GENERAL SALES TAX ACT
Act 167 of 1933

AN ACT to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1949, Act 272, Eff. July 1, 1949.

The People of the State of Michigan enact:

205.51 Definitions; unlicensed person as agent of dealer, distributor, supervisor, or employer; regarding dealer, distributor, supervisor, or employer as making sales at retail prices.

Sec. 1. (1) As used in this act:

(a) "Person" means an individual, firm, partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether organized for profit or not, company, estate, trust, receiver, trustee, syndicate, the United States, this state, county, or any other group or combination acting as a unit, and includes the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) "Sale at retail" or "retail sale" means a sale, lease, or rental of tangible personal property for any purpose other than for resale, sublease, or subrent.

(c) "Gross proceeds" means sales price.

(d) "Sales price" means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, and applies to the measure subject to sales tax. Sales price includes the following subparagraphs (*i*) through (*vii*) and excludes subparagraphs (*viii*) through (*xii*):

(*i*) Seller's cost of the property sold.

(*ii*) Cost of materials used, labor or service cost, interest, losses, costs of transportation to the seller, taxes imposed on the seller other than taxes imposed by this act, and any other expense of the seller.

(*iii*) Charges by the seller for any services necessary to complete the sale, other than the following:

(A) An amount received or billed by the taxpayer for remittance to the employee as a gratuity or tip, if the gratuity or tip is separately identified and itemized on the guest check or billed to the customer.

(B) Labor or service charges involved in maintenance and repair work on tangible personal property of others if separately itemized.

(*iv*) Delivery charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property subject to the tax levied under this act from the seller to the purchaser. A seller is not liable under this act for delivery charges allocated to the delivery of exempt property.

(*v*) Installation charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

(*vi*) Except as otherwise provided in subparagraphs (*xi*) and (*xii*), credit for any trade-in.

(*vii*) Except as otherwise provided in subparagraph (*x*), consideration received by the seller from third parties if all of the following conditions are met:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale.

(B) The seller has an obligation to pass the price reduction or discount through to the purchaser.

(C) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser.

(D) One of the following criteria is met:

(I) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented.

(II) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in a group or organization.

(III) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

(*viii*) Interest, financing, or carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(*ix*) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(*x*) Beginning January 1, 2000, employee discounts that are reimbursed by a third party on sales of motor vehicles.

(*xi*) Beginning November 15, 2013, credit for the agreed-upon value of a titled watercraft used as part payment of the purchase price of a new titled watercraft or used titled watercraft if the agreed-upon value is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(*xii*) Beginning December 15, 2013, credit for the agreed-upon value of a motor vehicle or recreational vehicle used as part payment of the purchase price of a new motor vehicle or used motor vehicle or recreational vehicle if the agreed-upon value is separately stated on the invoice, bill of sale, or similar document given to the purchaser. For purposes of this subparagraph, the agreed-upon value of a motor vehicle or recreational vehicle used as part payment shall be limited as follows:

(A) Beginning December 15, 2013, subject to sub-subparagraphs (B) and (C), the lesser of the following:

(I) $2,000.00.

(II) The agreed-upon value of the motor vehicle or recreational vehicle used as part payment.

(B) Beginning January 1, 2015 and each January 1 thereafter, the amount under sub-subparagraph (A)(I) shall be increased by an additional $500.00 each year unless section 105d of the social welfare act, 1939 PA 280, MCL 400.105d, is repealed.

(C) Beginning on January 1 in the year in which the amount under sub-subparagraph (A)(I) exceeds $14,000.00 and each January 1 thereafter, there shall be no limitation on the agreed-upon value of the motor vehicle or recreational vehicle used as part payment.

(e) "Business" includes an activity engaged in by a person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect.

(f) "Tax year" or "taxable year" means the fiscal year of the state or the taxpayer's fiscal year if permission is obtained by the taxpayer from the department to use the taxpayer's fiscal year as the tax period instead.

(g) "Department" means the department of treasury.

(h) "Taxpayer" means a person subject to a tax under this act.

(i) "Tax" includes a tax, interest, or penalty levied under this act.

(j) "Textiles" means goods that are made of or incorporate woven or nonwoven fabric, including, but not limited to, clothing, shoes, hats, gloves, handkerchiefs, curtains, towels, sheets, pillows, pillow cases, tablecloths, napkins, aprons, linens, floor mops, floor mats, and thread. Textiles also include materials used to repair or construct textiles, or other goods used in the rental, sale, or cleaning of textiles.

(k) "New motor vehicle" means that term as defined in section 33a of the Michigan vehicle code, 1949 PA 300, MCL 257.33a.

(*l*) "Recreational vehicle" means that term as defined in section 49a of the Michigan vehicle code, 1949 PA 300, MCL 257.49a.

(2) If the department determines that it is necessary for the efficient administration of this act to regard an unlicensed person, including a salesperson, representative, peddler, or canvasser as the agent of the dealer, distributor, supervisor, or employer under whom the unlicensed person operates or from whom the unlicensed person obtains the tangible personal property sold by the unlicensed person, irrespective of whether the unlicensed person is making sales on the unlicensed person's own behalf or on behalf of the dealer, distributor, supervisor, or employer, the department may so regard the unlicensed person and may regard the dealer, distributor, supervisor, or employer as making sales at retail at the retail price for the purposes of this act.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1935, Act 77, Imd. Eff. May 23, 1935;—Am. 1939, Act 123, Imd. Eff. May 19, 1939;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—Am. 1941, Act 59, Imd. Eff. May 5, 1941;—Am. 1941, Act 249, Imd. Eff. June 16, 1941;—Am. 1943, Act 29, Imd. Eff. Mar. 24, 1943;—Am. 1945, Act 259, Imd. Eff. May 25, 1945;—Am. 1948, Ex. Sess., Act 30, Imd. Eff. May 10, 1948;—CL 1948, 205.51;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1950, 1st Ex. Sess., Act 9, Imd. Eff. May 9, 1950;—Am. 1951, Act 245, Eff. Sept. 28, 1951;—Am. 1952, Act 166, Imd. Eff. Apr. 24, 1952;—Am. 1953, Act 204, Imd. Eff. June 10, 1953;—Am. 1955, Act 236, Eff. Oct. 14, 1955;—Am. 1960, Act 76, Imd. Eff. Apr. 25, 1960;—Am. 1964, Act 214, Eff. Aug. 28, 1964;—Am. 1970, Act 16, Eff. May 1, 1970;—Am. 1973, Act 45, Imd. Eff. July 4, 1973;—Am. 1976, Act 70, Imd. Eff. Apr. 5, 1976;—Am. 1982, Act 218, Eff. Jan. 1, 1984;—Am. 1984, Act 32, Imd. Eff. Mar. 14, 1984;—Am. 1987, Act 259, Imd. Eff. Dec. 28, 1987;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 1994, Act 127, Eff. Aug. 1, 1994;—Am. 1995, Act 209, Imd. Eff. Nov. 29, 1995;—Am.

1997, Act 193, Eff. Jan. 1, 1998;—Am. 1998, Act 365, Imd. Eff. Oct. 20, 1998;—Am. 1998, Act 451, Imd. Eff. Dec. 30, 1998;—Am. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2000, Act 390, Imd. Eff. Jan. 8, 2001;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2008, Act 438, Imd. Eff. Jan. 9, 2009;—Am. 2013, Act 159, Imd. Eff. Nov. 6, 2013;—Am. 2013, Act 160, Imd. Eff. Nov. 6, 2013.

Compiler's note: Act 76 of 1984 amended Act 32 of 1984 by adding enacting section 2 to read as follows:

"Section 2. (1) This amendatory act shall not apply to qualified purchase agreements, or verified purchase agreements if in relation to a refund under subsection (4), for a motor vehicle, trailer coach, or titled watercraft entered into on or before March 14, 1984 if the transfer of ownership occurs on or before February 1, 1985 and if a motor vehicle or trailer coach or titled watercraft is used as part payment of the purchase price.

"(2) A taxpayer may submit a claim for refund to the department if all of the following occur:

"(a) A qualified purchase agreement is entered into on or before March 14, 1984.

"(b) The transfer of ownership occurs after March 14, 1984 and on or before 10 days after the effective date of this amendatory act that added this enacting section.

"(c) The tax imposed upon the sale at retail was in an amount greater than the tax required if pursuant to this enacting section, this amendatory act had not been applied in determining the gross proceeds upon which the tax was computed.

"(d) The taxpayer who paid the excess tax provides satisfactory proof that the taxpayer has reimbursed the purchaser of the motor vehicle, trailer coach, or titled watercraft for the excess paid by the purchaser if applicable.

"(3) Upon verification of a claim made pursuant to subsection (2), the department shall refund the exempt tax paid to the claimant.

"(4) The department may establish procedures to refund any excess tax paid by the purchaser, directly to the purchaser, when the taxpayer has failed to claim a refund for an overpayment made by the purchaser.

"(5) For the purposes of this section, "qualified purchase agreement" means a purchase agreement filed with the department on or before 10 days after the effective date of this amendatory act that added this enacting section."

Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

Administrative rules: R 205.1 et seq. and R 205.401 et seq. of the Michigan Administrative Code.

205.51a Additional definitions.

Sec. 1a. As used in this act:

(a) "Alcoholic beverage" means a beverage suitable for human consumption that contains 1/2 of 1% or more of alcohol by volume.

(b) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(c) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(d) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.

(e) "Delivery charges" means charges by the seller for preparation and delivery to a location designated by the purchaser of tangible personal property or services. Delivery charges include, but are not limited to, transportation, shipping, postage, handling, crating, and packing. Beginning September 1, 2004, delivery charges do not include the charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser. If a shipment includes both exempt property and taxable property, the seller shall allocate the delivery charge using 1 of the following methods:

(*i*) Multiply the delivery price by a fraction, the numerator of which is the total sales prices of the taxable property and the denominator of which is the total sales prices of all property in the shipment.

(*ii*) Multiply the delivery price by a fraction, the numerator of which is the total weight of the taxable property and the denominator of which is the total weight of all property in the shipment.

(f) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that is all of the following:

(*i*) Required to be labeled as a dietary supplement identifiable by the "supplemental facts" box found on the label as required by 21 CFR 101.36.

(*ii*) Contains 1 or more of the following dietary ingredients:

(A) A vitamin.

(B) A mineral.

(C) An herb or other botanical.

(D) An amino acid.

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake.

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient listed in sub-subparagraphs (A) through (E).

(*iii*) Intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in 1 of those forms, is not represented as conventional food or for use as a sole item of a meal or of the diet.

(g) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients, including tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material, but not including multiple items of printed material delivered to a single address.

(h) "Drug" means a compound, substance, or preparation, or any component of a compound, substance, or preparation, other than food or food ingredients, dietary supplements, or alcoholic beverages, intended for human use that is 1 or more of the following:

(*i*) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or in any of their supplements.

(*ii*) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

(*iii*) Intended to affect the structure or any function of the body.

(i) "Durable medical equipment" means equipment for home use, other than mobility enhancing equipment, dispensed pursuant to a prescription, including durable medical equipment repair or replacement parts, that does all of the following:

(*i*) Can withstand repeated use.

(*ii*) Is primarily and customarily used to serve a medical purpose.

(*iii*) Is not useful generally to a person in the absence of illness or injury.

(*iv*) Is not worn in or on the body.

(j) "Durable medical equipment repair or replacement parts" includes all components or attachments used in conjunction with durable medical equipment.

(k) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(*l*) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase or extend. This definition applies only to leases and rentals entered into after September 1, 2004 and has no retroactive impact on leases and rentals that existed on that date. Lease or rental does not include the following subparagraphs (*i*) through (*iii*) and includes subparagraph (*iv*):

(*i*) A transfer of possession or control of tangible personal property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.

(*ii*) A transfer of possession or control of tangible personal property under an agreement requiring transfer of title upon completion of the required payments and payment of an option price that does not exceed $100.00 or 1% of the total required payments, whichever is greater.

(*iii*) The provision of tangible personal property along with an operator for a fixed or indeterminate period of time, where that operator is necessary for the equipment to perform as designed. To be necessary, an operator must do more than maintain, inspect, or set up the tangible personal property.

(*iv*) An agreement covering motor vehicles or trailers if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in section 7701(h)(1) of the internal revenue code, 26 USC 7701.

(m) "Mobility enhancing equipment" means equipment, other than durable medical equipment or a motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer, dispensed pursuant to a prescription, including repair or replacement parts for that equipment, that is all of the following:

(*i*) Primarily and customarily used to provide or increase the ability to move from 1 place to another and is appropriate for use at home or on a motor vehicle.

(*ii*) Not generally used by a person with normal mobility.

(n) "Prescription" means an order, formula, or recipe, issued in any form of oral, written, electronic, or other means of transmission by a licensed physician or other health professional as defined in section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501. For a hearing aid, prescription includes an order, instruction, or direction of a hearing aid dealer or salesperson licensed under article 13 of the occupational code, 1980 PA 299, MCL 339.1301 to 339.1309.

(o) "Prewritten computer software" means computer software, including prewritten upgrades, that is delivered by any means and that is not designed and developed by the author or other creator to the specifications of a specific purchaser. Prewritten computer software includes the following:

(*i*) Any combination of 2 or more prewritten computer software programs or portions of prewritten computer software programs.

(*ii*) Computer software designed and developed by the author or other creator to the specifications of a specific purchaser if it is sold to a person other than that specific purchaser.

(*iii*) The modification or enhancement of prewritten computer software or portions of prewritten computer software where the modification or enhancement is designed and developed to the specifications of a specific purchaser unless there is a reasonable, separately stated charge or an invoice or other statement of the price is given to the purchaser for the modification or enhancement. If a person other than the original author or creator modifies or enhances prewritten computer software, that person is considered to be the author or creator of only that person's modifications or enhancements.

(p) "Prosthetic device" means a replacement, corrective, or supportive device, other than contact lenses and dental prosthesis, dispensed pursuant to a prescription, including repair or replacement parts for that device, worn on or in the body to do 1 or more of the following:

(*i*) Artificially replace a missing portion of the body.

(*ii*) Prevent or correct a physical deformity or malfunction of the body.

(*iii*) Support a weak or deformed portion of the body.

(q) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses and includes electricity, water, gas, steam, and prewritten computer software.

(r) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

History: Add. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2006, Act 434, Imd. Eff. Oct. 5, 2006;—Am. 2008, Act 438, Imd. Eff. Jan. 9, 2009.

205.52 Sales tax; rate; additional applicability; separate books required; penalty; tax as personal obligation of taxpayer; exemption.

Sec. 2. (1) Except as provided in section 2a, there is levied upon and there shall be collected from all persons engaged in the business of making sales at retail, by which ownership of tangible personal property is transferred for consideration, an annual tax for the privilege of engaging in that business equal to 6% of the gross proceeds of the business, plus the penalty and interest if applicable as provided by law, less deductions allowed by this act.

(2) The tax under subsection (1) also applies to the following:

(a) The transmission and distribution of electricity, whether the electricity is purchased from the delivering utility or from another provider, if the sale is made to the consumer or user of the electricity for consumption or use rather than for resale.

(b) The sale of a prepaid telephone calling card or a prepaid authorization number for telephone use, rather than for resale, including the reauthorization of a prepaid telephone calling card or a prepaid authorization number.

(c) A conditional sale, installment lease sale, or other transfer of property, if title is retained as security for the purchase but is intended to be transferred later.

(3) Any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation, or profession not taxable under this act shall keep books to show separately the transactions used in determining the tax levied by this act. If the person fails to keep separate books, there shall be levied upon him or her the tax provided for in subsection (1) equal to 6% of the entire gross proceeds of both or all of his or her businesses. The taxes levied by this section are a personal obligation of the taxpayer.

(4) A meal provided free of charge or at a reduced rate to an employee during work hours by a food service establishment licensed by the Michigan department of agriculture for the convenience of the employer is not considered transferred for consideration.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.52;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1960, 2nd Ex. Sess., Act 1, Eff. Jan. 1, 1961;—Am. 1984, Act 228, Imd. Eff. July 30, 1984;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: Enacting section 1 of Act 467 of 2014 provides:

"Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 467 of 2014 does not go into effect.

205.52a Reduction of tax on vehicle for which special registration secured; limitation; certification.

Sec. 2a. (1) For a sale at retail to a person of a vehicle for which a special registration is secured pursuant to section 226(9) of the Michigan vehicle code, 1949 PA 300, MCL 257.226, the tax imposed under this act shall be reduced by the sum of the following amounts:

(a) The use tax imposed on the vehicle by the state to which the vehicle was removed and in which it is registered.

(b) The amount obtained, even if negative, by subtracting the sales tax that would have been imposed on the vehicle by the state to which the vehicle was removed and in which it is registered if the vehicle had been purchased in that state, from the tax otherwise due under this act.

(2) The reduction in the tax made pursuant to subsection (1) shall not exceed the tax otherwise due under this act.

(3) The person purchasing the vehicle shall furnish to the seller a certification, on a form prescribed by the department, containing the name, address, and signature of the purchaser, a statement indicating the vehicle shall be primarily used, stored, and registered outside of this state, and the name of the jurisdiction in which the vehicle shall be registered.

History: Add. 1984, Act 228, Imd. Eff. July 30, 1984;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

205.52b Retail sale of tangible personal property to purchaser; presumptions; agreement to purchase advertisements; effectiveness of section; definitions.

Sec. 2b. (1) A seller who sells tangible personal property to a purchaser in this state is presumed to be engaged in the business of making sales at retail in this state if the seller or a person, including an affiliated person, other than a common carrier acting as a common carrier, engages in or performs any of the following activities in this state:

(a) Sells a similar line of products as the seller and does so under the same business name as the seller or a similar business name as the seller.

(b) Uses its employees, agents, representatives, or independent contractors in this state to promote or facilitate sales by the seller to purchasers in this state.

(c) Maintains, occupies, or uses an office, distribution facility, warehouse, storage place, or similar place of business in this state to facilitate the delivery or sale of tangible personal property sold by the seller to the seller's purchasers in this state.

(d) Uses, with the seller's consent or knowledge, trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the seller.

(e) Delivers, installs, assembles, or performs maintenance or repair services for the seller's purchasers in this state.

(f) Facilitates the sale of tangible personal property to purchasers in this state by allowing the seller's purchasers in this state to pick up or return tangible personal property sold by the seller at an office, distribution facility, warehouse, storage place, or similar place of business maintained by that person in this state.

(g) Shares management, business systems, business practices, or employees with the seller, or in the case of an affiliated person, engages in intercompany transactions related to the activities occurring with the seller to establish or maintain the seller's market in this state.

(h) Conducts any other activities in this state that are significantly associated with the seller's ability to establish and maintain a market in this state for the seller's sales of tangible personal property to purchasers in this state.

(2) The presumption under subsection (1) may be rebutted by demonstrating that a person's activities in this state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales of tangible personal property to purchasers in this state.

(3) In addition to the presumption under subsection (1), a seller of tangible personal property is presumed to be engaged in the business of making sales at retail of tangible personal property in this state if the seller enters into an agreement, directly or indirectly, with 1 or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly, refers potential purchasers, whether by a link on an internet website, in-person oral presentation, or otherwise, to the seller, if all of the following conditions are satisfied:

(a) The cumulative gross receipts from sales by the seller to purchasers in this state who are referred to the seller by all residents of this state with an agreement with the seller are greater than $10,000.00 during the immediately preceding 12 months.

(b) The seller's total cumulative gross receipts from sales to purchasers in this state exceed $50,000.00 during the immediately preceding 12 months.

(4) The presumption under subsection (3) may be rebutted by demonstrating that the residents of this state

with whom the seller has an agreement did not engage in any solicitation or any other activity within this state that was significantly associated with the seller's ability to establish or maintain a market in this state for the seller's sales of tangible personal property to purchasers in this state. The presumption under subsection (3) shall be considered rebutted by evidence of all of the following:

(a) Written agreements prohibiting all of the residents with an agreement with the seller from engaging in any solicitation activities in this state on behalf of the seller.

(b) Written statements from all of the residents with an agreement with the seller stating that the resident representatives did not engage in any solicitation or other activities in this state on behalf of the seller during the immediately preceding 12 months, if the statements are provided and obtained in good faith.

(5) An agreement under which a seller purchases advertisements from a person or persons in this state to be delivered through television, radio, print, the internet, or any other medium is not an agreement described in subsection (3) unless the advertisement revenue paid to the person or persons in this state consists of commissions or other consideration that is based upon completed sales of tangible personal property.

(6) This section applies to transactions occurring on or after the effective date of the amendatory act that added this section and without regard to the date the seller and the resident entered into an agreement described in subsection (3). The 12 months before the effective date of the amendatory act that added this section are included as part of the immediately preceding 12 months for purposes of subsection (3).

(7) As used in this section:

(a) "Affiliated person" means either of the following:

(*i*) Any person that is a part of the same controlled group of corporations as the seller.

(*ii*) Any other person that, notwithstanding its form of organization, bears the same ownership relationship to the seller as a corporation that is a member of the same controlled group of corporations.

(b) "Controlled group of corporations" means that term as defined in section 1563(a) of the internal revenue code, 26 USC 1563.

History: Add. 2014, Act 553, Eff. Oct. 1, 2015.

205.53 License required to engage in business for which privilege tax imposed; bond or deposit; renewal; exemptions; suspension and restoration of license; violation as misdemeanor; penalty; registration under streamlined sales and use tax agreement; person subject to tobacco products tax act; affirmative defense.

Sec. 3. (1) Subject to subsections (4) and (5), if a person engages or continues in a business for which a privilege tax is imposed by this act, the person shall, under rules the department prescribes, apply for and obtain from the department a license to engage in and to conduct that business for the current tax year. If the department considers it necessary in order to secure the collection of the tax or if an applicant taxpayer has at any time failed, refused, or neglected to pay any tax or interest or penalty upon a tax or has attempted to evade the payment of any tax or interest or penalty upon a tax by means of petition in bankruptcy, or if the applicant taxpayer is a corporation and the department has reason to believe that the management or control of the corporation is under persons who have failed to pay any tax or interest or penalty upon a tax under this act, the department shall require a surety bond payable to the state of Michigan, upon which the applicant or taxpayer shall be the obligor, in the sum of not less than $1,000.00 nor more than $25,000.00. The surety bond shall be conditioned that the applicant or taxpayer shall comply with this act and shall promptly file true reports and pay the taxes, interest, and penalties provided for or required by this act. The bonds shall be approved as to the amount and surety by the department. The applicant or taxpayer may in lieu of the surety bond deposit a sum of money with the department in an amount the department determines to guarantee the payment of the tax, interest, and penalty and compliance with this act. However, the amount determined by the department shall not exceed the estimated tax payable during a 1-year period. The applicant or taxpayer shall be licensed to engage in and conduct the business. The department may require the applicant or taxpayer to furnish any additional bond that it considers necessary within the limits in this section, after giving a 30-day notice in writing. The license shall be renewed annually if the taxpayer pays the tax accrued to this state under this act. A person shall not engage or continue in a business taxable under this act without securing a license. A person, firm, or corporation engaged solely in industrial processing or agricultural producing under this act and who makes no sales at retail within the meaning of this act is not required to have a license.

(2) The state treasurer or his or her designee, after notice and hearing, may suspend the license of a person who violates or fails to comply with this act or a rule promulgated by the department under this act. The state treasurer or his or her designee may restore licenses after suspension. If a person engages in business taxable under this act while his or her license is in suspension, the tax imposed under this act is imposed and payable with respect to that business.

(3) A person who engages in any business in this state that is taxable under this act and who fails to secure from the department a license to engage in that business or who continues to engage in business after the license has expired or was suspended by the state treasurer or his or her designee is guilty of a misdemeanor punishable by a fine of not more than $1,000.00 or imprisonment for not more than 1 year, or both.

(4) A seller registered under the streamlined sales and use tax agreement who is not otherwise obligated to obtain a sales tax license in this state is not required to obtain a sales tax license because of that registration.

(5) A person who engages in any business in this state that is taxable under this act shall indicate on the application or renewal for a license issued under this section if that person is subject to the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436. The state treasurer or his or her designee may deny an application or renewal and may suspend a license issued under this section if a person fails to comply with this subsection or if a person fraudulently indicates that that person is not subject to the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436. The state treasurer or his or her designee may restore a license suspended under this subsection if all delinquent taxes, interest, penalties, and fees due under this act or the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, are paid in full.

(6) The state treasurer or his or her designee may prohibit the sale of any products subject to the tax levied under this act at any location where a person knowingly violated section 8(3) to (7) and (11) of the tobacco products tax act, 1993 PA 327, MCL 205.428.

(7) Notwithstanding section 28(1)(f) of 1941 PA 122, MCL 205.28, if a person is prohibited from the sale of products subject to the tax levied under this act under this section, the department shall identify the name, address, and location where the person knowingly violated the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, on the department website.

(8) A person that knowingly violated section 8(3) to (7) and (11) of the tobacco products tax act, 1993 PA 327, MCL 205.428, which violation resulted in a seizure of tobacco products under section 9 of the tobacco products liability act, 1993 PA 327, MCL 205.429, is subject to the following penalties:

(a) For a first offense, if the amount of the illegal tobacco products seized is less than an aggregate retail value of $5,000.00, a fine of $400.00, or, if the amount of the illegal tobacco products seized is $5,000.00 or more in aggregate retail value, a fine of not less than $1,000.00 and suspension of his or her sales tax license at that location where the violation occurred for not less than 3 days.

(b) For a second offense, if the amount of the illegal tobacco products seized is less than an aggregate retail value of $3,000.00, a fine of $700.00, or, if the amount of the illegal tobacco products seized is $3,000.00 or more in aggregate retail value, a fine of not less than $1,000.00 and suspension of his or her sales tax license at that location where the violation occurred for not less than 3 days.

(c) For a third offense and each subsequent offense, a fine of not less than $1,000.00 and suspension of his or her sales tax license at that location where the violation occurred for not less than 3 days.

(9) It is an affirmative defense in an action against a retailer or a person licensed under this section for a violation committed by an employee of the retailer or licensed person that the retailer or licensed person had in force at the time of the violation and continues to have in force a written policy prohibiting sale of prohibited products by employees and that the retailer or licensed person enforced and continues to enforce that policy.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 180, Eff. Sept. 29, 1939;—CL 1948, 205.53;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1961, Act 228, Eff. Sept. 8, 1961;—Am. 1980, Act 164, Eff. Sept. 17, 1980;—Am. 2002, Act 457, Imd. Eff. June 21, 2002;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2008, Act 459, Imd. Eff. Jan. 9, 2009.

205.54 Deductions; filing estimated returns and annual periodic reconciliations; registration under streamlined sales and use tax agreement.

Sec. 4. (1) In computing the amount of tax levied under this act for any month, a taxpayer not subject to section 6(2) may deduct the amount provided by subdivision (a) or (b), whichever is greater:

(a) If the tax that accrued to this state from the sales at retail during the preceding month is remitted to the department on or before the twelfth day of the month in which remittance is due, 0.75% of the tax due at a rate of 4% for the preceding monthly period, but not to exceed $20,000.00 of the tax due for that month. If the tax that accrued to this state from the sales at retail during the preceding month is remitted to the department after the twelfth day and on or before the twentieth day of the month in which remittance is due, 0.50% of the tax due at a rate of 4% for the preceding monthly period, but not to exceed $15,000.00 of the tax due for that month.

(b) The tax at a rate of 4% due on $150.00 of taxable gross proceeds for the preceding monthly period, or a prorated portion of $150.00 of the taxable gross proceeds for the preceding month if the taxpayer engaged in business for less than a month.

(2) Beginning January 1, 1999, in computing the amount of tax levied under this act for any month, a

taxpayer who is subject to section 6(2) may deduct from the amount of the tax paid 0.50% of the tax due at a rate of 4%.

(3) A deduction is not allowed under this section for payments of taxes made to the department after the day the taxpayer is required to pay, pursuant to section 6, the tax imposed by this act.

(4) If, pursuant to section 6(4), the department prescribes the filing of returns and the payment of the tax for periods in excess of 1 month, a taxpayer is entitled to a deduction from the tax collections remitted to the department for the extended payment period that is equivalent to the deduction allowed under subsection (1) or (2) for monthly periods.

(5) The department may prescribe the filing of estimated returns and annual periodic reconciliations as necessary to carry out the purposes of this section.

(6) A seller registered under the streamlined sales and use tax agreement may claim a deduction under this section if provided for in the streamlined sales and use tax administration act.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.54;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1981, Act 219, Eff. Mar. 31, 1982;—Am. 1993, Act 18, Imd. Eff. Apr. 14, 1993;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 1998, Act 267, Imd. Eff. July 17, 1998;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: Enacting section 1 of Act 467 of 2014 provides:

"Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 467 of 2014 does not go into effect.

205.54a Sales exempt from tax; limitation.

Sec. 4a. (1) Subject to subsection (2), the following are exempt from the tax under this act:

(a) A sale of tangible personal property not for resale to a nonprofit school, nonprofit hospital, or nonprofit home for the care and maintenance of children or aged persons operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans' organization, or a corporation incorporated under the laws of this state, if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or any restricted group. A sale of tangible personal property to a parent cooperative preschool is exempt from taxation under this act. As used in this subdivision, "parent cooperative preschool" means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool, that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed pursuant to 1973 PA 116, MCL 722.111 to 722.128.

(b) A sale of tangible personal property not for resale to a regularly organized church or house of religious worship, except the following:

(*i*) Sales in activities that are mainly commercial enterprises.

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

(c) The sale of food to bona fide enrolled students by a school or other educational institution not operated for profit.

(d) The sale of a vessel designated for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of the vessel engaged in interstate commerce.

(e) A sale of tangible personal property to persons engaged in a business enterprise and using or consuming the tangible personal property in the tilling, planting, caring for, or harvesting of the things of the soil; in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth; or in the direct gathering of fish, by net, line, or otherwise only by an owner-operator of the business enterprise, not including a charter fishing business enterprise. This exemption includes machinery that is capable of simultaneously harvesting grain or other crops and biomass and machinery used for the purpose of harvesting biomass. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land, and subsurface irrigation pipe, if the land tile or irrigation pipe is used in the production of agricultural products as a business enterprise. This exemption includes a portable grain bin, which means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts. This exemption also includes grain drying equipment and natural

or propane gas used to fuel that equipment for agricultural purposes. This exemption does not include transfers of food, fuel, clothing, or any similar tangible personal property for personal living or human consumption. This exemption does not include tangible personal property permanently affixed and becoming a structural part of real estate. As used in this subdivision, "biomass" means crop residue used to produce energy or agricultural crops grown specifically for the production of energy.

(f) The sale of a copyrighted motion picture film or a newspaper or periodical admitted under federal postal laws and regulations effective September 1, 1985 as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established not less than 2 years, and published not less than once a week. Tangible personal property used or consumed in producing a copyrighted motion picture film, a newspaper published more than 14 times per year, or a periodical published more than 14 times per year, and not becoming a component part of that film, newspaper, or periodical is subject to the tax. Tangible personal property used or consumed in producing a newspaper published 14 times or less per year or a periodical published 14 times or less per year and that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical is exempt from the tax under this subdivision. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical and consequently not subject to tax includes an advertising supplement inserted into and circulated with a newspaper or periodical that is otherwise exempt from tax under this subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

(g) A sale of tangible personal property to persons licensed to operate commercial radio or television stations if the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmission to or receiving from an artificial satellite.

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

(i) The sale of a vehicle not for resale to a Michigan nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

(j) Before October 1, 2012, a sale of tangible personal property to inmates in a penal or correctional institution purchased with scrip or its equivalent issued and redeemed by the institution.

(k) A sale of textbooks sold by a public or nonpublic school to or for the use of students enrolled in any part of a kindergarten through twelfth grade program.

(*l*) A sale of tangible personal property installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to part 37 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air pollution control facility for which a tax exemption certificate is issued pursuant to part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.

(m) The sale or lease of the following to an industrial laundry after December 31, 1997:

(*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 tags, and identification tags.

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

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

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

(*v*) Production washroom equipment and mending and packaging supplies and equipment.

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

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

(n) A sale of tangible personal property to a person holding a direct payment permit under section 8 of the use tax act, 1937 PA 94, MCL 205.98.

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

History: Add. 1935, Act 77, Imd. Eff. May 23, 1935;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.54a;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1950, 1st Ex. Sess., Act 9, Imd. Eff. May 9, 1950;—Am. 1951, Act 245, Eff. Sept. 28, 1951;—

Am. 1952, Act 165, Imd. Eff. Apr. 24, 1952;—Am. 1953, Act 204, Imd. Eff. June 10, 1953;—Am. 1955, Act 76, Imd. Eff. May 26, 1955;—Am. 1958, Act 52, Eff. July 1, 1958;—Am. 1962, Act 220, Eff. July 1, 1962;—Am. 1970, Act 16, Eff. May 1, 1970;—Am. 1971, Act 207, Imd. Eff. Dec. 29, 1971;—Am. 1973, Act 136, Imd. Eff. Nov. 9, 1973;—Am. 1976, Act 33, Imd. Eff. Mar. 5, 1976;—Am. 1978, Act 263, Imd. Eff. June 29, 1978;—Am. 1978, Act 498, Imd. Eff. Dec. 11, 1978;—Am. 1982, Act 218, Eff. Jan. 1, 1984;—Am. 1985, Act 16, Imd. Eff. May 16, 1985;—Am. 1986, Act 51, Imd. Eff. Mar. 17, 1986;—Am. 1987, Act 87, Imd. Eff. July 1, 1987;—Am. 1988, Act 519, Imd. Eff. Jan. 19, 1989;—Am. 1990, Act 143, Imd. Eff. June 27, 1990;—Am. 1991, Act 87, Imd. Eff. July 18, 1991;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 1994, Act 156, Imd. Eff. June 13, 1994;—Am. 1996, Act 52, Imd. Eff. Feb. 26, 1996;—Am. 1996, Act 435, Imd. Eff. Dec. 10, 1996;—Am. 1998, Act 365, Imd. Eff. Oct. 20, 1998;—Am. 1998, Act 398, Imd. Eff. Dec. 17, 1998;—Am. 1998, Act 490, Imd. Eff. Jan. 4, 1999;—Am. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2008, Act 332, Imd. Eff. Dec. 23, 2008;—Am. 2008, Act 415, Imd. Eff. Jan. 6, 2009;—Am. 2012, Act 126, Imd. Eff. May 8, 2012.

Compiler's note: Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

205.54b Deductible sales of gasoline; statement of transferee.

Sec. 4b. Any taxpayer, who does not include in the amount of his gross proceeds used for the computation of the tax on sales of gasoline pursuant to the provisions of subdivision (f) of section 4a by reason of the filing with him by the transferee of a statement in a form approved by the department of revenue, shall not hereafter be subject to the requirements of this act as to any portion of such sales of gasoline which are not used by the transferee for the purposes described in said statement: Provided, That this section shall also apply to and be effective in relation to similar transactions of the taxpayer subsequent to January 1, 1949.

History: Add. 1955, Act 131, Imd. Eff. June 7, 1955.

205.54c Repealed. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: The repealed section pertained to exemptions of property affixed to real estate under certain contracts.

205.54d Additional sales excluded from tax.

Sec. 4d. The following are exempt from the tax under this act:

(a) The sale of tangible personal property to a person who is a lessor licensed under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, and whose rental receipts are taxed or specifically exempt under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

(b) The sale of a vehicle acquired for lending or leasing to a public or parochial school for use in a course in driver education.

(c) The sale of a vehicle purchased by a public or parochial school if that vehicle is certified for driver education and is not reassigned for personal use by the school's administrative personnel.

(d) The sale of water through water mains, the sale of water delivered in bulk tanks in quantities of not less than 500 gallons, or the sale of bottled water.

(e) The sale of tangible personal property to a person for demonstration purposes. For a dealer selling a new car or truck, the exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediately preceding year without regard to specific make or style in accordance with the following schedule of 0 to 25, 2 units; 26 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but not to exceed 25 cars and trucks in a calendar year for demonstration purposes.

(f) Specific charges for technical support or for adapting or modifying prewritten computer software programs to a purchaser's needs or equipment if those charges are separately stated and identified.

(g) The sale of computer software originally designed for the exclusive use and special needs of the purchaser.

(h) The sale of a commercial advertising element if the commercial advertising element is used to create or develop a print, radio, television, or other advertisement, the commercial advertising element is discarded or returned to the provider after the advertising message is completed, and the commercial advertising element is custom developed by the provider for the purchaser. As used in this subdivision, "commercial advertising element" means a negative or positive photographic image, an audiotape or videotape master, a layout, a manuscript, writing of copy, a design, artwork, an illustration, retouching, and mechanical or keyline instructions. This exemption does not include black and white or full color process separation elements, an audiotape reproduction, or a videotape reproduction.

(i) A sale made outside of the ordinary course of the seller's business.

(j) An isolated transaction by a person not licensed or required to be licensed under this act, in which tangible personal property is offered for sale, sold, or transferred and delivered by the owner.

(k) The sale of oxygen for human use dispensed pursuant to a prescription.

(*l*) The sale of insulin for human use.

(m) Before January 1, 2016, the sale of tangible personal property for use in construction or renovation of a qualified convention facility under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379. As used in this subdivision, "qualified convention facility" means that term as defined in section 5 of the regional convention facility authority act, 2008 PA 554, MCL 141.1355.

History: Add. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2008, Act 556, Eff. Jan. 20, 2009;—Am. 2014, Act 53, Imd. Eff. Mar. 25, 2014.

Compiler's note: Former MCL 205.54d, which pertained to tax exemption for existing contracts, was repealed by Act 257 of 1998, Imd. Eff. July 17, 1998.

205.54e Sales of vehicles to members of armed forces.

Sec. 4e. A sale of a vehicle from a Michigan retailer for titling and registration in his or her home state of residency or domicile to a nonresident person of Michigan actually serving in the United States armed forces is exempt from the tax under this act. At the time of sale or purchase, the purchaser shall provide a sworn statement to the vendor from the immediate commanding officer of the purchaser certifying that the purchaser claiming the exemption is a member of the armed forces on active duty and furnishing the recorded domiciliary or home address of the purchaser.

History: Add. 1969, Act 204, Imd. Eff. Aug. 6, 1969;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

205.54f Commissions paid to entities exempt under MCL 205.54a; exemptions.

Sec. 4f. Commissions paid to an entity exempt under the provisions of section 4a from sales of tangible personal property dispensed through a nonelectrically operated vending machine containing unsorted confections, nuts, or merchandise which, upon insertion of a coin dispenses the same in substantially equal portions, at random and without selection by the customer, and where the consideration is 10 cents or less, are exempt from the tax under this act.

History: Add. 1974, Act 100, Imd. Eff. May 14, 1974;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

205.54g Sales exempt from tax; tax on sale of food or drink from vending machine; definitions.

Sec. 4g. (1) The following are exempt from the tax under this act:

(a) Sales of drugs for human use that can only be legally dispensed by prescription, over-the-counter drugs for human use that are legally dispensed by prescription, or food or food ingredients, except prepared food intended for immediate human consumption. As used in this subdivision, "over-the-counter drug" means a drug that is labeled in accordance with the format and content requirements required for labeling over-the-counter drugs under 21 CFR 201.66.

(b) The deposit on a returnable container for a beverage or the deposit on a carton or case that is used for returnable containers.

(c) Food or tangible personal property purchased under the federal food stamp program or meals sold by a person exempt from the tax under this act that are eligible to be purchased under the federal food stamp program.

(d) Fruit or vegetable seeds and fruit or vegetable plants if purchased at a place of business authorized to accept food stamps by the Food and Nutrition Service of the United States Department of Agriculture or a place of business that has made a complete and proper application for authorization to accept food stamps but has been denied authorization and provides proof of denial to the department of treasury.

(e) Live animals purchased with the intent to be slaughtered for human consumption.

(2) Food or drink heated or cooled mechanically, electrically, or by other artificial means to an average temperature above 75 degrees Fahrenheit or below 65 degrees Fahrenheit before sale and sold from a vending machine, except milk, nonalcoholic beverages in a sealed container, and fresh fruit, is subject to the tax under this act. The tax due under this act on the sale of food or drink from a vending machine selling both taxable items and items exempt under this subsection shall be calculated under this act based on 1 of the following as determined by the taxpayer:

(a) Actual gross proceeds from sales at retail.

(b) Forty-five percent of proceeds from the sale of items subject to tax under this act or exempt from the tax levied under this act, other than from the sale of carbonated beverages.

(3) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients do not include alcoholic beverages and tobacco.

(4) "Prepared food" means the following:

(a) Food sold in a heated state or that is heated by the seller.

(b) Two or more food ingredients mixed or combined by the seller for sale as a single item.

(c) Food sold with eating utensils provided by the seller, including knives, forks, spoons, glasses, cups, napkins, straws, or plates, but not including a container or packaging used to transport the food.

(5) Prepared food does not include the following:

(a) Food that is only cut, repackaged, or pasteurized by the seller.

(b) Raw eggs, fish, meat, poultry, and foods containing those raw items requiring cooking by the consumer in recommendations contained in section 3-401.11 of part 3-4 of chapter 3 of the 2001 food code published by the Food and Drug Administration of the Public Health Service of the Department of Health and Human Services, to prevent foodborne illness.

(c) Food sold in an unheated state by weight or volume as a single item, without eating utensils.

(d) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, doughnuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas, sold without eating utensils.

(6) "Prepared food intended for immediate consumption" means prepared food.

History: Add. 1974, Act 310, Eff. Jan. 1, 1975;—Am. 1978, Act 275, Imd. Eff. July 3, 1978;—Am. 1987, Act 121, Eff. Oct. 1, 1987;—Am. 1991, Act 87, Imd. Eff. July 18, 1991;—Am. 1992, Act 266, Imd. Eff. Dec. 14, 1992;—Am. 1994, Act 49, Eff. May 1, 1994;—Am. 1995, Act 63, Imd. Eff. May 31, 1995;—Am. 1996, Act 576, Imd. Eff. Jan. 16, 1997;—Am. 1998, Act 60, Imd. Eff. Apr. 20, 1998;—Am. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2000, Act 329, Eff. Oct. 1, 2001;—Am. 2000, Act 417, Imd. Eff. Jan. 8, 2001;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2008, Act 438, Imd. Eff. Jan. 9, 2009;—Am. 2013, Act 211, Eff. Mar. 14, 2014;—Am. 2015, Act 171, Imd. Eff. Nov. 3, 2015.

Compiler's note: Enacting sections 1 and 2 of Act 116 of 1999 provide:

"Enacting section 1. Sections 4g and 4r of this amendatory act are effective for taxes levied after April 30, 1999.

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

Enacting section 1 of Act 171 of 2015 provides:

"Enacting section 1. This amendatory act is retroactive and effective beginning March 14, 2014."

205.54h Exemptions.

Sec. 4h. Sales to the United States, its unincorporated agencies and instrumentalities, any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American Red Cross and its chapters and branches, and this state or its departments and institutions or any of its political subdivisions are exempt from the tax under this act.

History: Add. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: Former MCL 205.54h, which pertained to exemption of property sold for solar, wind, or water energy conservation device, was repealed by Act 190 of 1983, Eff. Jan. 1, 1984.

205.54i Bad debt; definitions; deduction; amount; payment of bad debt; liability; written election designating party claiming deduction; evidence required to support claim for deduction; change in tax rate; review; taxpayer under streamlined sales and use tax agreement.

Sec. 4i. (1) As used in this section:

(a) "Bad debt" means any portion of a debt that is related to a sale at retail taxable under this act for which gross proceeds are not otherwise deductible or excludable and that is eligible to be claimed, or could be eligible to be claimed if the taxpayer kept accounts on an accrual basis, as a deduction pursuant to section 166 of the internal revenue code, 26 USC 166. A bad debt shall not include any finance charge, interest, or sales tax on the purchase price, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, expenses incurred in attempting to collect any account receivable or any portion of the debt recovered, any accounts receivable that have been sold to and remain in the possession of a third party for collection, and repossessed property.

(b) Except as provided in subdivision (c), "lender" includes any of the following:

(*i*) Any person who holds or has held an account receivable which that person purchased directly from a

taxpayer who reported the tax.

(*ii*) Any person who holds or has held an account receivable pursuant to that person's contract directly with the taxpayer who reported the tax.

(*iii*) The issuer of the private label credit card.

(c) "Lender" does not include the issuer of a credit card or instrument that can be used to make purchases from a person other than the vendor whose name or logo appears on the card or instrument or that vendor's affiliates.

(d) "Private label credit card" means any charge card, credit card, or other instrument serving a similar purpose that carries, refers to, or is branded with the name or logo of a vendor and that can only be used for purchases from the vendor.

(e) "Taxpayer" means a person that has remitted sales tax directly to the department on the specific sales at retail transaction for which the bad debt is recognized for federal income tax purposes or, after September 30, 2009, a lender holding the account receivable for which the bad debt is recognized, or would be recognized if the claimant were a corporation, for federal income tax purposes.

(2) In computing the amount of tax levied under this act for any month, a taxpayer may deduct the amount of bad debts from his or her gross proceeds used for the computation of the tax. The amount of gross proceeds deducted must be charged off as uncollectible on the books and records of the taxpayer at the time the debt becomes worthless and deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and must be eligible to be deducted for federal income tax purposes. For purposes of this section, a claimant who is not required to file a federal income tax return may deduct a bad debt on a return filed for the period in which the bad debt becomes worthless and is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return. If a consumer or other person pays all or part of a bad debt with respect to which a taxpayer claimed a deduction under this section, the taxpayer is liable for the amount of taxes deducted in connection with that portion of the debt for which payment is received and shall remit these taxes in his or her next payment to the department. Any payments made on a bad debt shall be applied proportionally first to the taxable price of the property and the tax on the property and second to any interest, service, or other charge.

(3) After September 30, 2009, if a taxpayer who reported the tax and a lender execute and maintain a written election designating which party may claim the deduction, a claimant is entitled to a deduction or refund of the tax related to a sale at retail that was previously reported and paid if all of the following conditions are met:

(a) No deduction or refund was previously claimed or allowed on any portion of the account receivable.

(b) The account receivable has been found worthless and written off by the taxpayer that made the sale or the lender on or after September 30, 2009.

(4) Any claim for a bad debt deduction under this section shall be supported by that evidence required by the department. The department shall review any change in the rate of taxation applicable to any taxable sales by a taxpayer claiming a deduction pursuant to this section and shall ensure that the deduction on any bad debt does not result in the taxpayer claiming the deduction recovering any more or less than the taxes imposed on the sale that constitutes the bad debt.

(5) If a certified service provider assumed filing responsibility under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833, the certified service provider may claim, on behalf of the taxpayer, any bad debt allowable to the taxpayer and shall credit or refund that amount of bad debt allowed or refunded to the taxpayer.

(6) If the books and records of a taxpayer under the streamlined sales and use tax agreement under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833, that claims a bad debt allowance support an allocation of the bad debts among member states of that agreement, the taxpayer may allocate the bad debts.

History: Add. 1982, Act 23, Eff. Jan. 1, 1984;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2007, Act 105, Imd. Eff. Oct. 1, 2007.

Compiler's note: Former MCL 205.54i, pertaining to tax exemption for qualified passenger automobile, claims for reimbursement, and sales agreements, expired by its own terms on August 1, 1980. Subsection (5) of former MCL 205.54i read:

"This section shall expire August 1, 1980, except that it shall be effective for bona fide purchase orders submitted to and accepted by, before August 1, 1980, a person subject to tax under this act."

Enacting section 1 of 2007 PA 105 provides:

"Enacting section 1. This amendatory act is curative and shall be retroactively applied, expressing the original intent of the legislature that a deduction for a bad debt for a taxpayer under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, is available exclusively to those persons with the legal liability to remit the tax on the specific sale at retail for which the bad debt deduction is recognized for federal income tax purposes, and correcting any misinterpretation of the meaning of the term "taxpayer" that may have been caused by the Michigan court of appeals decision in Daimler Chrysler Services North America LLC v Department of Treasury, No.

264323. However, this amendatory act is not intended to affect a refund required by a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired if the refund is payable without interest and after September 30, 2009 and before November 1, 2009."

205.54j Sale of tangible personal property for use in qualified business activity of purchaser; definition.

Sec. 4j. (1) A sale of tangible personal property used in a qualified business activity of the purchaser is exempt from the tax under this act.

(2) As used in this section, "qualified business activity" means that term as defined in the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

History: Add. 1985, Act 225, Imd. Eff. Jan. 13, 1986;—Am. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

205.54k Drop shipment; definition.

Sec. 4k. (1) The sale of tangible personal property that is part of a drop shipment is exempt from the tax under this act if the taxpayer complies with the requirements of subsection (3).

(2) As used in this section, "drop shipment" means the direct delivery of tangible personal property to a purchaser in Michigan by a person who has sold the property to another person not licensed under this act but possessing a resale or exemption certificate, other written evidence of exemption authorized by another state, or any other acceptable information evidencing qualification for a resale exemption, for resale to the Michigan purchaser.

(3) For each transaction for which an exemption is claimed under subsection (1), the taxpayer shall provide, but not more frequently than annually, any information required by the board under the streamlined sales and use tax agreement in addition to the following information in a form prescribed by the department to the department:

(a) The name, address, and, if readily available, the federal taxpayer identification number of the person to whom the property is sold for resale.

(b) The name, address, and, if readily available, the federal taxpayer identification number of the person to whom the property is shipped in Michigan.

(4) A sale at retail includes a drop shipment.

History: Add. 1986, Act 42, Imd. Eff. Mar. 17, 1986;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2008, Act 438, Imd. Eff. Jan. 9, 2009.

205.54l Repealed. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: The repealed section pertained to sale of tangible personal property to business engaged in high technology activity.

205.54m Sale of rail freight or passenger cars, locomotives or other rolling stock, roadway machines and certain work equipment; exemption.

Sec. 4m. A sale of rail freight or passenger cars, locomotives or other rolling stock, roadway machines and work equipment primarily of a flanged wheel nature, accessories, attachments including parts and materials used for repair, lubricants, or fuel, used in rail operations is exempt from the tax under this act. This exemption does not include vehicles licensed and titled for use on public highways.

History: Add. 1993, Act 238, Imd. Eff. Nov. 15, 1993;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: Another Sec. 4m, as added by Act 325 of 1993, was originally compiled at MCL 205.54m[1], to distinguish it from this Sec. 4m, as added by Act 238 of 1993. Former MCL 205.54m[1], which pertained to sale of material purchased in business of constructing, altering, repairing, or improving real estate, was repealed by Act 173 of 2004, Eff. Sept. 1, 2004.

205.54n Sale of electricity, natural or artificial gas, home heating fuels, or steam; exemption from sales tax at additional rate; application of additional rate.

Sec. 4n. The sale for residential use of electricity, natural or artificial gas, or home heating fuels is exempt from the sales tax at the additional rate of 2% approved by the electors on March 15, 1994. For purposes of applying the sales tax at the additional rate of 2% to the sale of electricity, natural or artificial gas, or steam,

the taxpayer, with respect to all its customers to which the additional rate of 2% applies, shall prorate usage for a period that includes May 1, 1994 based on the number of days occurring after April 30, 1994 if the taxpayer has 100,000 or more customers in this state. If the taxpayer has less than 100,000 customers in this state, the taxpayer shall either prorate usage for a period that includes May 1, 1994 based on the number of days occurring after April 30, 1994, or shall apply the additional rate of 2% beginning with the first bill that covers a usage period that begins after April 30, 1994.

History: Add. 1994, Act 111, Imd. Eff. Apr. 29, 1994.

Compiler's note: Another Sec. 4n, as added by Act 156 of 1994, was compiled at MCL 205.54n[1] to distinguish it from this Sec. 54n, deriving from Act 111 of 1994. Former MCL 205.54n[1], which pertained to sales of tangible personal property not for resale, was repealed by Act 258 of 1998, Imd. Eff. July 17, 1998. See now MCL 205.54q.

205.54o School, church, hospital, parent cooperative preschool, or nonprofit organization; sales of tangible personal property for fund-raising purposes; exemption; "school" defined.

Sec. 4o. (1) The sale of tangible personal property for fund-raising purposes by a school, church, hospital, parent cooperative preschool, or nonprofit organization that has a tax exempt status under section 4q(1)(a) or (b) and that has aggregate sales at retail in the calendar year of less than $5,000.00 are exempt from the tax under this act.

(2) A club, association, auxiliary, or other organization affiliated with a school, church, hospital, parent cooperative preschool, or nonprofit organization with a tax exempt status under section 4q(1)(a) or (b) is not considered a separate person for purposes of this exemption. As used in this section, "school" means each elementary, middle, junior, or high school site within a local school district that represents a district attendance area as established by the board of the local school district.

History: Add. 1994, Act 156, Imd. Eff. June 13, 1994;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: The cite to section 4(n)(1)(a) or (b) in subsections (1) and (2) was originally compiled as MCL 205.54n[1], was repealed by Act 258 of 1988, Imd. Eff. July 17, 1998, and pertained to sales of tangible personal property. See now MCL 205.54q.

205.54p Property offered to or made structural part of sanctuary; exemption; "regularly organized church or house of religious worship" and "sanctuary" defined.

Sec. 4p. (1) A sale of tangible personal property purchased by a person engaged in the business of constructing, altering, repairing, or improving real estate for others if the property is to be affixed to or made a structural part of a sanctuary is exempt from the tax under this act.

(2) As used in this section:

(a) "Regularly organized church or house of religious worship" means a religious organization qualified under section 501(c)(3) of the internal revenue code, 26 USC 501.

(b) "Sanctuary" means only that portion of a building that is owned and occupied by a regularly organized church or house of religious worship that is used predominantly and regularly for public worship. Sanctuary includes a sanctuary to be constructed that will be owned and occupied by a regularly organized church or house of religious worship and that will be used predominantly and regularly for public worship.

History: Add. 1998, Act 274, Imd. Eff. July 22, 1998;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

205.54q Sales of tangible personal property not for resale; exemption; applicability; duties of transferee; evidence of exemption; limitation.

Sec. 4q. (1) A sale of tangible personal property not for resale to the following, subject to subsection (5), is exempt from the tax under this act:

(a) A health, welfare, educational, cultural arts, charitable, or benevolent organization not operated for profit that has been issued an exemption ruling letter to purchase items exempt from tax before July 17, 1998 signed by the administrator of the sales, use, and withholding taxes division of the department.

(b) An organization not operated for profit and exempt from federal income tax under section 501(c)(3) or 501(c)(4) of the internal revenue code, 26 USC 501.

(2) The exemptions provided for in subsection (1) do not apply to any of the following:

(a) 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 or to raise funds or obtain resources necessary to carry out the purposes of the organization as stated in the bylaws or articles of incorporation of the exempt entity.

(b) Sales of tangible personal property or vehicles used for purposes of raising funds or obtaining resources where the sales price exceeds $5,000.00.

(3) At the time of the transfer of the tangible personal property exempt under subsection (1), the transferee

shall do 1 of the following:

(a) Present the exemption ruling letter signed by the administrator of the sales, use, and withholding taxes division of the department certifying that the property is to be used or consumed in connection with the operation of the organization.

(b) Present a signed statement, on a form approved by the department, stating that the property is to be used or consumed in connection with the operation of the organization, to carry out the purpose or purposes of the organization, or to raise funds or obtain resources necessary for the operation of the organization, that the organization qualifies as an exempt organization under this section, and that the sales price of any single item of tangible personal property or vehicle purchased for purposes of raising funds or obtaining resources does not exceed $5,000.00. The transferee shall also provide to the transferor a copy of the federal exemption letter. However, a copy of the federal exemption letter is not required if the organization is exempt from filing an application for exempt status with the internal revenue service.

(4) The letter provided under subsection (3)(a) and the statement with the accompanying letter provided under subsection (3)(b) shall be accepted by all courts as prima facie evidence of the exemption and the statement shall provide that if the claim for tax exemption is disallowed, the transferee will reimburse the transferor for the amount of tax involved.

(5) The tangible personal property under subsection (1) is exempt only to the extent that the property is used to carry out the purposes of the organization or to raise funds or obtain resources necessary to carry out the purposes of the organization as stated in the organization's bylaws or articles of incorporation. The exemption for purposes of carrying out the purposes of the organization as stated in its bylaws or articles of incorporation is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department. The exemption for any single item of tangible personal property or vehicle used to raise funds or obtain resources is limited to a sales price that does not exceed $5,000.00.

History: Add. 1998, Act 258, Imd. Eff. July 17, 1998;—Am. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2012, Act 573, Eff. Mar. 28, 2013.

Compiler's note: Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

205.54r Qualified truck, trailer, or rolling stock; exemption; definitions.

Sec. 4r. (1) All of the following are exempt from the tax under this act:

(a) The product of the out-of-state usage percentage and the gross proceeds otherwise taxable under this act from the sale of a qualified truck or a trailer designed to be drawn behind a qualified truck, purchased after December 31, 1996 and before May 1, 1999 by an interstate motor carrier and used in interstate commerce.

(b) A sale of rolling stock purchased by an interstate motor carrier or for rental or lease to an interstate motor carrier and used in interstate commerce.

(2) As used in this section:

(a) "Interstate motor carrier" means a person engaged in the business of carrying persons or property, other than themselves, their employees, or their own property, for hire across state lines, whose fleet mileage was driven at least 10% outside of this state in the immediately preceding tax year.

(b) "Out-of-state usage percentage" is a fraction, the numerator of which is the number of miles driven outside of this state in the immediately preceding tax year by qualified trucks used by the interstate motor carrier and the denominator of which is the total miles driven in the immediately preceding tax year by qualified trucks used by the interstate motor carrier. Miles driven by qualified trucks used solely in intrastate commerce shall not be included in calculating the out-of-state usage percentage.

(c) "Qualified truck" means a commercial motor vehicle power unit that has 2 axles and a gross vehicle weight rating in excess of 10,000 pounds or a commercial motor vehicle power unit that has 3 or more axles.

(d) "Rolling stock" means a qualified truck, a trailer designed to be drawn behind a qualified truck, and parts or other tangible personal property affixed to or to be affixed to and directly used in the operation of either a qualified truck or a trailer designed to be drawn behind a qualified truck.

History: Add. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2012, Act 467, Imd. Eff. Dec. 27, 2012.

Compiler's note: Enacting sections 1 and 2 of Act 116 of 1999 provide:

"Enacting section 1. Sections 4g and 4r of this amendatory act are effective for taxes levied after April 30, 1999.

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

Enacting section 1 of Act 467 of 2012 provides:

"Enacting section 1. This amendatory act is curative and intended to clarify the original intent of 1999 PA 116."

205.54s Sale of investment coins and bullion; exemptions; definitions.

Sec. 4s. (1) A sale of investment coins and bullion is exempt from the tax under this act.

(2) As used in this section:

(a) "Bullion" means gold, silver, or platinum in a bulk state, where its value depends on its content rather than its form, with a purity of not less than 900 parts per 1,000.

(b) "Investment coins" means numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium, or other metal and issued by the United States government or a foreign government with a fair market value greater than the face value of the coins.

History: Add. 1999, Act 105, Imd. Eff. July 7, 1999;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

205.54t Exemptions; limitation; industrial processing; definitions.

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

(a) An industrial processor for use or consumption in industrial processing.

(b) A person, whether or not the person is an industrial processor, if the tangible personal property is intended for ultimate use in and is used in industrial processing by an industrial processor.

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

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

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

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

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

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

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

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

(2) The property under subsection (1) is exempt only to the extent that the property is used for the exempt purpose stated in this section. The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

(3) Industrial processing includes the following activities:

(a) Production or assembly.

(b) Research or experimental activities.

(c) Engineering related to industrial processing.

(d) Inspection, quality control, or testing to determine whether particular units of materials or products or processes conform to specified parameters at any time before materials or products first come to rest in finished goods inventory storage.

(e) Planning, scheduling, supervision, or control of production or other exempt activities.

(f) Design, construction, or maintenance of production or other exempt machinery, equipment, and tooling.

(g) Remanufacturing.

(h) Processing of production scrap and waste up to the point it is stored for removal from the plant of origin.

(i) Recycling of used materials for ultimate sale at retail or reuse.

(j) Production material handling.

(k) Storage of in-process materials.

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

(a) Property that becomes an ingredient or component part of the finished product to be sold ultimately at retail.

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

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

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

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

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

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

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

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

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

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

(c) Office furniture or office supplies.

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

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

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

(g) Vehicles, including special bodies or attachments, required to display a vehicle permit or license plate to operate on public highways, except for a vehicle bearing a manufacturer's plate or a specially designed vehicle, together with parts, used to mix and agitate materials at a plant or job site in the concrete manufacturing process.

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

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

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

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

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

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

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

(c) Administrative, accounting, or personnel services.

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

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

(7) As used in this section:

(a) "Industrial processing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property for ultimate sale at retail or for use in the manufacturing of a product to be ultimately sold at retail. Industrial processing begins when tangible personal property begins movement from raw materials storage to begin industrial processing and ends when finished goods first come to rest in finished goods inventory storage.

(b) "Industrial processor" means a person who performs the activity of converting or conditioning tangible personal property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at

retail.

(c) "Product", as used in subdivision (e), includes, but is not limited to, a prototype, pilot model, process, formula, invention, technique, patent, or similar property, whether intended to be used in a trade or business or to be sold, transferred, leased, or licensed.

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

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

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

(*ii*) Efficiency surveys.

(*iii*) Management surveys.

(*iv*) Market or consumer surveys.

(*v*) Advertising or promotions.

(*vi*) Research in connection with literacy, historical, or similar projects.

History: Add. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2010, Act 116, Imd. Eff. July 13, 2010;—Am. 2015, Act 205, Imd. Eff. Nov. 30, 2015.

Compiler's note: Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

205.54u Extractive operation; exemptions; definition.

Sec. 4u. (1) A sale of tangible personal property to an extractive operator for use or consumption in extractive operations is exempt from the tax under this act.

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

(3) Extractive operations include the actual production of oil, gas, brine, or other natural resources. Property eligible for the exemption includes the following:

(a) Casing pipe or drive pipe.

(b) Tubing.

(c) Well-pumping equipment.

(d) Chemicals.

(e) Explosives or acids used in fracturing, acidizing, or shooting wells.

(f) Christmas trees, derricks, or other wellhead equipment.

(g) Treatment tanks.

(h) Piping, valves, or pumps used before movement or transportation of the natural resource from the production area.

(i) Chemicals or acids used in the treatment of crude oil, gas, brine, or other natural resources.

(j) Tangible personal property used or consumed in depositing tailings from hard rock mining processing.

(k) Tangible personal property used or consumed in extracting the lithologic units necessary to process iron ore.

(4) The extractive operation exemption does not include the following:

(a) Tangible personal property consumed or used in the construction, alteration, improvement, or repair of buildings, storage tanks, and storage and housing facilities.

(b) Tangible personal property consumed or used in transporting the product from the place of extraction, except for tangible personal property consumed or used in transporting extracted materials from the extraction site to the place where the extracted materials first come to rest in finished goods inventory storage.

(c) Tangible personal property that is a product the extractive operator produces and that is consumed or used by the extractive operator for a purpose other than the manufacturing or producing of a product for ultimate sale. The extractor shall account for and remit the tax to this state based upon the product's fair market value.

(d) Equipment, materials, and supplies used in exploring, prospecting, or drilling for oil, gas, brine, or

other natural resources.

(e) Equipment, materials, and supplies used in the storing, withdrawing, or distribution of oil, gas, or brine from a storage facility.

(f) Vehicles, including special bodies or attachments, required to display a vehicle permit or license plate to operate on public highways.

(5) As used in this section:

(a) "Extractive operations" means the activity of taking or extracting for resale ore, oil, gas, coal, timber, stone, gravel, clay, minerals, or other natural resource material. An extractive operation begins when contact is made with the actual type of natural raw product being recovered. Extractive operation includes all necessary processing operations before shipment from the place of extraction. Extractive operations include all necessary processing operations and movement of the natural resource material until the point at which the natural raw product being recovered first comes to rest in finished goods inventory storage at the extraction site. Extractive operations for timber include transporting timber from the point of extraction to a place of temporary storage at the extraction site and loading or transporting timber from a place of temporary storage at the extraction site to a vehicle or other equipment located at the extraction site that will remove the timber from the extraction site.

(b) An extractive operator is a person who, either directly or by contract, performs extractive operations.

History: Add. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2008, Act 556, Eff. Jan. 20, 2009.

Compiler's note: Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

205.54v Central office equipment or wireless equipment; presumption.

Sec. 4v. (1) The tax levied under this act does not apply to the purchase of machinery and equipment for use or consumption in the rendition of any combination of services, the use or consumption of which is taxable under section 3a(1)(a) or (c) or section 3b of the use tax act, 1937 PA 94, MCL 205.93a and 205.93b, except that this exemption is limited to the tangible personal property located on the premises of the subscriber and to central office equipment or wireless equipment, directly used or consumed in transmitting, receiving, or switching, or in the monitoring of switching of a 2-way interactive communication. As used in this subsection, central office equipment or wireless equipment does not include distribution equipment including cable or wire facilities.

(2) Beginning April 1, 1999, the property under subsection (1) is exempt only to the extent that the property is used for the exempt purposes stated in this section. There is an irrebuttable presumption that 90% of total use is for exempt purposes.

History: Add. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2002, Act 452, Imd. Eff. June 21, 2002;—Am. 2006, Act 669, Imd. Eff. Jan. 10, 2007.

Compiler's note: Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

205.54w Nonprofit hospital or nonprofit hospital or housing; exemption in business of constructing, altering, repairing, or improving property; exemption; definitions.

Sec. 4w. (1) For taxes levied after June 30, 1999, a sale of tangible personal property to a person directly engaged in the business of constructing, altering, repairing, or improving real estate for others to the extent that the property is affixed to and made a structural part of a nonprofit hospital or a nonprofit housing entity qualified as exempt under section 15a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1415a, is exempt from the tax under this act. For purposes of a county long-term medical care facility, "affixed to and made a structural part of"means any physical connection to an existing county long-term medical care facility.

(2) An exemption shall not be granted under this section for any portion of property otherwise qualifying

for exemption under this section if income or a benefit inures directly or indirectly to an individual, private stockholder, or other private person from the independent or nonessential operation of that portion of property.

(3) As used in this section:

(a) "Nonprofit hospital" means 1 of the following:

(*i*) That portion of a building to which 1 of the following applies:

(A) Is owned or operated by an entity exempt under section 501(c)(3) of the internal revenue code, 26 USC 501, that is licensed as a hospital under part 215 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21571.

(B) Is owned or operated by a governmental unit in which medical attention is provided.

(C) Is owned or operated by an entity or entities exempt under section 501(c)(2) or (3) of the internal revenue code, 26 USC 501, in which medical attention is provided.

(*ii*) That portion of real property necessary and related to a building described in subparagraph (*i*) in which medical attention is provided.

(*iii*) A county long-term medical care facility, including any addition to an existing county long-term medical care facility, if the addition is owned and operated by either the county or the county long-term medical care facility and offers health services provided by the county long-term medical care facility. An exemption under this section shall be granted until January 1, 2008, regardless of whether the addition is licensed as a nursing home or skilled nursing facility under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e, or whether the addition meets the requirements set forth in subsection (1).

(b) "Nonprofit hospital" does not include the following:

(*i*) A freestanding building or other real property of a nursing home or skilled nursing facility licensed under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

(*ii*) A hospice licensed under part 214 of the public health code, 1978 PA 368, MCL 333.21401 to 333.21420.

(*iii*) A home for the aged licensed under part 213 of the public health code, 1978 PA 368, MCL 333.21301 to 333.21335.

(c) "Medical attention" means that level of medical care in which a physician provides acute care or active treatment of medical, surgical, obstetrical, psychiatric, chronic, or rehabilitative conditions, that require the observation, diagnosis, and daily treatment by a physician.

History: Add. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2006, Act 665, Eff. June 30, 1999.

Compiler's note: Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

Enacting section 1 of Act 665 of 2006 provides:

"Enacting section 1. This amendatory act is retroactive and is effective for taxes levied after June 30, 1999."

205.54x Sales to domestic air carrier; tax exemption; definitions.

Sec. 4x. (1) A sale to a domestic air carrier of 1 or more of the following is exempt from the tax under this act:

(a) An aircraft that has a maximum certificated takeoff weight of at least 6,000 pounds for use solely in the transport of air cargo, passengers, or a combination of air cargo and passengers.

(b) Parts and materials, excluding shop equipment or fuel, affixed or to be affixed to an aircraft that has a maximum certificated takeoff weight of at least 6,000 pounds for use solely in the transport of air cargo, passengers, or a combination of air cargo and passengers.

(2) The tax levied under this act does not apply to the sale of parts or materials, excluding shop equipment or fuel, affixed or to be affixed to an aircraft that meets all of the following conditions:

(a) The aircraft leaves this state within 15 days after the sooner of the issuance of the final billing or authorized approval for final return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection as required under 14 CFR 91.407.

(b) The aircraft was not based in this state or registered in this state before the parts or materials are affixed to the aircraft and the aircraft is not based in this state or registered in this state after the parts or materials are affixed to the aircraft.

(3) The tax levied under this act does not apply to the sale of an aircraft temporarily located in this state for

the purpose of a sale and prepurchase evaluation, customization, improvement, maintenance, or repair if all of the following conditions are satisfied:

(a) The aircraft leaves this state within 15 days after the sale and the completion of any prepurchase evaluation, customization, improvement, maintenance, or repair that is associated with the sale, whichever is later.

(b) The aircraft was not based in this state or registered in this state before the sale and any prepurchase evaluation, customization, improvement, maintenance, or repair that is associated with the sale is completed and the aircraft is not based in this state or registered in this state after the sale and any prepurchase evaluation, customization, improvement, maintenance, or repair that is associated with the sale is completed.

(4) A sale of an aircraft to a person for subsequent lease to a domestic air carrier operating under a certificate issued by the federal aviation administration under 14 CFR 121, for use solely in the regularly scheduled transport of passengers is exempt from the tax under this act.

(5) As used in this section:

(a) "Based in this state" means hangared or stored in this state for not less than 10 days in not less than 3 nonconsecutive months during the immediately preceding 12-month period.

(b) "Customization" means any improvement, maintenance, or repair that is performed on an aircraft that is associated with the sale of the aircraft.

(c) "Domestic air carrier" is limited to entities engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity.

(d) "Prepurchase evaluation" means an examination of an aircraft to provide a potential purchaser with information relevant to the potential purchase.

(e) "Registered in this state" means an aircraft registered with the state transportation department, bureau of aeronautics or registered with the federal aviation administration to an address located in this state.

History: Add. 2000, Act 204, Imd. Eff. June 27, 2000;—Am. 2001, Act 40, Imd. Eff. July 11, 2001;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2006, Act 17, Imd. Eff. Feb. 9, 2006;—Am. 2009, Act 53, Eff. June 11, 2009.

Compiler's note: Enacting section 1 of Act 53 of 2009 provides:
"Enacting section 1. This amendatory act shall be retroactively applied to transactions occurring after June 11, 2009."

205.54y Industrial processing; exemption; limitation.

Sec. 4y. (1) Subject to subsection (2), a person subject to the tax under this act may exclude from the gross proceeds used for the computation of the tax the sale of tangible personal property to the following after March 30, 1995 but before March 31, 1999:

(a) An industrial processor for use or consumption in industrial processing. Property used or consumed in industrial processing does not include tangible personal property permanently affixed and becoming a structural part of real estate; office furniture, office supplies, and administrative office equipment; or vehicles licensed and titled for use on public highways other than a specially designed vehicle, together with parts, used to mix and agitate materials added at a plant or job site in the concrete manufacturing process. Industrial processing does not include receipt and storage of raw materials purchased or extracted by the user or consumer, or the preparation of food and beverages by a retailer for retail sale. As used in this subdivision, “industrial processor” means a person who transforms, alters, or modifies tangible personal property by changing the form, composition, or character of the property for ultimate sale at retail or sale to another industrial processor to be further processed for ultimate sale at retail. Sales to a person performing a service who does not act as an industrial processor while performing the service may not be excluded under this subdivision, except as provided in subdivision (b).

(b) A person, whether or not the person is an industrial processor, if the property is a computer used in operating industrial processing equipment; equipment used in a computer assisted manufacturing system; equipment used in a computer assisted design or engineering system integral to an industrial process; a subunit or electronic assembly comprising a component in a computer integrated industrial processing system; or computer equipment used in connection with the computer assisted production, storage, and transmission of data if the equipment would have been exempt had the data transfer been made using tapes, disks, CD-ROMs, or similar media by a company whose business includes publishing doctoral dissertations and information archiving, and that sells the majority of the company's products to nonprofit organizations exempt under section 4q.

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

History: Add. 1999, Act 116, Imd. Eff. July 14, 1999.

Compiler's note: Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

205.54z Construction, alteration, repair, or improvement to nonprofit hospital before July 1, 1999.

Sec. 4z. (1) For taxes levied after December 31, 1990 and before July 1, 1999, the tax levied under this act does not apply to a claimed exemption of tangible personal property used in the construction, alteration, repair, or improvement of the real estate or is affixed to and made a structural part of a building of a nonprofit hospital provided the following criteria have been met:

(a) A nonprofit hospital is an entity described in section 4w(3)(a)(*i*).

(b) A binding contract had been entered into for the construction, alteration, repair, or improvement of the real estate or the affixation to the building before July 1, 1999.

(c) The claimed exemption was made in good faith.

(2) The provisions of this section shall not be applied to affect any final decision of a court.

(3) A claim for refund for an exemption under this section shall be filed not later than July 15, 1999. The approved refunds shall be paid without interest.

History: Add. 1999, Act 116, Imd. Eff. July 14, 1999.

Compiler's note: Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

205.54aa Tax exemption; resident tribal member.

Sec. 4aa. (1) The tax under this act does not apply to the sale of a motor vehicle, recreational watercraft, snowmobile, or all terrain vehicle, not for resale, to a resident tribal member if the motor vehicle, recreational watercraft, snowmobile, or all terrain vehicle is for personal use and is principally garaged, berthed, or stored within that resident tribal member's tribe agreement area.

(2) The tax under this act does not apply to the sale of a mobile home, not for resale, to a resident tribal member if the mobile home is to be used as that resident tribal member's principal residence and the mobile home is located within that resident tribal member's tribe agreement area.

(3) As used in this section, "resident tribal member" means an individual who meets all of the following criteria:

(a) Is an enrolled member of a federally recognized tribe.

(b) The individual's tribe has an agreement with this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, that is in full force and effect.

(c) The individual's principal place of residence is located within the agreement area as designated in the agreement under subdivision (b).

History: Add. 2002, Act 617, Imd. Eff. Dec. 20, 2002.

205.54bb Sale of eligible automobile to qualified recipient; exemption; definitions.

Sec. 4bb. (1) Beginning January 1, 2005, the sale of an eligible automobile to a qualified recipient by a qualified organization that is subject to the tax under this act is exempt.

(2) As used in this section:

(a) "Eligible automobile" means an automobile that meets all of the following requirements:

(*i*) The automobile has been inspected by a mechanic certified under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340.

(*ii*) The automobile is insured as required under state law.

(*iii*) The automobile is registered to a qualified recipient.

(b) "Qualified organization" means an organization that applies for certification not later than July 1 of the year in which an exemption is claimed under this section and is certified by the department of treasury as meeting all of the following requirements:

(*i*) The organization is exempt from taxation under section 501(c)(3) of the internal revenue code, 26 USC

501.

(*ii*) The organization is licensed under the charitable organizations and solicitations act, 1975 PA 169, MCL 400.271 to 400.294.

(*iii*) The organization administers a program to provide a qualified recipient with an eligible automobile for transportation to his or her place of employment or for employment-related activities.

(c) "Qualified recipient" means a person certified by a qualified organization as meeting all of the following qualifications:

(*i*) The qualified recipient receives or, if he or she applied, would be eligible to receive public assistance through a program created and administered under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

(*ii*) The qualified recipient has a valid Michigan operator's or chauffeur's license.

(*iii*) The qualified recipient is financially capable of meeting any loan payment, insurance payment, or other expenditure associated with the eligible vehicle.

(*iv*) Public transportation is not reasonably available to the qualified recipient, the qualified recipient has no other reliable means by which to commute to his or her place of employment, and the qualified recipient will use the eligible vehicle as his or her primary means of transportation to commute to and from his or her place of employment.

(*v*) The qualified recipient has a demonstrated ability to maintain employment.

(*vi*) If the qualified recipient is currently employed for not less than an average of 20 hours per week, the qualified recipient requires an automobile to retain his or her current employment or to accept a verified offer of employment in a position that is demonstrably superior to his or her current position of employment.

(*vii*) If the qualified recipient is not currently employed or is employed for less than an average of 20 hours per week, the qualified recipient requires an automobile to accept a verified offer of employment of not less than an average of 20 hours per week and cannot begin employment in that position without an automobile.

History: Add. 2004, Act 301, Imd. Eff. July 23, 2004;—Am. 2008, Act 438, Imd. Eff. Jan. 9, 2009.

205.54cc Repealed. 2008, Act 78, Eff. Dec. 31, 2009.

Compiler's note: The repealed section pertained to tax credit relating to motion picture production company.

205.54dd Sale of tangible personal property for use as or at mineral-producing property; exemption; limitation; "mineral-producing property" and "taxpayer" defined.

Sec. 4dd. (1) Subject to subsection (2), a person subject to the tax under this act may exclude from the gross proceeds used for the computation of the tax the sale of tangible personal property to a taxpayer for use as or at mineral-producing property.

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

(3) As used in this section, "mineral-producing property" and "taxpayer" mean those terms as defined in section 2 of the nonferrous metallic minerals extraction severance tax act.

History: Add. 2012, Act 412, Imd. Eff. Dec. 20, 2012.

205.54ee Data center equipment; exemption from tax; conditions; report; definitions.

Sec. 4ee. (1) Subject to subsections (2) and (3), beginning January 1, 2016 through December 31, 2035, a sale of data center equipment to the owner or operator of a qualified data center or a colocated business for assembly, use, or consumption in the operations of the qualified data center or a sale of data center equipment to a person engaged in the business of constructing, altering, repairing, or improving real estate for others to the extent the data center equipment is to be affixed to or made a structural part of a qualified data center is exempt from the tax under this act.

(2) The exemption under this section only continues to apply after January 1, 2022, if the numbers gathered by the local economic development corporations are certified and reported to the department of talent and economic development and subsequently forwarded to the department and demonstrate that the qualified data centers, the colocated businesses, and the contractors of the qualified data centers, collectively, have, in aggregate, established in this state at least 400 data center industry jobs or data center industry related jobs, or a combination of both, since January 1, 2016. The department of talent and economic development shall submit a report no later than April 1, 2022 related to the number of data center industry jobs or data center industry related jobs that have been established since January 1, 2016 to the speaker and minority leader of the house of representatives, the majority and minority leaders of the senate, and the governor.

(3) The exemption under this section only continues to apply after January 1, 2026, if the numbers

gathered by the local economic development corporations are certified and reported to the department of talent and economic development and subsequently forwarded to the department and demonstrate that the qualified data centers, the colocated businesses, and the contractors of the qualified data centers, collectively, have, in aggregate, established in this state at least 1,000 data center industry jobs or data center industry related jobs, or a combination of both, since January 1, 2016. The department of talent and economic development shall submit a report no later than April 1, 2026 related to the number of data center industry jobs or data center industry related jobs that have been established since January 1, 2016 to the speaker and minority leader of the house of representatives, the majority and minority leaders of the senate, and the governor.

(4) As used in this section:

(a) "Affiliate" means a person that directly, or indirectly through 1 or more intermediaries, controls, is controlled by, or is under common control with a specified person.

(b) "Colocated business" means a person that has entered into a contract with the owner or operator of a qualified data center to use or deploy data center equipment physically located within the qualified data center for a period of 1 or more years.

(c) "Data center equipment" means only computers, servers, routers, switches, peripheral computer devices, racks, shelving, cabling, wiring, storage batteries, back-up generators, uninterrupted power supply units, environmental control equipment, other redundant power supply equipment, and prewritten computer software used in operating, managing, or maintaining the qualified data center or the business of the qualified data center or a colocated business. Data center equipment also includes any construction materials used or assembled under the qualified data center's proprietary method for the construction or modification of a qualified data center, including, but not limited to, building materials, infrastructure, machinery, wiring, cabling, devices, tools, and equipment that would otherwise be considered a fixture or related equipment. Data center equipment does not include any equipment owned by a third party that is used to supply the qualified data center's primary power.

(d) "Qualified data center" means a facility composed of 1 or more buildings located in this state and the facility is owned or operated by an entity engaged at that facility in operating, managing, or maintaining a group of networked computers or networked facilities for the purpose of centralizing, or allowing 1 or more colocated businesses to centralize, the storage, processing, management, or dissemination of data of 1 or more other persons who is not an affiliate of the owner or operator of a qualified data center or of a colocated business and that entity receives 75% or more of its revenue from colocated businesses that are not an affiliate of the owner or operator of the qualified data center.

History: Add. 2015, Act 251, Imd. Eff. Dec. 23, 2015.

Compiler's note: Enacting section 1 of Act 251 of 2015 provides:

"Enacting section 1. The legislature shall annually appropriate sufficient funds from the state general fund to the state school aid fund created in section 11 of article IX of the state constitution of 1963 to fully compensate for any loss of revenue to the state school aid fund resulting from the enactment of this amendatory act."

205.55 Additional tax.

Sec. 5. Additional tax. The tax imposed by this act shall be in addition to all other license fees and taxes levied by law as a condition precedent to engaging or continuing in any business taxable hereunder, except as in this act otherwise specifically provided.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.55.

205.55a Repealed. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: The repealed section pertained to labor or services charges.

205.55b Repealed. 2006, Act 590, Eff. Jan. 1, 2011.

Compiler's note: The repealed section pertained to tax exemption at qualified athletic event.

205.56 Sales and gross proceeds tax returns; monthly filing; form; contents; transmitting return with remittance for amount of tax; electronic funds transfer; accrual of tax to state; filing returns and payment of tax for other than monthly periods; taxpayer as materialperson; "credit sale" and "materialperson" defined; due date.

Sec. 6. (1) Each taxpayer, unless otherwise provided by law or as required pursuant to subsection (2), (4), or (5), on or before the twentieth day of each month shall make out a return for the preceding month on a form prescribed by the department showing the entire amount of all sales and gross proceeds of his or her business, the allowable deductions, and the amount of tax for which he or she is liable. The taxpayer shall also transmit the return, together with a remittance for the amount of the tax, to the department on or before the twentieth

day of that month.

(2) Each taxpayer that had a total tax liability after subtracting the tax payments made to the secretary of state under this act or the use tax act, 1937 PA 94, MCL 205.91 to 205.111, or after subtracting the tax credits available under section 6a, in the immediately preceding calendar year of $720,000.00 or more shall remit to the department, by an electronic funds transfer method approved by the department on or before the twentieth day of the month, an amount equal to the following:

(a) Beginning January 1, 1999 through December 31, 2013, 50% of the taxpayer's liability under this act for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported, whichever is less, plus a reconciliation payment equal to the difference between the tax liability determined for the immediately preceding month minus the amount of tax previously paid for that month. Additionally, the seller shall remit to the department, by an electronic funds transfer method approved by the department on or before the last day of the month, an amount equal to 50% of the taxpayer's liability under this act for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported, whichever is less.

(b) Beginning January 1, 2014, 75% of the taxpayer's liability under this act in the immediately preceding month or 75% of the taxpayer's liability for the same month in the immediately preceding calendar year, whichever is less, plus a reconciliation payment equal to the difference between the tax liability determined for the immediately preceding month minus the amount of tax previously paid for that month. Payment remitted to the department by electronic funds transfer may include as a single payment any amount due under section 6 of the use tax act, 1937 PA 94, MCL 205.96.

(3) The tax imposed under this act shall accrue to this state on the last day of the month in which the sale is incurred.

(4) The department, if necessary to insure payment of the tax or to provide a more efficient administration, may require the filing of returns and payment of the tax for other than monthly periods.

(5) A taxpayer who is a materialperson may at the option of the taxpayer include the amount of all taxable sales and gross proceeds from materials furnished to an owner, contractor, subcontractor, repairperson, or consumer on a credit sale basis for the purpose of making an improvement to real property in his or her return in the first quarterly return due following the date in which the materialperson made the credit sale to the owner, contractor, subcontractor, repairperson, or consumer. Notwithstanding subsections (1) through (3), a materialperson may at the option of the taxpayer file quarterly returns for a credit sale only as determined by the department. As used in this subsection, "credit sale" means an extension of credit for the sale of taxable goods by a seller other than a credit card sale; and "materialperson" means a person who provides materials for the improvement of real property, who has registered with and has demonstrated to the department that he or she is primarily engaged in the sale of lumber and building material related products, precast concrete products, or conduit or fitting products used in the collection, conveyance, or distribution of water or sewage to owners, contractors, subcontractors, repairpersons, or consumers, and who is authorized to file a construction lien upon real property and improvements under the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305.

(6) If a due date falls on a Saturday, Sunday, state holiday, or legal banking holiday, the taxes are due on the next succeeding business day.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.56;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1963, Act 74, Imd. Eff. May 8, 1963;—Am. 1975, Act 99, Imd. Eff. June 2, 1975;—Am. 1980, Act 186, Imd. Eff. July 3, 1980;—Am. 1993, Act 18, Imd. Eff. Apr. 14, 1993;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 1998, Act 265, Imd. Eff. July 17, 1998;—Am. 1998, Act 453, Imd. Eff. Dec. 30, 1998;—Am. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2011, Act 71, Imd. Eff. June 28, 2011;—Am. 2012, Act 118, Imd. Eff. May 2, 2012;—Am. 2012, Act 458, Imd. Eff. Dec. 27, 2012;—Am. 2014, Act 425, Imd. Eff. Dec. 30, 2014.

***** *205.56a THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2016: See 205.56a.amended* *****

205.56a Prepayment of tax by purchaser or receiver of fuel; rate of prepayment; determination; claiming estimated prepayment credits; bad debt deduction; actual shrinkage; accounting for and remitting prepayments; schedule; penalties; deduction prohibited; liability; date of prepayment; definitions.

Sec. 6a. (1) Through March 31, 2013, at the time of purchase or shipment from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of gasoline shall prepay a portion of the tax imposed by this act at the rate provided in this section to the refiner, pipeline terminal operator, or marine terminal operator for the purchase or receipt of gasoline. If the purchase or receipt of gasoline is made outside this state for shipment into and subsequent sale within this state, the purchaser or receiver, other than a

refiner, pipeline terminal operator, or marine terminal operator, shall make the prepayment required by this section directly to the department. Prepayments for gasoline shall be made at a cents-per-gallon rate determined by the department and shall be based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline as determined and certified by the department rounded up to the nearest 1/10 of 1 cent. A person that makes prepayments directly to the department shall make those prepayments according to the schedule in subsection (6).

(2) Beginning April 1, 2013, at the time of purchase or shipment from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of fuel shall prepay a portion of the tax imposed by this act at the rates provided in this section to the refiner, pipeline terminal operator, or marine terminal operator for the purchase or receipt of fuel. If the purchase or receipt of fuel is made outside this state for shipment into and subsequent sale within this state, the purchaser or receiver, other than a refiner, pipeline terminal operator, or marine terminal operator, shall make the prepayment required by this section directly to the department. Prepayments for gasoline shall be made at a cents-per-gallon rate determined by the department and shall be based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline as determined and certified by the department rounded up to the nearest 1/10 of 1 cent. Prepayments for diesel fuel shall be made at a cents-per-gallon rate determined by the department and shall be based on 6% of the statewide average retail price of a gallon of undyed No. 2 ultra-low sulfur diesel fuel as determined and certified by the department rounded up to the nearest 1/10 of 1 cent. A person that makes prepayments directly to the department shall make those prepayments according to the schedule in subsection (6).

(3) Through March 31, 2013, the rate of prepayment applied pursuant to subsection (1) shall be determined every 3 months by the department unless the department certifies that the change in the statewide average retail price of a gallon of self-serve unleaded regular gasoline has been less than 10% since the establishment of the rate of prepayment then in effect.

(4) Beginning April 1, 2013, the rates of prepayment applied pursuant to subsection (2) shall be determined every month by the department. Notwithstanding subsection (3), the department shall publish notice of the rates of prepayment applicable to gasoline and diesel fuel pursuant to subsection (2) not later than the tenth day of the month immediately preceding the month in which the rate is effective.

(5) A person subject to tax under this act that makes prepayment to another person as required by this section for gasoline may claim an estimated prepayment credit on its regular monthly return filed pursuant to section 6. The credit shall be for prepayments made during the month for which the return is required and shall be based upon the difference between prepayments made in the immediately preceding month and collections of prepaid tax received from sales or transfers during the month for which the return required under section 6 is made. A sale or transfer for which collection of prepaid tax is due the taxpayer is subject to a bad debt deduction under section 4i, whether or not the sale or transfer is a sale at retail. The credit shall not be reduced because of actual shrinkage. A taxpayer that does not, in the ordinary course of business, sell gasoline in each month of the year may, with the approval of the department, base the initial prepayment deduction in each tax year on prepayments made in a month other than the immediately preceding month. The difference in actual prepayments shall be reconciled on the annual return in accordance with procedures prescribed by the department.

(6) Notwithstanding the other provisions for the payment and remitting of tax due under this act, a refiner, pipeline terminal operator, or marine terminal operator shall account for and remit to the department the prepayments received pursuant to this section in accordance with the following schedule:

(a) On or before the twenty-fifth of each month, prepayments received after the end of the preceding month and before the sixteenth of the month in which the prepayments are made.

(b) On or before the tenth of each month, payments received after the fifteenth and before the end of the preceding month.

(7) A refiner, pipeline terminal operator, or marine terminal operator that fails to remit prepayments made by a purchaser or receiver of fuel is subject to the penalties provided by 1941 PA 122, MCL 205.1 to 205.31.

(8) The refiner, pipeline terminal operator, or marine terminal operator shall not receive a deduction under section 4 for receiving and remitting prepayments from a purchaser or receiver pursuant to this section.

(9) The purchaser or receiver of fuel that makes prepayments is not subject to further liability for the amount of the prepayment if the refiner, pipeline terminal operator, or marine terminal operator fails to remit the prepayment.

(10) A person subject to tax under this act that makes prepayment to another person as required by this section for diesel fuel may claim an estimated prepayment credit on its regular monthly return filed pursuant to section 6. The credit shall be for prepayments made during the month for which the return is required and shall be based upon the difference between the prepayments made in the immediately preceding month and collections of prepaid tax received from sales or transfers during the month for which the return required

under section 6 is made. A sale or transfer for which collection of prepaid tax is due the taxpayer is subject to a bad debt deduction under section 4i, whether or not the sale or transfer is a sale at retail. The credit shall not be reduced because of actual shrinkage. A taxpayer that does not, in the ordinary course of business, sell diesel fuel in each month of the year may, with the approval of the department, base the initial prepayment deduction in each tax year on prepayments made in a month other than the immediately preceding month. Estimated prepayment credits claimed with the return due in April 2013 shall be based on the taxpayer's retail sales of diesel fuel in March 2013. The difference in actual prepayments shall be reconciled on the annual return in accordance with procedures prescribed by the department. Repayment of the credit claimed on the return due in April 2013 shall be made by the earlier of the date that the taxpayer stops selling diesel fuel or October 15, 2013.

(11) As used in this section:

(a) "Blendstock" includes all of the following:

(*i*) Any petroleum product component of fuel, such as naphtha, reformate, or toluene.

(*ii*) Any oxygenate that can be blended for use in a motor fuel.

(b) "Boat terminal transfer" means a dock, a tank, or equipment contiguous to a dock or a tank, including equipment used in the unloading of fuel from a ship and in transferring the fuel to a tank pending wholesale bulk reshipment.

(c) "Diesel fuel" means any liquid other than gasoline that is capable of use as a fuel or a component of a fuel in a motor vehicle that is propelled by a diesel-powered engine or in a diesel-powered train. Diesel fuel includes number 1 and number 2 fuel oils and mineral spirits. Diesel fuel also includes any blendstock or additive that is sold for blending with diesel fuel and any liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a diesel-powered engine, airplane, or marine vessel. An additive or blendstock is presumed to be sold for blending unless a certification is obtained for federal purposes that the substance is for a use other than blending for diesel fuel. Diesel fuel does not include dyed diesel fuel, kerosene, or an excluded liquid.

(d) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with internal revenue service rules or pursuant to any other internal revenue service requirements, including any invisible marker requirements.

(e) "Excluded liquid" means that term as defined in 26 CFR 48.4081-1.

(f) "Fuel" means gasoline and diesel fuel that is subject to tax under this act, collectively, except when gasoline or diesel fuel is referred to separately.

(g) "Gasoline" means and includes gasoline, alcohol, gasohol, casing head or natural gasoline, benzol, benzine, naphtha, methanol, any blendstock additive, or other product that is sold for blending with gasoline or for use on the road, other than products typically sold in containers of less than 5 gallons. Gasoline also includes a liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel, including a product obtained by blending together any 1 or more products of petroleum, with or without another product, and regardless of the original character of the petroleum products blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel. The blending of all of the above-named products, regardless of their name or characteristics, shall conclusively be presumed to have been done to produce fuel, unless the product obtained by the blending is entirely incapable of use as fuel. An additive or blendstock is presumed to be sold for blending unless a certification is obtained for federal purposes that the substance is for a use other than blending for gasoline. Gasoline does not include diesel fuel, dyed diesel fuel, kerosene, or an excluded liquid.

(h) "Kerosene" means all grades of kerosene, including, but not limited to, the 2 grades of kerosene, No. 1-K and No. 2-K, commonly known as K-1 kerosene and K-2 kerosene, respectively, described in American society for testing and materials specification D-3699, in effect on January 1, 1999, and kerosene-type jet fuel described in American society for testing and materials specification D-1655 and military specifications MIL-T-5624r and MIL-T-83133d (grades jp-5 and jp-8), and any successor internal revenue service rules or regulations, as the specification for kerosene and kerosene-type jet fuel. Kerosene does not include an excluded liquid.

(i) "Marine terminal operator" means a person that stores fuel at a boat terminal transfer.

(j) "Pipeline terminal operator" means a person that stores fuel in tanks and equipment used in receiving and storing fuel from interstate and intrastate pipelines pending wholesale bulk reshipment.

(k) "Purchase" or "shipment" does not include an exchange of fuel or an exchange transaction between refiners, pipeline terminal operators, or marine terminal operators.

(*l*) "Refiner" means a person that manufactures or produces fuel by any process involving substantially more than the blending of fuel.

History: Add. 1983, Act 244, Eff. Jan. 1, 1984;—Am. 1985, Act 23, Imd. Eff. May 24, 1985;—Am. 1993, Act 325, Eff. May 1, 1994 ;—Am. 2008, Act 556, Eff. Jan. 20, 2009;—Am. 2012, Act 509, Eff. Mar. 28, 2013;—Am. 2013, Act 1, Imd. Eff. Mar. 12, 2013.

Compiler's note: Enacting section 1 of Act 467 of 2014 provides:

"Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 467 of 2014 does not go into effect.

***** *205.56a.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2016* *****

205.56a.amended Prepayment of tax by purchaser or receiver of fuel; rate of prepayment; determination; claiming estimated prepayment credits; bad debt deduction; actual shrinkage; accounting for and remitting prepayments; schedule; penalties; deduction prohibited; liability; date of prepayment; definitions.

Sec. 6a. (1) Through March 31, 2013, at the time of purchase or shipment from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of gasoline shall prepay a portion of the tax imposed by this act at the rate provided in this section to the refiner, pipeline terminal operator, or marine terminal operator for the purchase or receipt of gasoline. If the purchase or receipt of gasoline is made outside this state for shipment into and subsequent sale within this state, the purchaser or receiver, other than a refiner, pipeline terminal operator, or marine terminal operator, shall make the prepayment required by this section directly to the department. Prepayments for gasoline shall be made at a cents-per-gallon rate determined by the department and shall be based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline as determined and certified by the department rounded up to the nearest 1/10 of 1 cent. A person that makes prepayments directly to the department shall make those prepayments according to the schedule in subsection (6).

(2) Beginning April 1, 2013 through March 31, 2016, at the time of purchase or shipment from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of fuel shall prepay a portion of the tax imposed by this act at the rates provided in this section to the refiner, pipeline terminal operator, or marine terminal operator for the purchase or receipt of fuel. If the purchase or receipt of fuel is made outside this state for shipment into and subsequent sale within this state, the purchaser or receiver, other than a refiner, pipeline terminal operator, or marine terminal operator, shall make the prepayment required by this section directly to the department. Prepayments for gasoline shall be made at a cents-per-gallon rate determined by the department and shall be based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline as determined and certified by the department rounded up to the nearest 1/10 of 1 cent. Prepayments for diesel fuel shall be made at a cents-per-gallon rate determined by the department and shall be based on 6% of the statewide average retail price of a gallon of undyed No. 2 ultra-low sulfur diesel fuel as determined and certified by the department rounded up to the nearest 1/10 of 1 cent. A person that makes prepayments directly to the department shall make those prepayments according to the schedule in subsection (6).

(3) Beginning April 1, 2016, at the time of purchase or shipment in this state from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of fuel other than an exporter or supplier for immediate export, as evidenced by the terminal's shipping papers or bill of lading, shall prepay a portion of the tax imposed by this act at the rates provided in this section to the refiner, pipeline terminal operator, or marine terminal operator for the purchase or receipt of fuel. If the purchase or receipt of fuel is made outside this state for shipment into and subsequent sale within this state, the purchaser or receiver, other than a refiner, pipeline terminal operator, or marine terminal operator as part of a bulk transfer, shall make the prepayment required by this section directly to the department. Prepayments for gasoline shall be made at a cents-per-gallon rate determined by the department and shall be based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline as determined and certified by the department rounded up to the nearest 1/10 of 1 cent. Prepayments for diesel fuel shall be made at a cents-per-gallon rate determined by the department and shall be based on 6% of the statewide average retail price of a gallon of undyed No. 2 ultra-low sulfur diesel fuel as determined and certified by the department rounded up to the nearest 1/10 of 1 cent. A person that makes prepayments directly to the department shall make those prepayments according to the schedule in subsection (6).

(4) The rates of prepayment applied pursuant to subsections (2) and (3) shall be determined every month by the department. The department shall publish notice of the rates of prepayment applicable to gasoline and diesel fuel pursuant to subsections (2) and (3) not later than the tenth day of the month immediately preceding the month in which the rate is effective.

(5) A person subject to tax under this act that makes prepayment to another person as required by this

section for gasoline may claim an estimated prepayment credit on its regular monthly return filed pursuant to section 6. The credit shall be for prepayments made during the month for which the return is required and shall be based upon the difference between prepayments made in the immediately preceding month and collections of prepaid tax received from sales or transfers during the month for which the return required under section 6 is made. A sale or transfer for which collection of prepaid tax is due the taxpayer is subject to a bad debt deduction under section 4i, whether or not the sale or transfer is a sale at retail. The credit shall not be reduced because of actual shrinkage. A taxpayer that does not, in the ordinary course of business, sell gasoline in each month of the year may, with the approval of the department, base the initial prepayment deduction in each tax year on prepayments made in a month other than the immediately preceding month. The difference in actual prepayments shall be reconciled on the annual return in accordance with procedures prescribed by the department.

(6) Notwithstanding the other provisions for the payment and remitting of tax due under this act, a refiner, pipeline terminal operator, or marine terminal operator shall account for and remit to the department the prepayments received pursuant to this section in accordance with the following schedule:

(a) On or before the twenty-fifth of each month, prepayments received after the end of the preceding month and before the sixteenth of the month in which the prepayments are made.

(b) On or before the tenth of each month, payments received after the fifteenth and before the end of the preceding month.

(7) A refiner, pipeline terminal operator, or marine terminal operator that fails to remit prepayments made by a purchaser or receiver of fuel is subject to the penalties provided by 1941 PA 122, MCL 205.1 to 205.31.

(8) The refiner, pipeline terminal operator, or marine terminal operator shall not receive a deduction under section 4 for receiving and remitting prepayments from a purchaser or receiver pursuant to this section.

(9) The purchaser or receiver of fuel that makes prepayments is not subject to further liability for the amount of the prepayment if the refiner, pipeline terminal operator, or marine terminal operator fails to remit the prepayment.

(10) A person subject to tax under this act that makes prepayment to another person as required by this section for diesel fuel may claim an estimated prepayment credit on its regular monthly return filed pursuant to section 6. The credit shall be for prepayments made during the month for which the return is required and shall be based upon the difference between the prepayments made in the immediately preceding month and collections of prepaid tax received from sales or transfers during the month for which the return required under section 6 is made. A sale or transfer for which collection of prepaid tax is due the taxpayer is subject to a bad debt deduction under section 4i, whether or not the sale or transfer is a sale at retail. The credit shall not be reduced because of actual shrinkage. A taxpayer that does not, in the ordinary course of business, sell diesel fuel in each month of the year may, with the approval of the department, base the initial prepayment deduction in each tax year on prepayments made in a month other than the immediately preceding month. Estimated prepayment credits claimed with the return due in April 2013 shall be based on the taxpayer's retail sales of diesel fuel in March 2013. The difference in actual prepayments shall be reconciled on the annual return in accordance with procedures prescribed by the department. Repayment of the credit claimed on the return due in April 2013 shall be made by the earlier of the date that the taxpayer stops selling diesel fuel or October 15, 2013.

(11) As used in this section:

(a) "Alcohol" means fuel grade ethanol or a mixture of fuel grade ethanol and another product.

(b) "Blendstock" includes all of the following:

(*i*) Any petroleum product component of fuel, such as naphtha, reformate, or toluene.

(*ii*) Any oxygenate that can be blended for use in a motor fuel.

(c) "Boat terminal transfer" means a dock, a tank, or equipment contiguous to a dock or a tank, including equipment used in the unloading of fuel from a ship and in transferring the fuel to a tank pending wholesale bulk reshipment.

(d) "Bulk transfer" means a transfer of fuel from, or purchase for resale by, a refiner, pipeline terminal operator, or marine terminal operator to or from another refiner, pipeline terminal operator, or marine terminal operator through pipeline tender or marine delivery, including pipeline movements of fuel or marine vessel movements of fuel. Bulk transfer also includes a transaction involving the transfer by any transportation means to, or purchase for resale by, a refiner, pipeline terminal operator, or marine terminal operator of alcohol to be used exclusively for blending with gasoline. Notwithstanding anything to the contrary in this definition, fuel transferred to, or purchased for resale by, a refiner, pipeline terminal operator, or marine terminal operator must be delivered to, or otherwise remain within, the bulk transfer terminal system prior to removal across the rack in order to constitute a bulk transfer.

(e) "Bulk transfer terminal system" means the fuel distribution system consisting of refineries, pipelines,

marine vessels, and terminals and includes fuel storage tanks and fuel storage facilities that are part of a refinery, boat terminal transfer, or terminal owned, operated, or controlled by a refiner, marine terminal operator, or pipeline terminal operator.

(f) "Diesel fuel" means any liquid other than gasoline that is capable of use as a fuel or a component of a fuel in a motor vehicle that is propelled by a diesel-powered engine or in a diesel-powered train. Diesel fuel includes number 1 and number 2 fuel oils, kerosene, and mineral spirits. Diesel fuel also includes any blendstock or additive that is sold for blending with diesel fuel and any liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a diesel-powered engine, airplane, or marine vessel. An additive or blendstock is presumed to be sold for blending unless a certification is obtained for federal purposes that the substance is for a use other than blending for diesel fuel. Diesel fuel does not include dyed diesel fuel, dyed kerosene, or an excluded liquid.

(g) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with internal revenue service rules or pursuant to any other internal revenue service requirements, including any invisible marker requirements.

(h) "Dyed kerosene" means kerosene that is dyed in accordance with internal revenue service rules or pursuant to any other internal revenue service requirements, including invisible marker requirements.

(i) "Excluded liquid" means that term as defined in 26 CFR 48.4081-1.

(j) "Export" means to purchase or receive fuel in this state for immediate shipment and subsequent sale outside of this state.

(k) "Exporter" means a person that exports fuel and is licensed under section 86 of the motor fuel tax act, 2000 PA 403, MCL 207.1086.

(*l*) "Fuel" means gasoline and diesel fuel that is subject to tax under this act, collectively, except when gasoline or diesel fuel is referred to separately.

(m) "Gasoline" means and includes gasoline, alcohol, gasohol, casing head or natural gasoline, benzol, benzine, naphtha, methanol, transmix, any blendstock additive, or other product that is sold for blending with gasoline or for use on the road, other than products typically sold in containers of less than 5 gallons. Gasoline also includes a liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel, including a product obtained by blending together any 1 or more products of petroleum, with or without another product, and regardless of the original character of the petroleum products blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel. The blending of all of the above-named products, regardless of their name or characteristics, shall conclusively be presumed to have been done to produce fuel, unless the product obtained by the blending is entirely incapable of use as fuel. An additive or blendstock is presumed to be sold for blending unless a certification is obtained for federal purposes that the substance is for a use other than blending for gasoline. Gasoline does not include diesel fuel, dyed diesel fuel, dyed kerosene, or an excluded liquid.

(n) "Kerosene" means all grades of kerosene, including, but not limited to, the 2 grades of kerosene, No. 1-K and No. 2-K, commonly known as K-1 kerosene and K-2 kerosene, respectively, described in American society for testing and materials specification D-3699, in effect on January 1, 1999, and kerosene-type jet fuel described in American society for testing and materials specification D-1655 and military specifications MIL-T-5624r and MIL-T-83133d (grades jp-5 and jp-8), and any successor internal revenue service rules or regulations, as the specification for kerosene and kerosene-type jet fuel. Kerosene does not include dyed kerosene or an excluded liquid.

(o) "Marine terminal operator" means a person that stores fuel at a boat terminal transfer.

(p) "Pipeline terminal operator" means a person that stores fuel in tanks and equipment used in receiving and storing fuel from interstate and intrastate pipelines pending wholesale bulk reshipment.

(q) "Purchase", "receipt", or "shipment" does not include a two-party exchange, a bulk transfer, or a receipt of fuel as part of a bulk transfer.

(r) "Rack" means a mechanism for delivering fuel from a refiner, a pipeline terminal operator, or a marine terminal operator into a railroad tank car, a transport truck, a tank wagon, or the fuel supply tank of a marine vessel.

(s) "Refiner" means a person that meets all of the following requirements:

(*i*) Manufactures or produces fuel at a refinery by any process involving substantially more than the blending of fuel.

(*ii*) Is a taxable fuel registrant that is a refiner for purposes of 26 CFR 48.4081-1.

(t) "Refinery" means a facility used by a refiner to produce fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which fuel may be removed by pipeline or marine vessel or at a rack.

(u) "Removal" or "removed" means a physical transfer other than by evaporation, loss, or destruction of fuel from a refiner, pipeline terminal operator, or marine terminal operator.

(v) "Supplier" means a supplier or permissive supplier licensed under section 70 or 73 of the motor fuel tax act, 2000 PA 403, MCL 207.1070 and 207.1073.

(w) "Tank wagon" means a straight truck having 1 or more compartments other than the fuel supply tank designed or used to carry fuel.

(x) "Terminal" means a fuel storage and distribution facility that meets all of the following requirements:

(*i*) Is registered as a qualified terminal by the internal revenue service.

(*ii*) Is supplied by pipeline or marine vessel.

(*iii*) Has a rack from which fuel may be removed.

(y) "Transport truck" means a semitrailer combination rig designed or used for the purpose of transporting fuel over the public roads or highways.

(z) "Transmix" means the mixed product that results from the buffer or interface of 2 different products in a pipeline shipment, or a mixture of 2 different products within a terminal operated by a pipeline terminal operator, within a boat terminal transfer operated by a marine terminal operator, or at a refinery that results in an off-grade mixture.

(aa) "Two-party exchange" means a transaction, including a book transfer, in which fuel is transferred from 1 supplier to another supplier where all of the following occur:

(*i*) The transaction includes a transfer of fuel from the person who holds the original inventory position for the fuel in fuel storage tanks as reflected in the records of the refiner, pipeline terminal operator, or marine terminal operator.

(*ii*) The exchange transaction is completed before removal across the rack by the receiving supplier.

(*iii*) The refiner, pipeline terminal operator, or marine terminal operator in its books and records treats the receiving exchange party as the supplier that removes the fuel across a rack for purposes of reporting the transaction to the department under the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170.

History: Add. 1983, Act 244, Eff. Jan. 1, 1984;—Am. 1985, Act 23, Imd. Eff. May 24, 1985;—Am. 1993, Act 325, Eff. May 1, 1994 ;—Am. 2008, Act 556, Eff. Jan. 20, 2009;—Am. 2012, Act 509, Eff. Mar. 28, 2013;—Am. 2013, Act 1, Imd. Eff. Mar. 12, 2013;—Am. 2015, Act 264, Eff. Apr. 1, 2016.

Compiler's note: Enacting section 1 of Act 467 of 2014 provides:

"Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 467 of 2014 does not go into effect.

205.56b Returned goods or motor vehicle; tax credit.

Sec. 6b. A taxpayer may claim a credit or refund for returned goods or a refund less an allowance for use made for a motor vehicle returned under 1986 PA 87, MCL 257.1401 to 257.1410, as certified by the manufacturer on a form provided by the department.

History: Add. 2004, Act 173, Eff. Sept. 1, 2004.

***** *205.56c.added THIS ADDED SECTION IS EFFECTIVE MARCH 22, 2016* *****

205.56c.added Aviation fuel; informational report; "aviation fuel" defined.

Sec. 6c. (1) Beginning April 1, 2016 and each calendar quarter thereafter, each taxpayer making sales at retail of aviation fuel shall, on or before the last day of the month in the month that immediately follows the end of a calendar quarter, file an informational report with the department on a form prescribed by the department showing all of the following for the immediately preceding calendar quarter:

(a) The entire amount of the taxpayer's taxable sales at retail of aviation fuel.

(b) The gross proceeds of the taxpayer's business from taxable sales at retail of aviation fuel.

(c) The amount of tax for which the taxpayer is liable from sales at retail of aviation fuel.

(d) The number of taxable gallons of aviation fuel sold by the taxpayer at each airport and the gross proceeds from the sales of those gallons of aviation fuel.

(e) Any other information the department considers necessary for the proper administration of this act.

(2) The report required under this section shall not include any remittance for tax, and does not constitute a return or otherwise alleviate the taxpayer's obligations under section 6.

(3) A taxpayer required to file the informational report under this section that fails or refuses to file the informational report within the time and in the manner specified in this section shall be liable for a penalty of $10.00 per day for each day for each separate failure or refusal up to, but not exceeding, a maximum penalty of $500.00 for each separate violation. The department may waive the penalty if the taxpayer demonstrates to the satisfaction of the department that the failure to file was due to reasonable cause.

(4) As used in this section, "aviation fuel" means fuel as that term is defined in section 4 of the aeronautics

code of the state of Michigan, 1945 PA 327, MCL 259.4.

History: Add. 2015, Act 262, Eff. Mar. 22, 2016.

205.57-205.57b Repealed. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: The repealed sections pertained to sale of motor vehicle to dealer or private individual.

205.58 Consolidated returns.

Sec. 8. Any person engaging in 2 or more places in the same business or businesses taxable under this act, shall file a consolidated return covering all the business activities engaged in within this state.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.58;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

205.59 Administration of tax; conflicting provisions; rules.

Sec. 9. (1) The tax imposed by this act shall be administered by the department pursuant to 1941 PA 122, MCL 205.1 to 205.31, the streamlined sales and use tax administration act, and this act. If the provisions of 1941 PA 122, MCL 205.1 to 205.31, the streamlined sales and use tax administration act, and this act conflict, the provisions of this act apply.

(2) The department shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.59;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1964, Act 38, Eff. Aug. 28, 1964;—Am. 1971, Act 83, Imd. Eff. Aug. 4, 1971;—Am. 1975, Act 10, Imd. Eff. Mar. 25, 1975;—Am. 1980, Act 164, Eff. Sept. 17, 1980;—Am. 1988, Act 375, Eff. Mar. 22, 1989;—Am. 1991, Act 87, Imd. Eff. July 18, 1991;—Am. 1998, Act 365, Imd. Eff. Oct. 20, 1998;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

Administrative rules: R 205.1 et seq. of the Michigan Administrative Code.

205.60 Refund by taxpayer for returned property; written notice; refund under MCL 445.360a.

Sec. 10. (1) If a taxpayer refunds or provides a credit for all or a portion of the amount of the purchase price of returned tangible personal property within the time period for returns stated in the taxpayer's refund policy or 180 days after the initial sale, whichever is sooner, the taxpayer shall also refund or provide a credit for the tax levied under this act that the taxpayer added to all or that portion of the amount of the purchase price that is refunded or credited.

(2) A cause of action against a seller for overcollected sales or use taxes does not accrue until a purchaser has provided written notice to a seller and the seller has had 60 days to respond. The purchaser shall provide in the notice sufficient information to determine the validity of the request. In matters relating to the request, a seller is presumed to have a reasonable business practice if in the collection of sales and use tax, the seller has a certified service provider or a system, including a proprietary system, certified by the department and has remitted to this state all taxes collected less any deductions, credits, or collection allowances.

(3) If a taxpayer tenders an amount to a buyer under section 10a of 1976 PA 449, MCL 445.360a, the taxpayer shall refund the tax levied under this act on the difference between the price stamped or affixed to the item and the price charged.

History: Add. 2000, Act 149, Imd. Eff. June 7, 2000;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: Former MCL 205.60, which pertained to remittances of taxes, was repealed by Act 164 of 1980, Eff. Sept. 17, 1980.

205.61 Motor vehicle used as partial payment; value.

Sec. 11. In a taxable sale at retail of a motor vehicle where another motor vehicle is used as partial payment of the purchase price, the value of the motor vehicle used as partial payment is that value agreed to by the parties to the sale as evidenced by the signed statement executed under section 251 of the Michigan vehicle code, 1949 PA 300, MCL 257.251.

History: Add. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: Former MCL 205.61, which pertained to failure or refusal to file tax return, was repealed by Act 164 of 1980, Eff. Sept. 17, 1980.

205.62 Information to be obtained from purchaser; format; signature; record of exempt transactions; liability; proof that transaction not subject to tax or obtaining exemption form from purchaser; date; additional time for compliance; blanket exemption form; "certified service provider" defined.

Sec. 12. (1) If an exemption from the tax under this act is claimed, the seller shall obtain identifying information of the purchaser and the reason for claiming the exemption at the time of the purchase or at a later

date. The seller shall obtain the same information for a claimed exemption regardless of the medium in which the transaction occurred.

(2) A seller shall use a standard format for claiming an exemption electronically as adopted by the governing board under the streamlined sales and use tax agreement.

(3) A purchaser is not required to provide a signature to claim an exemption under this act unless a paper exemption form is used.

(4) A seller shall maintain a proper record of all exempt transactions and shall provide the record if requested by the department.

(5) A seller who complies with the requirements of this section is not liable for the tax if a purchaser improperly claims an exemption. A purchaser who improperly claims an exemption is liable for the tax due under this act. This subsection does not apply if a seller fraudulently fails to collect the tax, solicits a purchaser to make an improper claim for exemption, or accepts an exemption form when the purchaser claims an entity-based exemption if both of the following circumstances occur:

(a) The subject of the transaction sought to be covered by the exemption form is actually received by the purchaser at a location operated by the seller.

(b) The state in which that location operated by the seller is located provides an exemption form that clearly and affirmatively indicates that the claimed exemption is not available in that state.

(6) A seller who obtains a fully completed exemption form or captures the relevant data elements as outlined in this section within 120 days after the date of sale is not liable for the tax.

(7) If the seller has not obtained an exemption form or all relevant data elements, the seller may either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption form from the purchaser, by the later of the following:

(a) 120 days after a request by the department.

(b) The date an assessment becomes final.

(c) The denial of a claim for refund.

(d) In the instance of a credit audit, the issuance of an audit determination letter or informal conference decision and order of determination.

(e) The date of a final order of the court of claims or the Michigan tax tribunal, as applicable, with respect to an assessment, order, or decision of the department.

(8) The department may, in its discretion, allow a seller additional time to comply with subsection (7).

(9) A seller is not liable for the tax under this act if the seller obtains a blanket exemption form for a purchaser with which the seller has a recurring business relationship. Renewals of blanket exemption forms or updates of exemption form information or data elements are not required if there is a recurring business relationship between the seller and the purchaser. For purposes of this section, a recurring business relationship exists when a period of not more than 12 months elapses between sales transactions.

(10) A certified service provider shall be considered a seller under this section. As used in this section, "certified service provider" means that term as defined in section 25 of the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.825.

History: Add. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2008, Act 438, Imd. Eff. Jan. 9, 2009;—Am. 2015, Act 251, Imd. Eff. Dec. 23, 2015.

Compiler's note: Former MCL 205.62, which pertained to collection of sales tax due state, was repealed by Act 164 of 1980, Eff. Sept. 17, 1980.

Enacting section 1 of Act 251 of 2015 provides:

"Enacting section 1. The legislature shall annually appropriate sufficient funds from the state general fund to the state school aid fund created in section 11 of article IX of the state constitution of 1963 to fully compensate for any loss of revenue to the state school aid fund resulting from the enactment of this amendatory act."

205.63, 205.64 Repealed. 1980, Act 164, Eff. Sept. 17, 1980.

Compiler's note: The repealed sections pertained to tax lien and jeopardy assessments.

205.65 Certificate of dissolution or withdrawal.

Sec. 15. A domestic corporation, a foreign corporation, or other business entity authorized to transact business in this state that submits a certificate of dissolution or requests a certificate of withdrawal from this state shall request a certificate from the department stating that taxes are not due under section 27a of 1941 PA 122, MCL 205.27a, not more than 60 days after submitting the certificate of dissolution or requesting the certificate of withdrawal. A corporation or other business entity that does not request a certificate stating that taxes are not due is subject to the same penalties under section 24 of 1941 PA 122, MCL 205.24, that a taxpayer would be subject to for failure to file a return.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.65;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1971, Act 160,

Imd. Eff. Nov. 24, 1971;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 2002, Act 579, Imd. Eff. Oct. 14, 2002;—Am. 2003, Act 25, Imd. Eff. June 24, 2003.

Compiler's note: Enacting section 1 of Act 25 of 2003 provides:

"Enacting section 1. This amendatory act takes effect for returns and remittances for those returns that are due or filed on or after the effective date of this amendatory act."

205.66 Injunction for failure to pay tax or obtain license.

Sec. 16. Any person against whom a tax shall be assessed as herein provided may be restrained and enjoined by proper proceedings instituted in the name of the state of Michigan, brought by the attorney general at the request of the department, from engaging and/or continuing in a business for which a privilege tax is required by the provisions of this act, until such tax shall have been paid, and/or license secured, and until such person shall have complied with the provisions of this act.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.66;—Am. 1949, Act 272, Eff. July 1, 1949.

205.66a Duty of assessing officers.

Sec. 16a. It shall be the duty of each assessing officer of each city, village or township in preparing the annual property tax roll of personal property to show on the assessment roll the sales tax license number of each person engaged in the business of making retail sales of tangible personal property subject to tax under this act. It shall be the duty of each said assessing officer to immediately report to the department of revenue the name and address and type of business of any person found in the business of making such retail sales and not licensed to do so as required by section 3 of this act.

Any city, village or township clerk, marketmaster, or any other state, county or municipal official whose duty it is to issue licenses or permits to engage in a business involving the sale at retail of tangible personal property subject to tax under this act shall, before issuing such license or permit, require proof that the person to whom such license or permit is to be issued is the holder of a sales tax license as required by section 3 of this act or has applied to the department of revenue for such license.

Any city, village, township or state officer who shall receive information which leads him to believe that a person making retail sales subject to tax under this act is about to close his business or cease making retail sales shall immediately notify the department of revenue of this fact in order that the department may make such investigation as may be necessary to protect the interests of the state.

History: Add. 1949, Act 272, Eff. July 1, 1949.

205.67 Repealed. 2008, Act 438, Imd. Eff. Jan. 9, 2009.

Compiler's note: The repealed section pertained to multiple points of use exemption forms.

205.68 Annual inventory and purchase records; retention; tax liability; failure to file return or maintain records; tax assessment; basis; burden of proof; indirect audit; exemption claim; blanket exemption claim; "indirect audit procedure" and "sufficient records" defined.

Sec. 18. (1) A person liable for any tax imposed under this act shall keep in a paper, electronic, or digital format an accurate and complete beginning and annual inventory and purchase records of additions to inventory, complete daily sales records, receipts, invoices, bills of lading, and all pertinent documents in a form the department requires. If an exemption from the tax under this act is claimed by a person because the sale is for resale at retail, a record shall be kept of the sales tax license number if the person has a sales tax license. These records shall be retained for a period of 4 years after the tax imposed under this act to which the records apply is due or as otherwise provided by law.

(2) If the department considers it necessary, the department may require a person, by notice served upon that person, to make a return, render under oath certain statements, or keep certain records the department considers sufficient to show whether or not that person is liable for the tax under this act.

(3) A person knowingly making a sale of tangible personal property for the purpose of resale at retail to another person not licensed under this act is liable for the tax under this act unless the transaction is exempt under the provisions of section 4k.

(4) If the taxpayer fails to file a return or to maintain or preserve sufficient records as prescribed in this section, or the department has reason to believe that any records maintained or returns filed are inaccurate or incomplete and that additional taxes are due, the department may assess the amount of the tax due from the taxpayer based on an indirect audit procedure or any other information that is available or that may become available to the department. That assessment is considered prima facie correct for the purpose of this act and the burden of proof of refuting the assessment is upon the taxpayer. An indirect audit of a taxpayer under this subsection shall be conducted in accordance with 1941 PA 122, MCL 205.1 to 205.31, and the standards published by the department under section 21 of 1941 PA 122, MCL 205.21, and shall include all of the

following elements:

(a) A review of the taxpayer's books and records. The department may use an indirect method to test the accuracy of the taxpayer's books and records.

(b) Both the credibility of the evidence and the reasonableness of the conclusion shall be evaluated before any determination of tax liability is made.

(c) The department may use any method to reconstruct income, deductions, or expenses that is reasonable under the circumstances. The department may use third-party records in the reconstruction.

(d) The department shall investigate all reasonable evidence presented by the taxpayer refuting the computation.

(5) If a taxpayer has filed all the required returns and has maintained and preserved sufficient records as required under this section, the department shall not base a tax deficiency determination or assessment on any indirect audit procedure unless the department has a documented reason to believe that any records maintained or returns filed are inaccurate or incomplete and that additional taxes are due.

(6) If all the information is maintained as provided under section 12, an exemption certificate is not required for an exemption claim by the following:

(a) A person licensed by the Michigan liquor control commission as a wholesaler for purposes of sales of alcoholic liquor to another person licensed by the Michigan liquor control commission. As used in this subsection, "alcoholic liquor", "authorized distribution agent", and "wholesaler" mean those terms as defined in the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303.

(b) The Michigan liquor control commission or a person certified by the commission as an authorized distribution agent for purposes of the sale and distribution of alcoholic liquor to a person licensed by the Michigan liquor control commission.

(7) For purposes of this act, a blanket exemption claim covers all exempt transfers between the taxpayer and the buyer for a period of 4 years or for a period of less than 4 years as stated on the blanket exemption claim if that period is agreed to by the buyer and taxpayer. Renewal of a blanket exemption claim or an update of exemption claim information or data elements is not required if there is a recurring business relationship between the seller and the purchaser. For purposes of this subsection, a recurring business relationship exists when a period of not more than 12 months elapses between sales transactions.

(8) As used in this section:

(a) "Indirect audit procedure" is an audit method that involves the determination of tax liabilities through an analysis of a taxpayer's business activities using information from a range of sources beyond the taxpayer's declaration and formal books and records.

(b) "Sufficient records" means records that meet the department's need to determine the tax due under this act.

History: Add. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2008, Act 438, Imd. Eff. Jan. 9, 2009;—Am. 2014, Act 108, Imd. Eff. Apr. 10, 2014.

Compiler's note: Former MCL 205.68, which pertained to examination of records and subpoena of witnesses, was repealed by Act 164 of 1980, Eff. Sept. 17, 1980.

205.69 Sourcing sale at retail or lease or rental property.

Sec. 19. (1) For sourcing a sale at retail for taxation under this act, the following apply:

(a) If a product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(b) If a product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where the product is received by the purchaser or the purchaser's designee, including the location indicated by instructions for delivery to the purchaser, known to the seller.

(c) If subdivision (a) or (b) does not apply, the sale is sourced to the location indicated by an address for the purchaser available from the seller's business records maintained in the ordinary course of the seller's business, provided use of the address does not constitute bad faith.

(d) If subdivisions (a) through (c) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained at the completion of the sale, including the address of the purchaser's payment instrument if no other address is available, provided use of the address does not constitute bad faith.

(e) If subdivisions (a) through (d) do not apply or the seller has insufficient information to apply subdivisions (a) through (d), the sale will be sourced to the location indicated by the address from which the tangible personal property was shipped or from which the computer software delivered electronically was first available for transmission by the seller.

(2) For sourcing the lease or rental of tangible personal property, other than property included in subsection (3) or (4), for taxation under this act, the following apply:

(a) For a lease or rental requiring recurring periodic payments, the first payment is sourced in the same manner provided for a retail sale in subsection (1). Subsequent payments shall be sourced to the primary property location for each period covered by the payment as indicated by the address of the property provided by the lessee and available to the lessor from the lessor's records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location is not considered altered by intermittent use at different locations such as business property that accompanies employees on business trips or service calls.

(b) For a lease or rental not requiring recurring periodic payments, the payment is sourced in the same manner provided for a retail sale in subsection (1).

(3) For sourcing the lease or rental of motor vehicles, trailers, semitrailers, or aircraft that are not transportation equipment, the following apply:

(a) For a lease or rental requiring recurring periodic payments, each payment is sourced to the primary property location as indicated by the address of the property provided by the lessee and available to the lessor from the lessor's records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location is not considered altered by intermittent use at a different location.

(b) For a lease or rental not requiring recurring periodic payments, the payment is sourced in the same manner provided for a retail sale in subsection (1).

(4) The lease or rental of transportation equipment shall be sourced in the same manner provided for a retail sale in subsection (1).

(5) Subsections (2) and (3) do not affect the imposition or computation of sales tax on leases or rentals based on a lump-sum or accelerated basis or on the acquisition of property for lease.

(6) As used in this section:

(a) "Receive" and "receipt" mean 1 or more of the following but exclude possession by a shipping company on behalf of the purchaser:

(*i*) Taking possession of tangible personal property.

(*ii*) Making first use of services.

(b) "Transportation equipment" means 1 or more of the following:

(*i*) Locomotives and railcars utilized for the carriage of persons or property in interstate commerce.

(*ii*) Trucks and truck-tractors with a gross vehicle weight rating of 10,001 pounds or greater, trailers, semitrailers, or passenger buses, which are registered through the international registration plan and operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(*iii*) Aircraft operated by air carriers authorized and certificated by the United States department of transportation or other federal or foreign authority to transport air cargo or passengers in interstate or foreign commerce.

(*iv*) Containers designed for use on or component parts attached or secured to the equipment included in subparagraphs (*i*) to (*iii*).

(7) A person may deviate from the sourcing requirements under this section as provided in section 20 or 21.

History: Add. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: Former MCL 205.69, which pertained to testimony, was repealed by Act 164 of 1980, Eff. Sept. 17, 1980.

205.70 Repealed. 2008, Act 438, Imd. Eff. Jan. 9, 2009.

Compiler's note: The repealed section pertained to maintenance of records.

205.71 Purchaser of direct mail; exemption form or delivery information.

Sec. 21. (1) A purchaser of direct mail other than a holder of a direct pay permit under section 8 of the use tax act, 1937 PA 94, MCL 205.98, shall provide to the seller at the time of purchase either an exemption form as prescribed by the department or information indicating the taxing jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of the exemption form, the seller is relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser is then obligated to pay the applicable tax on a direct pay basis.

(3) An exemption form remains in effect for all subsequent sales of direct mail by the seller to the purchaser until revoked in writing.

(4) Upon receipt of information from the purchaser indicating the taxing jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to that delivery information. In the absence of bad faith, the seller is relieved of any further obligation to collect the tax if the seller collected the tax using the delivery information provided by the purchaser.

(5) If the purchaser does not have a direct pay permit and does not provide the seller with an exemption form or delivery information as required in subsection (1), the seller shall collect the tax in the same manner as provided in section 19. Nothing in this subsection limits a purchaser's obligation for the tax under this act.

(6) A purchaser who provides the seller with documentation of a direct pay permit is not required to provide an exemption form or delivery information.

History: Add. 2004, Act 173, Eff. Sept. 1, 2004;—Am. 2008, Act 438, Imd. Eff. Jan. 9, 2009.

205.72 Repealed. 1980, Act 164, Eff. Sept. 17, 1980.

Compiler's note: The repealed section pertained to hearing and appeal of tax assessment.

205.73 Advertisement; amounts added to sales prices for reimbursement purposes; brackets; tax imposed under tobacco products tax act.

Sec. 23. (1) A person engaged in the business of selling tangible personal property at retail shall not advertise or hold out to the public in any manner, directly or indirectly, that the tax imposed under this act is not considered as an element in the price to the consumer. This act does not prohibit any taxpayer from reimbursing himself or herself by adding to the sale price any tax levied by this act.

(2) Subject to subsection (3), in determining amounts to be added to the sales prices for reimbursement purposes, the seller shall compute the tax to the third decimal place and round up to a whole cent when the third decimal place is greater than 4 or round down to a whole cent when the third decimal place is 4 or less.

(3) The following brackets may be used through December 31, 2005 by retailers in determining amounts to be added to sales prices for reimbursement purposes:

Amount of Sale	Tax
1 cent to 10 cents	0
11 cents to 24 cents	1 cent
25 cents to 41 cents	2 cents
42 cents to 58 cents	3 cents
59 cents to 74 cents	4 cents
75 cents to 91 cents	5 cents
92 cents to 99 cents	6 cents

For $1.00 and each multiple of $1.00, 6% of the sale price.

(4) A person other than this state may not enrich himself or herself or gain any benefit from the collection or payment of the tax.

(5) A person subject to tax under this act shall not separately state on an invoice, bill of sale, or other similar document given to the purchaser the tax imposed under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.73;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1964, Act 194, Eff. Aug. 28, 1964;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

205.74 Repealed. 1980, Act 164, Eff. Sept. 17, 1980.

Compiler's note: The repealed section pertained to penalties for offenses.

***** *205.75 THIS SECTION IS AMENDED EFFECTIVE MARCH 22, 2016: See 205.75.amended* *****

205.75 Disposition of money received and collected.

Sec. 25. (1) All money received and collected under this act shall be deposited by the department in the state treasury to the credit of the general fund, except as otherwise provided in this section.

(2) Fifteen percent of the collections of the tax imposed at a rate of 4% shall be distributed to cities, villages, and townships pursuant to the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921.

(3) Sixty percent of the collections of the tax imposed at a rate of 4% shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963 and distributed as provided by law. In addition, all of the collections of the tax imposed at the additional rate of 2% approved by the electors March 15, 1994 shall be deposited in the state school aid fund.

(4) Not less than 27.9% of 25% of the collections of the general sales tax imposed at a rate of 4% directly or indirectly on fuels sold to propel motor vehicles upon highways, on the sale of motor vehicles, and on the sale of the parts and accessories of motor vehicles by new and used car businesses, used car businesses, accessory dealer businesses, and gasoline station businesses as classified by the department of treasury shall be deposited each year into the comprehensive transportation fund created in section 10b of 1951 PA 51, MCL 247.660b.

(5) For the fiscal year ending September 30, 2013 only, an amount equal to 18% of the collections of the tax imposed at a rate of 4% under this act from the sale of motor fuel, as that term is defined in section 4 of the motor fuel tax act, 2000 PA 403, MCL 207.1004, shall be distributed as follows:

(a) An amount sufficient to match available federal highway funds shall be deposited into the state trunk line fund created in section 11 of 1951 PA 51, MCL 247.661, for the purpose of matching federal aid highway funds as those federal funds are made available to this state, but not less than 39.1% subject to subdivision (c).

(b) After the distribution under subdivision (a), any remaining balance, subject to subdivision (c), shall be distributed as follows:

(*i*) 66% to the county road commissions of this state, which distribution shall be administered under section 12 of 1951 PA 51, MCL 247.662.

(*ii*) 34% to the cities and villages of this state, which distribution shall be administered under section 13 of 1951 PA 51, MCL 247.663.

(c) Funds distributed under this subsection shall not exceed $100,000,000.00.

(6) For the fiscal year ending September 30, 2013 only and except as otherwise limited in this subsection after the allocations and distributions are made pursuant to subsections (2) and (3), an amount equal to the collections of the tax imposed at a rate of 4% under this act from the sale at retail of aviation fuel and aviation products shall be deposited in the state aeronautics fund and shall be expended, on appropriation, only for those purposes authorized in the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208. Not more than $10,000,000.00 shall be deposited in the state aeronautics fund under this subsection. As used in this subsection, "state aeronautics fund" means the state aeronautics fund created in section 34 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.34.

(7) An amount equal to the collections of the tax imposed at a rate of 4% under this act from the sale at retail of computer software as defined in section 1a shall be deposited in the Michigan health initiative fund created in section 5911 of the public health code, 1978 PA 368, MCL 333.5911, and shall be considered in addition to, and is not intended as a replacement for any other money appropriated to the department of community health. The funds deposited in the Michigan health initiative fund on an annual basis shall not be less than $9,000,000.00 or more than $12,000,000.00.

(8) The balance in the state general fund shall be disbursed only on an appropriation or appropriations by the legislature.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1935, Act 77, Imd. Eff. May 23, 1935;—CL 1948, 205.75;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1964, Act 49, Imd. Eff. May 7, 1964;—Am. 1978, Act 428, Imd. Eff. Sept. 30, 1978;—Am. 1982, Act 305, Imd. Eff. Oct. 13, 1982;—Am. 1982, Act 440, Eff. Mar. 30, 1983;—Am. 1987, Act 236, Imd. Eff. Dec. 28, 1987;—Am. 1987, Act 259, Imd. Eff. Dec. 28, 1987;—Am. 1991, Act 70, Imd. Eff. July 8, 1991;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 2003, Act 139, Imd. Eff. Aug. 1, 2003;—Am. 2004, Act 544, Imd. Eff. Jan. 3, 2005;—Am. 2006, Act 69, Imd. Eff. Mar. 20, 2006;—Am. 2007, Act 69, Imd. Eff. Sept. 28, 2007;—Am. 2008, Act 361, Imd. Eff. Dec. 23, 2008;—Am. 2010, Act 160, Imd. Eff. Sept. 17, 2010;—Am. 2012, Act 225, Imd. Eff. June 29, 2012;—Am. 2012, Act 226, Imd. Eff. June 29, 2012.

Compiler's note: Enacting section 1 of Act 467 of 2014 provides:

"Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 467 of 2014 does not go into effect.

****** 205.75.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 22, 2016 ******

205.75.amended Disposition of money received and collected; definitions.

Sec. 25. (1) All money received and collected under this act shall be deposited by the department in the state treasury to the credit of the general fund, except as otherwise provided in this section.

(2) Fifteen percent of the collections of the tax imposed at a rate of 4% shall be distributed to cities, villages, and townships pursuant to the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921.

(3) Sixty percent of the collections of the tax imposed at a rate of 4% shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963 and distributed as provided by law. In addition, all of the collections of the tax imposed at the additional rate of 2% approved by the electors March 15, 1994 shall be deposited in the state school aid fund.

(4) Not less than 27.9% of 25% of the collections of the general sales tax imposed at a rate of 4% directly or indirectly on fuels sold to propel motor vehicles upon highways, on the sale of motor vehicles, and on the sale of the parts and accessories of motor vehicles by new and used car businesses, used car businesses, accessory dealer businesses, and gasoline station businesses as classified by the department shall be deposited each year into the comprehensive transportation fund created in section 10b of 1951 PA 51, MCL 247.660b.

(5) Beginning October 1, 2016 and the first day of each calendar quarter thereafter, an amount equal to the collections for the calendar quarter that is 2 calendar quarters immediately preceding the current calendar quarter of the tax imposed under this act at the additional rate of 2% approved by the electors on March 15, 1994 from the sale at retail of aviation fuel shall be distributed as follows:

(a) An amount equal to 35% of the collections of the tax imposed at a rate of 2% on the sale at retail of aviation fuel shall be deposited in the state aeronautics fund and shall be expended, on appropriation, only for those purposes authorized in the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208.

(b) An amount equal to 65% of the collections of the tax imposed at a rate of 2% on the sale at retail of aviation fuel shall be deposited in the qualified airport fund and shall be expended, on appropriation, only for those purposes authorized under section 35 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.35.

(6) The department shall, on an annual basis, reconcile the amounts distributed under subsection (5) during each fiscal year with the amounts actually collected for a particular fiscal year and shall make any necessary adjustments, positive or negative, to the amounts to be distributed for the next successive calendar quarter that begins January 1. The state treasurer or his or her designee shall annually provide to the operator of each qualified airport a report of the reconciliation performed under this subsection. The reconciliation report is subject to the confidentiality restrictions and penalties provided in section 28(1)(f) of 1941 PA 122, MCL 205.28.

(7) An amount equal to the collections of the tax imposed at a rate of 4% under this act from the sale at retail of computer software as defined in section 1a shall be deposited in the Michigan health initiative fund created in section 5911 of the public health code, 1978 PA 368, MCL 333.5911, and shall be considered in addition to, and is not intended as a replacement for any other money appropriated to the department of community health or its successor. The funds deposited in the Michigan health initiative fund on an annual basis shall not be less than $9,000,000.00 or more than $12,000,000.00.

(8) The balance in the state general fund shall be disbursed only on an appropriation or appropriations by the legislature.

(9) As used in this section:

(a) "Aviation fuel" means fuel as that term is defined in section 4 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.4.

(b) "Qualified airport" means that term as defined in section 109 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.109.

(c) "Qualified airport fund" means the qualified airport fund created in section 34(2) of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.34.

(d) "State aeronautics fund" means the state aeronautics fund created in section 34(1) of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.34.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1935, Act 77, Imd. Eff. May 23, 1935;—CL 1948, 205.75;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1964, Act 49, Imd. Eff. May 7, 1964;—Am. 1978, Act 428, Imd. Eff. Sept. 30, 1978;—Am. 1982, Act 305, Imd. Eff. Oct. 13, 1982;—Am. 1982, Act 440, Eff. Mar. 30, 1983;—Am. 1987, Act 236, Imd. Eff. Dec. 28, 1987;—Am. 1987, Act 259, Imd. Eff. Dec. 28, 1987;—Am. 1991, Act 70, Imd. Eff. July 8, 1991;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 2003, Act 139, Imd. Eff. Aug. 1, 2003;—Am. 2004, Act 544, Imd. Eff. Jan. 3, 2005;—Am. 2006, Act 69, Imd. Eff. Mar. 20, 2006;—Am. 2007, Act 69, Imd. Eff. Sept. 28, 2007;—Am. 2008, Act 361, Imd. Eff. Dec. 23, 2008;—Am. 2010, Act 160, Imd. Eff. Sept. 17, 2010;—Am. 2012, Act 225, Imd. Eff. June 29, 2012;—Am. 2012, Act 226, Imd. Eff. June 29, 2012;—Am. 2015, Act 262, Eff. Mar. 22, 2016.

Compiler's note: Enacting section 1 of Act 467 of 2014 provides:

"Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 467 of 2014 does not go into effect.

205.76 Repealed. 1949, Act 272, Eff. July 1, 1949.

Compiler's note: The repealed section pertained to appropriation from general fund for administration of sales tax act and provided for its repayment.

205.78 Short title; general sales tax act.

Sec. 28. This act may be cited as the “General Sales Tax Act.”

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.78.