

SENATE BILL No. 951

February 4, 2004, Introduced by Senators VAN WOERKOM, KUIPERS, JELINEK and McMANUS and referred to the Committee on Finance.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 4 (MCL 205.94), as amended by 2002 PA 669.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) The tax levied under this act does not apply to
2 the following, subject to subsection (2):

3 (a) Property sold in this state on which transaction a tax
4 is paid under the general sales tax act, 1933 PA 167, MCL 205.51
5 to 205.78, if the tax was due and paid on the retail sale to a
6 consumer. Beginning April 1, 2003, in lieu of the exclusion in
7 this subdivision, an interstate motor carrier shall be entitled
8 to a credit under this act for 6% of the price of diesel fuel
9 purchased in this state and used in a qualified commercial motor
10 vehicle. This credit shall be claimed on the returns filed under
11 the international fuel tax agreement.

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

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

23 (d) Property that is brought into this state by a
24 nonresident person for storage, use, or consumption while
25 temporarily within this state, except if the property is used in
26 this state in a nontransitory business activity for a period
27 exceeding 15 days. Beginning April 1, 2003, this subdivision

1 does not apply to diesel fuel that is used, stored, or consumed
2 in this state by interstate motor carriers in qualified
3 commercial vehicles.

4 (e) Property the sale or use of which was already subjected
5 to a sales tax or use tax equal to, or in excess of, that imposed
6 by this act under the law of any other state or a local
7 governmental unit within a state if the tax was due and paid on
8 the retail sale to the consumer and the state or local
9 governmental unit within a state in which the tax was imposed
10 accords like or complete exemption on property the sale or use of
11 which was subjected to the sales or use tax of this state. If
12 the sale or use of property was already subjected to a tax under
13 the law of any other state or local governmental unit within a
14 state in an amount less than the tax imposed by this act, this
15 act shall apply, but at a rate measured by the difference between
16 the rate provided in this act and the rate by which the previous
17 tax was computed. Beginning April 1, 2003, this subdivision does
18 not apply to diesel fuel that is used, stored, or consumed in
19 this state by interstate motor carriers in qualified motor
20 vehicles.

21 (f) Property sold to a person engaged in a business
22 enterprise and using and consuming the property in the tilling,
23 planting, caring for, or harvesting of the things of the soil or
24 in the breeding, raising, or caring for livestock, poultry, or
25 horticultural products, including transfers of livestock,
26 poultry, or horticultural products for further growth. At the
27 time of the transfer of that tangible personal property, the

1 transferee shall sign a statement, in a form approved by the
2 department, stating that the property is to be used or consumed
3 in connection with the production of horticultural or
4 agricultural products as a business enterprise. The statement
5 shall be accepted by the courts as prima facie evidence of the
6 exemption. This exemption includes agricultural land tile, which
7 means fired clay or perforated plastic tubing used as part of a
8 subsurface drainage system for land used in the production of
9 agricultural products as a business enterprise and includes a
10 portable grain bin, which means a structure that is used or is to
11 be used to shelter grain and that is designed to be disassembled
12 without significant damage to its component parts. This
13 exemption does not include transfers of food, fuel, clothing, or
14 similar tangible personal property for personal living or human
15 consumption. This exemption does not include tangible personal
16 property permanently affixed and becoming a structural part of
17 real estate.

18 (g) Property or services sold to the United States, an
19 unincorporated agency or instrumentality of the United States, an
20 incorporated agency or instrumentality of the United States
21 wholly owned by the United States or by a corporation wholly
22 owned by the United States, the American red cross and its
23 chapters or branches, this state, a department or institution of
24 this state, or a political subdivision of this state.

25 (h) Property or services sold to a school, hospital, or home
26 for the care and maintenance of children or aged persons,
27 operated by an entity of government, a regularly organized

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

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

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

25 (ii) Sales of vehicles licensed for use on the public
26 highways other than a passenger van or bus with a manufacturer's
27 rated seating capacity of 10 or more that is used primarily for

1 the transportation of persons for religious purposes.

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

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

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

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

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

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

24 (o) A vehicle for which a special registration is secured in
25 accordance with section 226(12) of the Michigan vehicle code,
26 1949 PA 300, MCL 257.226.

27 (p) A hearing aid, contact lenses if prescribed for a

1 specific disease that precludes the use of eyeglasses, or any
2 other apparatus, device, or equipment used to replace or
3 substitute for any part of the human body, or used to assist the
4 disabled person to lead a reasonably normal life when the
5 tangible personal property is purchased on a written prescription
6 or order issued by a health professional as defined by section 4
7 of former 1974 PA 264, or section 3501 of the insurance code of
8 1956, 1956 PA 218, MCL 500.3501, or eyeglasses prescribed or
9 dispensed to correct the person's vision by an ophthalmologist,
10 optometrist, or optician.

11 (q) Water when delivered through water mains or in bulk
12 tanks in quantities of not less than 500 gallons.

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

16 (s) Tangible personal property purchased and installed as a
17 component part of a water pollution control facility for which a
18 tax exemption certificate is issued pursuant to part 37 of the
19 natural resources and environmental protection act, 1994 PA 451,
20 MCL 324.3701 to 324.3708, or an air pollution control facility
21 for which a tax exemption certificate is issued pursuant to part
22 59 of the natural resources and environmental protection act,
23 1994 PA 451, MCL 324.5901 to 324.5908.

24 (t) Tangible real or personal property donated by a
25 manufacturer, wholesaler, or retailer to an organization or
26 entity exempt pursuant to subdivision (h) or (i) or section 4a(a)
27 or (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

1 (u) The storage, use, or consumption by a domestic air
2 carrier of an aircraft purchased after December 31, 1992 but
3 before October 1, 1996 for use solely in the transport of air
4 cargo that has a maximum certificated takeoff weight of at least
5 12,500 pounds. For purposes of this subdivision, the term
6 "domestic air carrier" is limited to entities engaged in the
7 commercial transport for hire of cargo or entities engaged in the
8 commercial transport of passengers as a business activity.

9 (v) The storage, use, or consumption by a domestic air
10 carrier of an aircraft purchased after June 30, 1994 but before
11 October 1, 1996 that is used solely in the regularly scheduled
12 transport of passengers. For purposes of this subdivision, the
13 term "domestic air carrier" is limited to entities engaged in the
14 commercial transport for hire of cargo or entities engaged in the
15 commercial transport of passengers as a business activity.

16 (w) The storage, use, or consumption by a domestic air
17 carrier of an aircraft, other than an aircraft described under
18 subdivision (v), purchased after December 31, 1994 but before
19 October 1, 1996, that has a maximum certificated takeoff weight
20 of at least 12,500 pounds and that is designed to have a maximum
21 passenger seating configuration of more than 30 seats and used
22 solely in the transport of passengers. For purposes of this
23 subdivision, the term "domestic air carrier" is limited to
24 entities engaged in the commercial transport for hire of cargo or
25 entities engaged in the commercial transport of passengers as a
26 business activity.

27 (x) The storage, use, or consumption of an aircraft by a

1 domestic air carrier after September 30, 1996 for use solely in
2 the transport of air cargo, passengers, or a combination of air
3 cargo and passengers, that has a maximum certificated takeoff
4 weight of at least 6,000 pounds. For purposes of this
5 subdivision, the term "domestic air carrier" is limited to a
6 person engaged primarily in the commercial transport for hire of
7 air cargo, passengers, or a combination of air cargo and
8 passengers as a business activity. The state treasurer shall
9 estimate on January 1 each year the revenue lost by this act from
10 the school aid fund and deposit that amount into the school aid
11 fund from the general fund.

12 (y) The storage, use, or consumption of an aircraft by a
13 person who purchases the aircraft for subsequent lease to a
14 domestic air carrier operating under a certificate issued by the
15 federal aviation administration under ~~14 C.F.R. part 121~~ **14 CFR**
16 **part 121**, for use solely in the regularly scheduled transport of
17 passengers.

18 (z) Property or services sold to an organization not
19 operated for profit and exempt from federal income tax under
20 section 501(c)(3) or 501(c)(4) of the internal revenue code, ~~of~~
21 ~~1986, 26 U.S.C. 501~~ **26 USC 501**; or to a health, welfare,
22 educational, cultural arts, charitable, or benevolent
23 organization not operated for profit that has been issued before
24 June 13, 1994 an exemption ruling letter to purchase items exempt
25 from tax signed by the administrator of the sales, use, and
26 withholding taxes division of the department. The department
27 shall reissue an exemption letter after June 13, 1994 to each of

1 those organizations that had an exemption letter that shall
2 remain in effect unless the organization fails to meet the
3 requirements that originally entitled it to this exemption. The
4 exemption does not apply to sales of tangible personal property
5 and sales of vehicles licensed for use on public highways, that
6 are not used primarily to carry out the purposes of the
7 organization as stated in the bylaws or articles of incorporation
8 of the exempt organization.

9 (aa) The use or consumption of services described in
10 section 3a(a) or (c) or 3b by means of a prepaid telephone
11 calling card, a prepaid authorization number for telephone use,
12 or a charge for internet access.

13 (bb) The purchase, lease, use, or consumption of the
14 following by an industrial laundry after December 31, 1997:

15 (i) Textiles and disposable products including, but not
16 limited to, soap, paper, chemicals, tissues, deodorizers and
17 dispensers, and all related items such as packaging, supplies,
18 hangers, name tags, and identification tags.

19 (ii) Equipment, whether owned or leased, used to repair and
20 dispense textiles including, but not limited to, roll towel
21 cabinets, slings, hardware, lockers, mop handles and frames, and
22 carts.

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

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

27 (v) Production washroom equipment and mending and packaging

1 supplies and equipment.

2 (vi) Material handling equipment including, but not limited
3 to, conveyors, racks, and elevators and related control
4 equipment.

5 (vii) Wastewater pretreatment equipment and supplies and
6 related maintenance and repair services.

7 (cc) **A returnable pallet or container leased to a farmer or**
8 **other person involved in agricultural production or processing,**
9 **including, but not limited to, a packer, shipper, manufacturer,**
10 **or retailer.**

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