

# HOUSE BILL NO. 4054

February 01, 2023, Introduced by Reps. VanWoerkom and Thompson and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending section 4t (MCL 205.54t), as amended by 2015 PA 205.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 4t. (1) The sale of tangible personal property to the  
2 following after March 30, 1999, subject to subsection (2), is  
3 exempt from the tax under this act:

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

1 ultimate use in and is used in industrial processing by an  
2 industrial processor.

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

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

9 (i) A computer used in operating industrial processing  
10 equipment.

11 (ii) Equipment used in a computer assisted manufacturing  
12 system.

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

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

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

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

29 (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 **(l) Production, manufacturing, or recycling of aggregate by the**  
 25 **property, and for the purpose, described in subsection (4)(i) if**  
 26 **that aggregate is subject to the tax levied under the use tax act,**  
 27 **1937 PA 94, MCL 205.91 to 205.111.**

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

1 (a) Property that becomes an ingredient or component part of  
2 the finished product to be sold ultimately at retail **or affixed to**  
3 **and made a structural part of real estate located in another state.**

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

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

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

14 (e) Fuel or energy used or consumed for an industrial  
15 processing activity.

16 (f) Machinery, equipment, or materials used within a plant  
17 site or between plant sites operated by the same person for  
18 movement of tangible personal property in the process of  
19 production. Property exempt under this subdivision includes front  
20 end loaders, forklifts, pettibone lifts, skidsters, multipurpose  
21 loaders, knuckle-boom log loaders, tractors, and log loaders used  
22 to unload logs from trucks at a saw mill site for the purpose of  
23 processing at the site and to load lumber onto trucks at a saw mill  
24 site for purposes of transportation from the site.

25 (g) Office equipment, including data processing equipment,  
26 used for an industrial processing activity.

27 (h) Tangible personal property used or consumed in an  
28 industrial processing activity to produce alcoholic beverages that  
29 are sold at retail by that industrial processor through its own

1 retail locations.

2 (i) Notwithstanding anything to the contrary in subsection  
3 (6) (d), property that performs an industrial processing activity  
4 upon an aggregate product or material that will be used as an  
5 ingredient or component part for the construction, maintenance,  
6 repair, or reconstruction of real property in this state if that  
7 aggregate product or material is subject to the tax levied under  
8 the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

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

11 (a) Tangible personal property permanently affixed and  
12 becoming a structural part of real estate including building  
13 utility systems such as heating, air conditioning, ventilating,  
14 plumbing, lighting, and electrical distribution, to the point of  
15 the last transformer, switch, valve, or other device at which point  
16 usable power, water, gas, steam, or air is diverted from  
17 distribution circuits for use in industrial processing.

18 (b) Office equipment, including data processing equipment used  
19 for nonindustrial processing purposes.

20 (c) Office furniture or office supplies.

21 (d) An industrial processor's own product or finished good  
22 that it uses or consumes for purposes other than industrial  
23 processing.

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

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

29 (g) Vehicles, including special bodies or attachments,

1 required to display a vehicle permit or license plate to operate on  
2 public highways, except for a vehicle bearing a manufacturer's  
3 plate or a specially designed vehicle, together with parts, used to  
4 mix and agitate materials at a plant or job site in the concrete  
5 manufacturing process.

6 (h) Tangible personal property used for the preparation of  
7 food or beverages by a retailer for ultimate sale at retail through  
8 its own locations, except as provided in subsection (4) (h).

9 (i) Tangible personal property used or consumed for the  
10 preservation or maintenance of a finished good once it first comes  
11 to rest in finished goods inventory storage.

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

14 (k) Tangible personal property used in the production of  
15 computer software originally designed for the exclusive use and  
16 special needs of the purchaser.

17 (6) Industrial processing does not include the following  
18 activities:

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

20 (b) Sales, distribution, warehousing, shipping, or advertising  
21 activities.

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

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

25 (e) Plant security, fire prevention, or medical or hospital  
26 services.

27 **(7) Notwithstanding anything to the contrary in this act, the**  
28 **following applies only to industrial processing activities and**  
29 **property described in subsection (3) (l) or (4) (i):**

1           (a) Not later than 30 days after the effective date of the  
2 amendatory act that added this subsection, the department shall  
3 cancel all outstanding balances related to such industrial  
4 processing activities and property on notices of intent to assess  
5 that were issued under section 21 of 1941 PA 122, MCL 205.21, for  
6 the tax levied under this act and that were issued before the  
7 effective date of the amendatory act that added this subsection.

8           (b) Not later than 30 days after the effective date of the  
9 amendatory act that added this subsection, the department shall  
10 cancel all outstanding balances related to such industrial  
11 processing activities and property on final assessments that were  
12 issued under section 22 of 1941 PA 122, MCL 205.22, for the tax  
13 levied under this act and that were issued before the effective  
14 date of the amendatory act that added this subsection.

15           (c) After the effective date of the amendatory act that added  
16 this subsection, the department shall not issue any new assessments  
17 for the tax levied under this act on such industrial processing  
18 activities and property for any tax period before the effective  
19 date of the amendatory act that added this subsection that is open  
20 under the statute of limitations provided in section 27a of 1941 PA  
21 122, MCL 205.27a.

22           (8) ~~(7)~~—As used in this section:

23           (a) "Aggregate" means common variety building materials like  
24 sand, gravel, crushed stone, slag, recycled concrete, recycled  
25 asphalt, and geosynthetic aggregates.

26           (b) ~~(a)~~—"Industrial processing" means the activity of  
27 converting or conditioning tangible personal property by changing  
28 the form, composition, quality, combination, or character of the  
29 property for ultimate sale at retail, ~~or~~ for use in the

1 manufacturing of a product to be ultimately sold at retail **or to be**  
 2 **affixed to and made a structural part of real estate located in**  
 3 **another state, or for the exempt purposes described in subsection**  
 4 **(3) (l) or (4) (i)**. Industrial processing begins when tangible  
 5 personal property begins movement from raw materials storage to  
 6 begin industrial processing and ends when finished goods first come  
 7 to rest in finished goods inventory storage.

8 (c) ~~(b)~~—"Industrial processor" means a person who performs the  
 9 activity of converting or conditioning tangible personal property  
 10 for ultimate sale at retail, ~~or for~~ use in the manufacturing of a  
 11 product to be ultimately sold at retail **or to be affixed to and**  
 12 **made a structural part of real estate located in another state, or**  
 13 **for the exempt purposes described in subsection (3) (l) or (4) (i)**.

14 (d) ~~(e)~~—"Product", as used in subdivision ~~(e)~~, ~~(f)~~, includes,  
 15 but is not limited to, a prototype, pilot model, process, formula,  
 16 invention, technique, patent, or similar property, whether intended  
 17 to be used in a trade or business or to be sold, transferred,  
 18 leased, or licensed.

19 (e) ~~(d)~~—"Remanufacturing" means the activity of overhauling,  
 20 retrofitting, fabricating, or repairing a product or its component  
 21 parts for ultimate sale at retail.

22 (f) ~~(e)~~—"Research or experimental activity" means activity  
 23 incident to the development, discovery, or modification of a  
 24 product or a product related process. Research or experimental  
 25 activity also includes activity necessary for a product to satisfy  
 26 a government standard or to receive government approval. Research  
 27 or experimental activity does not include the following:

28 (i) Ordinary testing or inspection of materials or products for  
 29 quality control purposes.

- 1           (ii) Efficiency surveys.
- 2           (iii) Management surveys.
- 3           (iv) Market or consumer surveys.
- 4           (v) Advertising or promotions.
- 5           (vi) Research in connection with literacy, historical, or
- 6 similar projects.

7           Enacting section 1. This amendatory act does not take effect  
8 unless Senate Bill No.\_\_\_\_ or House Bill No. 4055 (request no.  
9 01141'23 \*) of the 102nd Legislature is enacted into law.