

HOUSE BILL NO. 5596

March 14, 2024, Introduced by Reps. BeGole, Bezotte, Kunse, Beson, Bierlein, Johnsen, Neyer, Arbit, Jaime Greene, Roth, Schmaltz, Phil Green, Aragona, St. Germaine, Harris, Meerman and DeBoyer and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 4 (MCL 205.94), as amended by 2021 PA 109.

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

1 consumer.

2 (b) Property, the storage, use, or other consumption of which
3 this state is prohibited from taxing under the Constitution or laws
4 of the United States, or under the constitution of this state.

5 (c) All of the following:

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

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

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

24 (A) 0 to 25, 2 units.

25 (B) 26 to 100, 7 units.

26 (C) 101 to 500, 20 units.

27 (D) 501 or more, 25 units.

28 (iv) Motor vehicles purchased for resale purposes by a new
29 vehicle dealer licensed under section 248(8)(a) of the Michigan

1 vehicle code, 1949 PA 300, MCL 257.248.

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

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

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

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

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

5 (h) Property or services sold to a school, hospital, or home
6 for the care and maintenance of children or aged individuals,
7 operated by an entity of government, a regularly organized church,
8 religious organization, or fraternal organization, a veterans'
9 organization, or a corporation incorporated under the laws of this
10 state, if not operated for profit, and if the income or benefit
11 from the operation does not inure, in whole or in part, to an
12 individual or private shareholder, directly or indirectly, and if
13 the activities of the entity or agency are carried on exclusively
14 for the benefit of the public at large and are not limited to the
15 advantage, interests, and benefits of its members or a restricted
16 group. The tax levied does not apply to property or services sold
17 to a parent cooperative preschool. As used in this subdivision,
18 "parent cooperative preschool" means a nonprofit, nondiscriminatory
19 educational institution, maintained as a community service and
20 administered by parents of children currently enrolled in the
21 preschool that provides an educational and developmental program
22 for children younger than compulsory school age, that provides an
23 educational program for parents, including active participation
24 with children in preschool activities, that is directed by
25 qualified preschool personnel, and that is licensed under 1973 PA
26 116, MCL 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 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 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 not less than 2 years, and published at
21 least once a week, and a copyrighted motion picture film. Tangible
22 personal property used or consumed in producing a copyrighted
23 motion picture film, a newspaper published more than 14 times per
24 year, or a periodical published more than 14 times per year, and
25 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) 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 if delivered through water mains, water sold in bulk
29 tanks in quantities of not less than 500 gallons, or the sale of

1 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 under part 37 of the natural
8 resources and environmental protection act, 1994 PA 451, MCL
9 324.3701 to 324.3708, or an air pollution control facility for
10 which a tax exemption certificate is issued under part 59 of the
11 natural resources and environmental protection act, 1994 PA 451,
12 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 under subdivision (h) or (i) or section 4a(1)(a) or (b) of
16 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~~ **2000**
26 **PA 200** from the **state** school aid fund **established in section 11 of**
27 **article IX of the state constitution of 1963** and deposit that
28 amount into the **state** school aid fund from the general fund.

29 (v) The storage, use, or consumption of an aircraft by a

1 person who purchases the aircraft for subsequent lease to a
2 domestic air carrier operating under a certificate issued by the
3 Federal Aviation Administration under 14 CFR part 121, for use
4 solely in the regularly scheduled 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 (4) of the internal revenue code of 1986, 26 USC 501,
8 ~~or~~ to a health, welfare, educational, cultural arts, charitable,
9 or benevolent organization not operated for profit that has been
10 issued before June 13, 1994 an exemption ruling letter to purchase
11 items exempt from tax signed by the administrator of the sales,
12 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
15 remains in effect unless the organization fails to meet the
16 requirements that originally entitled it to this exemption. ~~The~~
17 **Except as otherwise provided in this subdivision, the** exemption
18 does not apply to sales of tangible personal property and sales of
19 vehicles licensed for use on public highways, that are not used
20 primarily to carry out the purposes of the organization as stated
21 in the bylaws or articles of incorporation of the exempt
22 organization. **A sale of prepared food to an organization described**
23 **in this subdivision to be used or consumed in connection with a**
24 **fundraiser or other organized event held by the organization is**
25 **exempt from the tax under this act under this subdivision without**
26 **regard to the limitations described in this subdivision. As used in**
27 **this section, "prepared food" means that term as defined in section**
28 **4d.**

29 (x) The use or consumption of services described in section

1 3a(1) (a) or (c) or 3b by means of a prepaid telephone calling card,
2 a prepaid authorization number for telephone use, or a charge for
3 internet access.

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

6 (i) Textiles and disposable products including, but not limited
7 to, soap, paper, chemicals, tissues, deodorizers and dispensers,
8 and all related items such as packaging, supplies, hangers, name
9 tags, and identification tags.

10 (ii) Equipment, whether owned or leased, used to repair and
11 dispense textiles including, but not limited to, roll towel
12 cabinets, slings, hardware, lockers, mop handles and frames, and
13 carts.

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

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

18 (v) Production washroom equipment and mending and packaging
19 supplies and equipment.

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

22 (vii) Wastewater pretreatment equipment and supplies and
23 related maintenance and repair services.

24 (z) Property purchased or manufactured by a person engaged in
25 the business of constructing, altering, repairing, or improving
26 real estate for others, to the extent that the property is affixed
27 to and made a structural part of real estate located in another
28 state, regardless of whether sales or use tax was due and paid in
29 the state in which the property is affixed to real estate.

1 (aa) The sale of a dental prosthesis.

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

6 (i) Machinery that is capable of simultaneously harvesting
7 grain or other crops and biomass and machinery used for the purpose
8 of harvesting biomass.

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

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

13 (iv) Grain drying equipment and the fuel or energy source that
14 powers that equipment, including tangible personal property affixed
15 or to be affixed to that equipment and directly used in the
16 operation of grain drying equipment.

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

1 original structure and reassembled and reused for any of the
2 purposes described in this subdivision or subdivision (f).

3 (vi) Greenhouses, including tangible personal property affixed
4 to or to be affixed to greenhouses and directly used in the
5 operation of a greenhouse. For purposes of subsection (3), a
6 greenhouse is not permanently affixed to or a structural part of
7 real estate if it is assembled and installed in a manner that it
8 can be disassembled and reassembled without affecting the
9 functionality of the greenhouse upon being reassembled.

10 (cc) The sale of agricultural land tile, subsurface irrigation
11 pipe, portable grain bins, greenhouses, and grain drying equipment
12 to a person in the business of constructing, altering, repairing,
13 or improving real estate for others to the extent that it is
14 affixed to and made a structural part of real estate for others and
15 is used for an exempt purpose described under subdivision (f) or
16 (bb).

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

21 (ee) A sale of tangible personal property that is specifically
22 designed for, and directly used in, the harvesting of aquatic
23 vegetation from the waters of the state, including parts and
24 materials used for repairs of that tangible personal property, to a
25 person engaged in a business enterprise of harvesting aquatic
26 vegetation and ultimately used for purposes described in
27 subdivision (f) or (bb). This exemption does not include a motor
28 vehicle licensed or required to be licensed for use on the public
29 roads or highways of this state or tangible personal property

1 permanently affixed to and becoming a structural part of real
2 estate.

3 (ff) The purchase or lease of a school bus or transportation-
4 related services, and parts or adaptive equipment affixed or to be
5 affixed to a school bus that are used in the repair, maintenance,
6 accommodation, or modification of a school bus, if the school bus
7 or services are primarily used in the performance of a contract
8 entered into with an authorized representative of a school for the
9 transportation of preprimary, primary, or secondary school pupils
10 to or from a school or school-related events authorized by the
11 administration of the school. However, if the school bus is used to
12 provide transportation-related services other than to or from a
13 school or school-related event authorized by the administration of
14 the school to a nonexempt entity, then the amount paid for those
15 services by the nonexempt entity is not exempt under this
16 subdivision. As used in this subdivision:

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

20 (ii) "School" means a public school or public school academy as
21 defined in section 5 of the revised school code, 1976 PA 451, MCL
22 380.5.

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

25 (gg) The sale of feminine hygiene products. As used in this
26 subdivision, "feminine hygiene products" means tampons, panty
27 liners, menstrual cups, sanitary napkins, and other similar
28 tangible personal property designed for feminine hygiene in
29 connection with the human menstrual cycle.

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

6 (3) The exemptions under subsection (1)(f), (bb), (cc), and
7 (dd) do not include the transfers of food, fuel, clothing, or any
8 similar tangible personal property for personal living or human
9 consumption or tangible personal property permanently affixed to
10 and becoming a structural part of real estate unless it is
11 agricultural land tile, subsurface irrigation pipe, a portable
12 grain bin, or grain drying equipment.

13 (4) Subsection (1)(f), (bb), and (cc) as amended by 2018 PA
14 114 is intended to be retroactive and to apply to all periods open
15 under section 27a of 1941 PA 122, MCL 205.27a, but does not apply
16 to any refund claims filed before April 9, 2018.

17 (5) As used in this section:

18 (a) "Agricultural land tile" means fired clay or perforated
19 plastic tubing used as part of a subsurface drainage system for
20 land.

21 (b) "Algae" means any of the group of nonvascular aquatic
22 plants that do not have stems, flowers, leaves, and roots, and that
23 are single-celled, colonial, or filamentous forms.

24 (c) "Aquatic vegetation" means both algae and higher aquatic
25 plants.

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

28 (e) "Greenhouse" means a structure covered with transparent or
29 translucent materials for the purpose of admitting natural light

1 and controlling the atmosphere for growing horticultural products.
2 Greenhouse does not include a structure primarily used to grow
3 marihuana.

4 (f) "Higher aquatic plant" means any of the group of
5 vascularized plants that have true stems, flowers, leaves, and
6 roots, that live in water, and that belong to the class
7 Angiospermae.

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

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