as amended by 2018 PA 679 and section 21 as amended by 2020 PA 30.

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~~

1 **Constitution** or laws of the United States, or under the
2 constitution of this state.

3 (c) All of the following:

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

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

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

23 (A) 0 to 25, 2 units.

24 (B) 26 to 100, 7 units.

25 (C) 101 to 500, 20 units.

26 (D) 501 or more, 25 units.

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

1 (d) Property that is brought into this state by a nonresident
2 person for storage, use, or consumption while temporarily within
3 this state, except if the property is used in this state in a
4 nontransitory business activity for a period exceeding 15 days.

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

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

26 (g) Property or services sold to the United States, an
27 unincorporated agency or instrumentality of the United States, an
28 incorporated agency or instrumentality of the United States wholly
29 owned by the United States or by a corporation wholly owned by the

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

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

27 (i) Property or services sold to a regularly organized church
 28 or house of religious worship except the following:

29 (i) Sales in which the property is used in activities that are

1 mainly commercial enterprises.

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

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

11 (k) Property purchased for use in this state ~~where~~**if** actual
12 personal possession is obtained outside this state, the purchase
13 price or actual value of which does not exceed \$10.00 during 1
14 calendar month.

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

1 consumed in producing an advertising supplement that becomes a
2 component part of a newspaper or periodical is exempt from the tax
3 under this subdivision. For purposes of this subdivision, tangible
4 personal property that becomes a component part of a newspaper or
5 periodical and consequently not subject to tax, includes an
6 advertising supplement inserted into and circulated with a
7 newspaper or periodical that is otherwise exempt from tax under
8 this subdivision, if the advertising supplement is delivered
9 directly to the newspaper or periodical by a person other than the
10 advertiser, or the advertising supplement is printed by the
11 newspaper or periodical.

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

19 (n) ~~A person~~ **An individual** who is a resident of this state who
20 purchases an automobile in another state while in the military
21 service of the United States and who pays a sales tax in the state
22 where the automobile is purchased.

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

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

28 (q) Water ~~when~~ **if** delivered through water mains, water sold in
29 bulk tanks in quantities of not less than 500 gallons, or the sale

1 of bottled water.

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

5 (s) Tangible personal property purchased and installed as a
6 component part of a water pollution control facility for which a
7 tax exemption certificate is issued ~~pursuant to~~**under** part 37 of
8 the natural resources and environmental protection act, 1994 PA
9 451, MCL 324.3701 to 324.3708, or an air pollution control facility
10 for which a tax exemption certificate is issued ~~pursuant to~~**under**
11 part 59 of the natural resources and environmental protection act,
12 1994 PA 451, MCL 324.5901 to 324.5908.

13 (t) Tangible real or personal property donated by a
14 manufacturer, wholesaler, or retailer to an organization or entity
15 exempt ~~pursuant to~~**under** subdivision (h) or (i) or section 4a(1)(a)
16 or (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

17 (u) The storage, use, or consumption of an aircraft by a
18 domestic air carrier for use solely in the transport of air cargo,
19 passengers, or a combination of air cargo and passengers, that has
20 a maximum certificated takeoff weight of at least 6,000 pounds. For
21 purposes of this subdivision, the term "domestic air carrier" is
22 limited to a person engaged primarily in the commercial transport
23 for hire of air cargo, passengers, or a combination of air cargo
24 and passengers as a business activity. The state treasurer shall
25 estimate on January 1 each year the revenue lost by this act from
26 the school aid fund and deposit that amount into the school aid
27 fund from the general fund.

28 (v) The storage, use, or consumption of an aircraft by a
29 person who purchases the aircraft for subsequent lease to a

1 domestic air carrier operating under a certificate issued by the
2 ~~federal aviation administration~~ **Federal Aviation Administration**
3 under 14 CFR part 121, for use solely in the regularly scheduled
4 transport of passengers.

5 (w) Property or services sold to an organization not operated
6 for profit and exempt from federal income tax under section
7 501(c)(3) or ~~501(e)(4)~~ **(4)** of the internal revenue code **of 1986**, 26
8 USC 501; or to a health, welfare, educational, cultural arts,
9 charitable, or benevolent organization not operated for profit that
10 has been issued before June 13, 1994 an exemption ruling letter to
11 purchase items exempt from tax signed by the administrator of the
12 sales, use, and withholding taxes division of the department. The
13 department shall reissue an exemption letter after June 13, 1994 to
14 each of those organizations that had an exemption letter that ~~shall~~
15 ~~remain~~ **remains** in effect unless the organization fails to meet the
16 requirements that originally entitled it to this exemption. The
17 exemption does not apply to sales of tangible personal property and
18 sales of vehicles licensed for use on public highways, that are not
19 used primarily to carry out the purposes of the organization as
20 stated in the bylaws or articles of incorporation of the exempt
21 organization.

22 (x) The use or consumption of services described in section
23 3a(1)(a) or ~~(b)~~ **(c)** or 3b by means of a prepaid telephone calling
24 card, a prepaid authorization number for telephone use, or a charge
25 for internet access.

26 (y) The purchase, lease, use, or consumption of the following
27 by an industrial laundry:

28 (i) Textiles and disposable products including, but not limited
29 to, soap, paper, chemicals, tissues, deodorizers and dispensers,

1 and all related items such as packaging, supplies, hangers, name
2 tags, and identification tags.

3 (ii) Equipment, whether owned or leased, used to repair and
4 dispense textiles including, but not limited to, roll towel
5 cabinets, slings, hardware, lockers, mop handles and frames, and
6 carts.

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

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

11 (v) Production washroom equipment and mending and packaging
12 supplies and equipment.

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

15 (vii) Wastewater pretreatment equipment and supplies and
16 related maintenance and repair services.

17 (z) Property purchased or manufactured by a person engaged in
18 the business of constructing, altering, repairing, or improving
19 real estate for others, to the extent that the property is affixed
20 to and made a structural part of real estate located in another
21 state, regardless of whether sales or use tax was due and paid in
22 the state in which the property is affixed to real estate.

23 (aa) The sale of a dental prosthesis.

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

28 (i) Machinery that is capable of simultaneously harvesting
29 grain or other crops and biomass and machinery used for the purpose

1 of harvesting biomass.

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

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

6 (iv) Grain drying equipment and the fuel or energy source that
7 powers that equipment, including tangible personal property affixed
8 or to be affixed to that equipment and directly used in the
9 operation of grain drying equipment.

10 (v) Tangible personal property purchased and installed as a
11 component part of a structure such as a barn or shop, including,
12 but not limited to, a water supply system, heating and cooling
13 system, lighting system, milking system, or any other appurtenance
14 used for purposes described in this subdivision or subdivision (f),
15 including the maintenance or improvement of existing structures, to
16 the extent that it is not permanently affixed to and does not
17 become a structural part of real estate. For purposes of this
18 subparagraph and subsection (3), property installed as a component
19 part of a structure as provided in this subparagraph is not
20 permanently affixed to or a structural part of real estate if it is
21 assembled and installed in a manner that it can be disassembled
22 without affecting the physical structural functionality of the
23 original structure and reassembled and reused for any of the
24 purposes described in this subdivision or subdivision (f).

25 (vi) Greenhouses, including tangible personal property affixed
26 to or to be affixed to greenhouses and directly used in the
27 operation of a greenhouse. For purposes of subsection (3), a
28 greenhouse is not permanently affixed to or a structural part of
29 real estate if it is assembled and installed in a manner that it

1 can be disassembled and reassembled without affecting the
2 functionality of the greenhouse upon being reassembled.

3 (cc) The sale of agricultural land tile, subsurface irrigation
4 pipe, portable grain bins, greenhouses, and grain drying equipment
5 to a person in the business of constructing, altering, repairing,
6 or improving real estate for others to the extent that it is
7 affixed to and made a structural part of real estate for others and
8 is used for an exempt purpose described under subdivision (f) or
9 (bb).

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

14 (ee) A sale of tangible personal property that is specifically
15 designed for, and directly used in, the harvesting of aquatic
16 vegetation from the waters of the state, including parts and
17 materials used for repairs of that tangible personal property, to a
18 person engaged in a business enterprise of harvesting aquatic
19 vegetation and ultimately used for purposes described in
20 subdivision (f) or (bb). This exemption does not include a motor
21 vehicle licensed or required to be licensed for use on the public
22 roads or highways of this state or tangible personal property
23 permanently affixed to and becoming a structural part of real
24 estate.

25 (ff) The purchase or lease of a school bus or transportation-
26 related services, and parts or adaptive equipment affixed or to be
27 affixed to a school bus ~~which~~**that** are used in the repair,
28 maintenance, accommodation, or modification of a school bus, if the
29 school bus or services are primarily used in the performance of a

1 contract entered into with an authorized representative of a school
2 for the transportation of preprimary, primary, or secondary school
3 pupils to or from a school or school-related events authorized by
4 the administration of the school. However, if the school bus is
5 used to provide transportation-related services other than to or
6 from a school or school-related event authorized by the
7 administration of the school to a nonexempt entity, then the amount
8 paid for those services by the nonexempt entity is not exempt under
9 this subdivision. As used in this subdivision:

10 (i) "Lease" means any transfer of possession or control for a
11 fixed or indeterminate term for consideration and may include
12 future options to purchase or extend.

13 (ii) "School" means a public school or public school academy as
14 defined in section 5 of the revised school code, 1976 PA 451, MCL
15 380.5.

16 (iii) "School bus" means that term as defined in section 7 of
17 the pupil transportation act, 1990 PA 187, MCL 257.1807.

18 **(gg) The sale of feminine hygiene products. As used in this**
19 **subdivision, "feminine hygiene products" means tampons, panty**
20 **liners, menstrual cups, sanitary napkins, and other similar**
21 **tangible personal property designed for feminine hygiene in**
22 **connection with the human menstrual cycle.**

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

28 (3) The exemptions under subsection (1)(f), (bb), (cc), and
29 (dd) do not include the transfers of food, fuel, clothing, or any

1 similar tangible personal property for personal living or human
 2 consumption or tangible personal property permanently affixed to
 3 and becoming a structural part of real estate unless it is
 4 agricultural land tile, subsurface irrigation pipe, a portable
 5 grain bin, or grain drying equipment.

6 (4) ~~Subsections~~ **Subsection** (1)(f), (bb), and (cc) as amended
 7 by 2018 PA 114 ~~are~~ **is** intended to be retroactive and to apply to
 8 all periods open under section 27a of 1941 PA 122, MCL 205.27a, but
 9 ~~do~~ **does** not apply to any refund claims filed ~~prior to~~ **before** April
 10 9, 2018.

11 (5) As used in this section:

12 (a) "Agricultural land tile" means fired clay or perforated
 13 plastic tubing used as part of a subsurface drainage system for
 14 land.

15 (b) "Algae" means any of the group of nonvascular aquatic
 16 plants ~~which~~ **that** do not have stems, flowers, leaves, and roots,
 17 and ~~which~~ **that** are single-celled, colonial, or filamentous forms.

18 (c) "Aquatic vegetation" means both algae and higher aquatic
 19 plants.

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

22 (e) "Greenhouse" means a structure covered with transparent or
 23 translucent materials for the purpose of admitting natural light
 24 and controlling the atmosphere for growing horticultural products.
 25 Greenhouse does not include a structure primarily used to grow
 26 marihuana.

27 (f) "Higher aquatic plant" means any of the group of
 28 vascularized plants ~~which~~ **that** have true stems, flowers, leaves,
 29 and roots, ~~which~~ **that** live in water, and ~~which~~ **that** belong to the

1 class Angiospermae.

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

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

8 Sec. 21. (1) Except as provided in subsections (2), (3), (4),
9 and (5), all money received and collected under this act must be
10 deposited by the department of treasury in the state treasury to
11 the credit of the general fund, to be disbursed only by
12 appropriations by the legislature.

13 (2) The collections from the use tax imposed at the additional
14 rate of 2% approved by the electors on March 15, 1994 must be
15 deposited in the state school aid fund established in section 11 of
16 article IX of the state constitution of 1963.

17 (3) From the money received and collected under this act for
18 the state share, an amount equal to all revenue lost under the
19 state education tax act, 1993 PA 331, MCL 211.901 to 211.906, **and**
20 all revenue lost from basic school operating mills, as a result of
21 the exemption of personal property under sections 9m, 9n, and 9o of
22 the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and
23 211.9o, and all revenue lost to the school aid fund as a result of
24 the ~~exemption~~**exemptions** under ~~section~~**sections 4(1)(gg) and** 4cc,
25 as determined by the department, must be deposited into the state
26 school aid fund established by section 11 of article IX of the
27 state constitution of 1963. Funds deposited into the state school
28 aid fund under this subsection must not include the portion of the
29 state share of the use tax imposed at the additional rate of 2%

1 approved by the electors of this state on March 15, 1994 and
2 dedicated for aid to schools under subsection (2). A person that
3 claims an exemption under section 4cc shall report the purchase
4 price of the data center equipment as defined in section 4cc and
5 any other information necessary to determine the amount of revenue
6 lost to the school aid fund as a result of the exemption under
7 section 4cc annually on a form at the time and in a manner
8 prescribed by the department. The report required under this
9 subsection ~~shall~~**must** not include any remittance for tax and does
10 not constitute a return or otherwise alleviate the person's
11 obligations under section 6.

12 (4) Money received and collected under this act for the local
13 community stabilization share is not state funds, must not be
14 credited to the state treasury, and must be transmitted to the
15 authority for deposit in the treasury of the authority, to be
16 disbursed by the authority only as authorized under the local
17 community stabilization authority act, 2014 PA 86, MCL 123.1341 to
18 123.1362. The local community stabilization share is a local tax,
19 not a state tax, and money received and collected for the local
20 community stabilization share is money of the authority and not
21 money of this state.

22 (5) Beginning October 1, 2016 and the first day of each
23 calendar quarter thereafter, from the money received and collected
24 under this act for the state share, an amount equal to the
25 collections for the calendar quarter that is 2 calendar quarters
26 immediately preceding the current calendar quarter of the tax
27 imposed under this act at the additional rate of 2% approved by the
28 electors on March 15, 1994 from the use, storage, or consumption of
29 aviation fuel must be distributed as follows:

1 (a) An amount equal to 35% of the collections of the tax
2 imposed at a rate of 2% on the use, storage, or consumption of
3 aviation fuel must be deposited in the state aeronautics fund and
4 must be expended, on appropriation, only for those purposes
5 authorized in the aeronautics code of the state of Michigan, 1945
6 PA 327, MCL 259.1 to 259.208.

7 (b) An amount equal to 65% of the collections of the tax
8 imposed at a rate of 2% on the use, storage, or consumption of
9 aviation fuel must be deposited in the qualified airport fund and
10 must be expended, on appropriation, only for those purposes
11 authorized under section 35 of the aeronautics code of the state of
12 Michigan, 1945 PA 327, MCL 259.35.

13 (6) The department shall, on an annual basis, reconcile the
14 amounts distributed under subsection (5) during each fiscal year
15 with the amounts actually collected for a particular fiscal year
16 and shall make any necessary adjustments, positive or negative, to
17 the amounts to be distributed for the next successive calendar
18 quarter that begins January 1. The state treasurer or his or her
19 designee shall annually provide to the operator of each qualified
20 airport a report of the reconciliation performed under this
21 subsection. The reconciliation report is subject to the
22 confidentiality restrictions and penalties provided in section
23 28(1)(f) of 1941 PA 122, MCL 205.28.

24 (7) As used in this section:

25 (a) "Aviation fuel" means fuel as that term is defined in
26 section 4 of the aeronautics code of the state of Michigan, 1945 PA
27 327, MCL 259.4.

28 (b) "Qualified airport" means that term as defined in section
29 109 of the aeronautics code of the state of Michigan, 1945 PA 327,

1 MCL 259.109.

2 (c) "Qualified airport fund" means the qualified airport fund
3 created in section 34(2) of the aeronautics code of the state of
4 Michigan, 1945 PA 327, MCL 259.34.

5 (d) "State aeronautics fund" means the state aeronautics fund
6 created in section 34(1) of the aeronautics code of the state of
7 Michigan, 1945 PA 327, MCL 259.34.

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.