

HOUSE BILL No. 4273

February 16, 1999, Introduced by Reps. Stamas, Garcia, Ehardt, Kuipers, Jellema and Pappageorge 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 1998 PA 491,
and by adding section 4o.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. The tax levied does not apply to the following:

2 (a) Property sold in this state on which transaction a tax
3 is paid under the general sales tax act, 1933 PA 167, MCL 205.51
4 to 205.78, if the tax was due and paid on the retail sale to a
5 consumer.

6 (b) Property, the storage, use, or other consumption of
7 which this state is prohibited from taxing under the constitution
8 or laws of the United States, or under the constitution of this
9 state.

1 (c) Property purchased for resale, demonstration purposes,
2 or lending or leasing to a public or parochial school offering a
3 course in automobile driving except that a vehicle purchased by
4 the school shall be certified for driving education and shall not
5 be reassigned for personal use by the school's administrative
6 personnel. For a dealer selling a new car or truck, exemption
7 for demonstration purposes shall be determined by the number of
8 new cars and trucks sold during the current calendar year or the
9 immediately preceding year without regard to specific make or
10 style according to the following schedule of 0 to 25, 2 units; 26
11 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but
12 not to exceed 25 cars and trucks in 1 calendar year for demon-
13 stration purposes. Property purchased for resale includes promo-
14 tional merchandise transferred pursuant to a redemption offer to
15 a person located outside this state or any packaging material,
16 other than promotional merchandise, acquired for use in fulfill-
17 ing a redemption offer or rebate to a person located outside this
18 state.

19 (d) Property that is brought into this state by a nonresi-
20 dent person for storage, use, or consumption while temporarily
21 within this state, except if the property is used in this state
22 in a nontransitory business activity for a period exceeding 15
23 days.

24 (e) Property the sale or use of which was already subjected
25 to a sales tax or use tax equal to, or in excess of, that imposed
26 by this act under the law of any other state or a local
27 governmental unit within a state if the tax was due and paid on

1 the retail sale to the consumer and the state or local
2 governmental unit within a state in which the tax was imposed
3 accords like or complete exemption on property the sale or use of
4 which was subjected to the sales or use tax of this state. If
5 the sale or use of property was already subjected to a tax under
6 the law of any other state or local governmental unit within a
7 state in an amount less than the tax imposed by this act, this
8 act shall apply, but at a rate measured by the difference between
9 the rate provided in this act and the rate by which the previous
10 tax was computed.

11 (f) Property sold to a person engaged in a business enter-
12 prise and using and consuming the property in the tilling, plant-
13 ing, caring for, or harvesting of the things of the soil or in
14 the breeding, raising, or caring for livestock, poultry, or
15 horticultural products, including transfers of livestock, poul-
16 try, or horticultural products for further growth. At the time
17 of the transfer of that tangible personal property, the trans-
18 feree shall sign a statement, in a form approved by the depart-
19 ment, stating that the property is to be used or consumed in con-
20 nection with the production of horticultural or agricultural pro-
21 ducts as a business enterprise. The statement shall be accepted
22 by the courts as prima facie evidence of the exemption. This
23 exemption includes agricultural land tile, which means fired clay
24 or perforated plastic tubing used as part of a subsurface drain-
25 age system for land used in the production of agricultural pro-
26 ducts as a business enterprise and includes a portable grain bin,
27 which means a structure that is used or is to be used to shelter

1 grain and that is designed to be disassembled without significant
2 damage to its component parts. This exemption does not include
3 transfers of food, fuel, clothing, or similar tangible personal
4 property for personal living or human consumption. This exemp-
5 tion does not include tangible personal property permanently
6 affixed and becoming a structural part of real estate.

7 (g) Property sold to the following:

8 (i) An industrial processor for use or consumption in indus-
9 trial processing. Property used or consumed in industrial pro-
10 cessing does not include tangible personal property permanently
11 affixed and becoming a structural part of real estate; office
12 furniture, office supplies, and administrative office equipment;
13 or vehicles licensed and titled for use on public highways other
14 than a specially designed vehicle, together with parts, used to
15 mix and agitate materials added at a plant or jobsite in the con-
16 crete manufacturing process. Industrial processing does not
17 include receipt and storage of raw materials purchased or
18 extracted by the user or consumer, or the preparation of food and
19 beverages by a retailer for retail sale. As used in this subdi-
20 vision, "industrial processor" means a person who transforms,
21 alters, or modifies tangible personal property by changing the
22 form, composition, or character of the property for ultimate sale
23 at retail or sale to another industrial processor to be further
24 processed for ultimate sale at retail. Sales to a person per-
25 forming a service who does not act as an industrial processor
26 while performing the service may not be excluded under this
27 subdivision, except as provided in subparagraph (ii).

1 (ii) A person, whether or not the person is an industrial
2 processor, when the property is a computer used in operating
3 industrial processing equipment; equipment used in a computer
4 assisted manufacturing system; equipment used in a computer
5 assisted design or engineering system integral to an industrial
6 process; or a subunit or electronic assembly comprising a compo-
7 nent in a computer integrated industrial processing system; or
8 computer equipment used in connection with the computer assisted
9 production, storage, and transmission of data if the equipment
10 would have been exempt had the data transfer been made using
11 tapes, disks, CD-ROMS, or similar media by a company whose busi-
12 ness includes publishing doctoral dissertations and information
13 archiving, and that sells the majority of the company's products
14 to nonprofit organizations exempt under subdivision (aa).

15 (h) Property or services sold to the United States, an unin-
16 corporated agency or instrumentality of the United States, an
17 incorporated agency or instrumentality of the United States
18 wholly owned by the United States or by a corporation wholly
19 owned by the United States, the American red cross and its chap-
20 ters or branches, this state, a department or institution of this
21 state, or a political subdivision of this state.

22 (i) Property or services sold to a school, hospital, or home
23 for the care and maintenance of children or aged persons, oper-
24 ated by an entity of government, a regularly organized church,
25 religious, or fraternal organization, a veterans' organization,
26 or a corporation incorporated under the laws of this state, if
27 not operated for profit, and if the income or benefit from the

1 operation does not inure, in whole or in part, to an individual
2 or private shareholder, directly or indirectly, and if the activ-
3 ities of the entity or agency are carried on exclusively for the
4 benefit of the public at large and are not limited to the advan-
5 tage, interests, and benefits of its members or a restricted
6 group. The tax levied does not apply to property or services
7 sold to a parent cooperative preschool. As used in this subdivi-
8 sion, "parent cooperative preschool" means a nonprofit, nondis-
9 criminatory educational institution, maintained as a community
10 service and administered by parents of children currently
11 enrolled in the preschool that provides an educational and devel-
12 opmental program for children younger than compulsory school age,
13 that provides an educational program for parents, including
14 active participation with children in preschool activities, that
15 is directed by qualified preschool personnel, and that is
16 licensed by the department of consumer and industry services pur-
17 suant to 1973 PA 116, MCL 722.111 to 722.128.

18 (j) Property or services sold to a regularly organized
19 church or house of religious worship except the following:

20 (i) Sales in which the property is used in activities that
21 are mainly commercial enterprises.

22 (ii) Sales of vehicles licensed for use on the public high-
23 ways other than a passenger van or bus with a manufacturer's
24 rated seating capacity of 10 or more that is used primarily for
25 the transportation of persons for religious purposes.

26 (k) A vessel designed for commercial use of registered
27 tonnage of 500 tons or more, if produced upon special order of

1 the purchaser, and bunker and galley fuel, provisions, supplies,
2 maintenance, and repairs for the exclusive use of a vessel of 500
3 tons or more engaged in interstate commerce.

4 (1) Property purchased by a person engaged in the business
5 of constructing, altering, repairing, or improving real estate
6 for others to the extent the property is affixed to and made a
7 structural part of the real estate of a nonprofit hospital or a
8 nonprofit housing entity qualified as exempt pursuant to section
9 15a of the state housing development authority act of 1966, 1966
10 PA 346, MCL 125.1415a. ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
11 SUBDIVISION, A nonprofit hospital or nonprofit housing includes
12 only the property of a nonprofit hospital or the homes or dwell-
13 ing places constructed by a nonprofit housing entity, the income
14 or property of which does not directly or indirectly inure to the
15 benefit of an individual, private stockholder, or other private
16 person. FOR TAX YEARS ENDING AFTER DECEMBER 31, 1990, NONPROFIT
17 HOUSING INCLUDES A MULTIPLE UNIT DWELLING OWNED BY A CITY, VIL-
18 LAGE, TOWNSHIP, OR COUNTY, THE INCOME OR PROPERTY OF WHICH DOES
19 NOT DIRECTLY OR INDIRECTLY INURE TO THE BENEFIT OF AN INDIVIDUAL,
20 PRIVATE STOCKHOLDER, OR OTHER PRIVATE PERSON. For taxes assessed
21 after December 31, 1990 and before January 1, 1996, as used in
22 this subdivision, "hospital" includes, but is not limited to, an
23 entity that meets all of the following qualifications:

24 (i) Is a separately organized entity, or a group of entities
25 sufficiently related to be considered a single employer for pur-
26 poses of section 414 of the internal revenue code of 1986, the
27 primary purpose of which is to provide medical, obstetrical,

1 psychiatric, or surgical care or nursing. Nursing includes care
2 provided by skilled nurses in a long-term care facility.

3 (ii) ~~Prior to~~ BEFORE January 1, 1996, initiated an appeal
4 of taxes assessed under this act on tangible personal property
5 used to construct a facility after December 31, 1990 and before
6 January 1, 1996, the primary purpose of which is to provide medi-
7 cal, obstetrical, psychiatric, or surgical care or nursing.
8 Nursing includes a long-term care facility.

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

13 (n) A newspaper or periodical classified under federal
14 postal laws and regulations effective September 1, 1985 as
15 second-class mail matter or as a controlled circulation publica-
16 tion or qualified to accept legal notices for publication in this
17 state, as defined by law, or any other newspaper or periodical of
18 general circulation, established at least 2 years, and published
19 at least once a week, and a copyrighted motion picture film.
20 Tangible personal property used or consumed in producing a copy-
21 righted motion picture film, a newspaper published more than 14
22 times per year, or a periodical published more than 14 times per
23 year, and not becoming a component part of that film, newspaper,
24 or periodical is subject to the tax. After December 31, 1993,
25 tangible personal property used or consumed in producing a news-
26 paper published 14 times or less per year or a periodical
27 published 14 times or less per year and that portion or

1 percentage of tangible personal property used or consumed in
2 producing an advertising supplement that becomes a component part
3 of a newspaper or periodical is exempt from the tax under this
4 subdivision. A claim for a refund for taxes paid before January
5 1, 1999 under this subdivision shall be made before June 30,
6 1999. For purposes of this subdivision, tangible personal prop-
7 erty that becomes a component part of a newspaper or periodical
8 and consequently not subject to tax, includes an advertising sup-
9 plement inserted into and circulated with a newspaper or periodi-
10 cal that is otherwise exempt from tax under this subdivision, if
11 the advertising supplement is delivered directly to the newspaper
12 or periodical by a person other than the advertiser, or the
13 advertising supplement is printed by the newspaper or
14 periodical.

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

22 (p) A person who is a resident of this state who purchases
23 an automobile in another state while in the military service of
24 the United States and who pays a sales tax in the state where the
25 automobile is purchased.

1 (q) A vehicle for which a special registration is secured in
2 accordance with section 226(12) of the Michigan vehicle code,
3 1949 PA 300, MCL 257.226.

4 (r) A hearing aid, contact lenses if prescribed for a spe-
5 cific disease that precludes the use of eyeglasses, or any other
6 apparatus, device, or equipment used to replace or substitute for
7 any part of the human body, or used to assist the disabled person
8 to lead a reasonably normal life when the tangible personal prop-
9 erty is purchased on a written prescription or order issued by a
10 health professional as defined by section 4 of former 1974 PA
11 264, or section 21005 of the public health code, 1978 PA 368, MCL
12 333.21005, or eyeglasses prescribed or dispensed to correct the
13 person's vision by an ophthalmologist, optometrist, or optician.

14 (s) Water when delivered through water mains or in bulk
15 tanks in quantities of not less than 500 gallons.

16 (t) The purchase of machinery and equipment for use or con-
17 sumption in the rendition of any combination of services, the use
18 or consumption of which is taxable under section 3a(a) or (c)
19 except that this exemption is limited to the tangible personal
20 property located on the premises of the subscriber and to central
21 office equipment or wireless equipment, directly used or consumed
22 in transmitting, receiving, or switching or the monitoring of
23 switching of a 2-way interactive communication. As used in this
24 subdivision, central office equipment or wireless equipment does
25 not include distribution equipment including cable or wire
26 facilities.

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

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

12 (w) Tangible real or personal property donated by a manufac-
13 turer, wholesaler, or retailer to an organization or entity
14 exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b)
15 of the general sales tax act, 1933 PA 167, MCL 205.54a.

16 (x) The storage, use, or consumption by a domestic air car-
17 rier of an aircraft purchased after December 31, 1992 for use
18 solely in the transport of air cargo that has a maximum certifi-
19 cated takeoff weight of at least 12,500 pounds. For purposes of
20 this subdivision, the term "domestic air carrier" is limited to
21 entities engaged in the commercial transport for hire of cargo or
22 entities engaged in the commercial transport of passengers as a
23 business activity.

24 (y) The storage, use, or consumption by a domestic air car-
25 rier of an aircraft purchased after June 30, 1994 that is used
26 solely in the regularly scheduled transport of passengers. For
27 purposes of this subdivision, the term "domestic air carrier" is

1 limited to entities engaged in the commercial transport for hire
2 of cargo or entities engaged in the commercial transport of pas-
3 sengers as a business activity.

4 (z) The storage, use, or consumption by a domestic air car-
5 rier of an aircraft, other than an aircraft described under
6 subdivision (y), purchased after December 31, 1994, that has a
7 maximum certificated takeoff weight of at least 12,500 pounds and
8 that is designed to have a maximum passenger seating configura-
9 tion of more than 30 seats and used solely in the transport of
10 passengers. For purposes of this subdivision, the term "domestic
11 air carrier" is limited to entities engaged in the commercial
12 transport for hire of cargo or entities engaged in the commercial
13 transport of passengers as a business activity.

14 (aa) Property or services sold to an organization not oper-
15 ated for profit and exempt from federal income tax under section
16 501(c)(3) or 501(c)(4) of the internal revenue code of 1986, 26
17 U.S.C. 501; or to a health, welfare, educational, cultural arts,
18 charitable, or benevolent organization not operated for profit
19 that has been issued before June 13, 1994 an exemption ruling
20 letter to purchase items exempt from tax signed by the adminis-
21 trator of the sales, use, and withholding taxes division of the
22 department. The department shall reissue an exemption letter
23 after June 13, 1994 to each of those organizations that had an
24 exemption letter that shall remain in effect unless the organiza-
25 tion fails to meet the requirements that originally entitled it
26 to this exemption. The exemption does not apply to sales of
27 tangible personal property and sales of vehicles licensed for use

1 on public highways, that are not used primarily to carry out the
2 purposes of the organization as stated in the bylaws or articles
3 of incorporation of the exempt organization.

4 (bb) The use or consumption of services described in
5 section 3a(a) or (c) by means of a prepaid telephone calling
6 card, a prepaid authorization number for telephone use, or a
7 charge for internet access.

8 (cc) The purchase, lease, use, or consumption of the follow-
9 ing by an industrial laundry after December 31, 1997:

10 (i) Textiles and disposable products including, but not
11 limited to, soap, paper, chemicals, tissues, deodorizers and dis-
12 pensers, and all related items such as packaging, supplies, hang-
13 ers, name tags, and identification tags.

14 (ii) Equipment, whether owned or leased, used to repair and
15 dispense textiles including, but not limited to, roll towel cabi-
16 nets, slings, hardware, lockers, mop handles and frames, and
17 carts.

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

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

22 (v) Production washroom equipment and mending and packaging
23 supplies and equipment.

24 (vi) Material handling equipment including, but not limited
25 to, conveyors, racks, and elevators and related control
26 equipment.

1 (vii) Wastewater pretreatment equipment and supplies and
2 related maintenance and repair services.

3 SEC. 4o. A CITY, VILLAGE, TOWNSHIP, OR COUNTY THAT PAID THE
4 TAX LEVIED UNDER THIS ACT IN TAX YEARS ENDING AFTER DECEMBER 31,
5 1990 ON PROPERTY AFFIXED TO AND MADE A STRUCTURAL PART OF NON-
6 PROFIT HOUSING THAT IS A MULTIPLE UNIT DWELLING OWNED BY THAT
7 CITY, VILLAGE, TOWNSHIP, OR COUNTY, THE INCOME OR PROPERTY OF
8 WHICH DOES NOT DIRECTLY OR INDIRECTLY INURE TO THE BENEFIT OF AN
9 INDIVIDUAL, PRIVATE STOCKHOLDER, OR OTHER PRIVATE PERSON, MAY
10 FILE A CLAIM FOR A REFUND OF THAT TAX WITH THE DEPARTMENT OF
11 TREASURY WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY
12 ACT THAT ADDED THIS SECTION.