

SENATE BILL NO. 571

June 24, 2021, Introduced by Senator VICTORY 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 2018 PA 679.

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~~
4 **Constitution** or laws of the United States, or under the
5 constitution of this state.

6 (c) All of the following:

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

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

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

26 (A) 0 to 25, 2 units.

27 (B) 26 to 100, 7 units.

28 (C) 101 to 500, 20 units.

29 (D) 501 or more, 25 units.

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

4 (v) A motorcycle purchased by a motorcycle rental company or
5 motorcycle manufacturer as part of a motorcycle demonstration
6 rental program. As used in this subparagraph:

7 (A) "Motorcycle demonstration rental program" means a cyclical
8 arrangement between a motorcycle manufacturer and a motorcycle
9 rental company where all of the following occur:

10 (I) The motorcycle manufacturer sells motorcycles to the
11 motorcycle rental company for a nominal amount in order to promote
12 motorcycle sales.

13 (II) The motorcycle rental company rents the motorcycles
14 described in sub-sub-subparagraph (I) to its customers for a rental
15 price.

16 (III) The motorcycle rental company sells the motorcycles
17 described in sub-sub-subparagraph (I) back to the motorcycle
18 manufacturer for a nominal amount within 18 months of purchasing
19 the motorcycles in order to purchase and offer for rent newer model
20 motorcycles in the manner described in this sub-subparagraph.

21 (B) "Motorcycle rental company" means a person that is engaged
22 in the business of renting motorcycles to customers under rental
23 agreements for periods of 90 days or less.

24 (C) "Nominal amount" means an amount that is less than 1% of
25 the fair market value of the motorcycle.

26 (D) "Rental price" means an amount determined based on the
27 duration of the motorcycle rental transaction, the rental rate, and
28 any mandatory fees.

29 (d) Property that is brought into this state by a nonresident

1 person for storage, use, or consumption while temporarily within
2 this state, except if the property is used in this state in a
3 nontransitory business activity for a period exceeding 15 days.

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

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

25 (g) Property or services sold to the United States, an
26 unincorporated agency or instrumentality of the United States, an
27 incorporated agency or instrumentality of the United States wholly
28 owned by the United States or by a corporation wholly owned by the
29 United States, the American Red Cross and its chapters or branches,

1 this state, a department or institution of this state, or a
2 political subdivision of this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (v) The storage, use, or consumption of an aircraft by a
28 person who purchases the aircraft for subsequent lease to a
29 domestic air carrier operating under a certificate issued by the

~~federal aviation administration~~ **Federal Aviation Administration**

under 14 CFR part 121, for use solely in the regularly scheduled transport of passengers.

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

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

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

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

1 tags, and identification tags.

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

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

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

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

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

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

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

22 (aa) The sale of a dental prosthesis.

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

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

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

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

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

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

24 (vi) Greenhouses, including tangible personal property affixed
25 to or to be affixed to greenhouses and directly used in the
26 operation of a greenhouse. For purposes of subsection (3), a
27 greenhouse is not permanently affixed to or a structural part of
28 real estate if it is assembled and installed in a manner that it
29 can be disassembled and reassembled without affecting the

1 functionality of the greenhouse upon being reassembled.

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

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

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

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

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

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

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

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

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

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

29 (4) ~~Subsections~~ **Subsection** (1)(f), (bb), and (cc) as amended

1 by 2018 PA 114 ~~are~~**is** intended to be retroactive and to apply to
2 all periods open under section 27a of 1941 PA 122, MCL 205.27a, but
3 ~~do~~**does** not apply to any refund claims filed ~~prior to~~**before** April
4 9, 2018.

5 (5) As used in this section:

6 (a) "Agricultural land tile" means fired clay or perforated
7 plastic tubing used as part of a subsurface drainage system for
8 land.

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

12 (c) "Aquatic vegetation" means both algae and higher aquatic
13 plants.

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

16 (e) "Greenhouse" means a structure covered with transparent or
17 translucent materials for the purpose of admitting natural light
18 and controlling the atmosphere for growing horticultural products.
19 Greenhouse does not include a structure primarily used to grow
20 marihuana.

21 (f) "Higher aquatic plant" means any of the group of
22 vascularized plants ~~which~~**that** have true stems, flowers, leaves,
23 and roots, ~~which~~**that** live in water, and ~~which~~**that** belong to the
24 class Angiospermae.

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

28 (h) "Waters of the state" means that term as defined in
29 section 3302 of the natural resources and environmental protection

1 act, 1994 PA 451, MCL 324.3302.