

# HOUSE BILL No. 6335

September 6, 2018, Introduced by Rep. LaFave and referred to the Committee on Michigan Competitiveness.

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending section 4 (MCL 205.94), as amended by 2018 PA 114.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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

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

1 (c) All of the following:

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

8 (ii) Property purchased for lending or leasing to a public or  
9 parochial school offering a course in automobile driving except  
10 that a vehicle purchased by the school shall be certified for  
11 driving education and shall not be reassigned for personal use by  
12 the school's administrative personnel.

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

21 (A) 0 to 25, 2 units.

22 (B) 26 to 100, 7 units.

23 (C) 101 to 500, 20 units.

24 (D) 501 or more, 25 units.

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

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

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

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

26 (g) Property or services sold to the United States, an  
27 unincorporated agency or instrumentality of the United States, an

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

6 (h) Property or services sold to a school, hospital, or home  
7 for the care and maintenance of children or aged persons, operated  
8 by an entity of government, a regularly organized church,  
9 religious, or fraternal organization, a veterans' organization, or  
10 a corporation incorporated under the laws of this state, if not  
11 operated for profit, and if the income or benefit from the  
12 operation does not inure, in whole or in part, to an individual or  
13 private shareholder, directly or indirectly, and if the activities  
14 of the entity or agency are carried on exclusively for the benefit  
15 of the public at large and are not limited to the advantage,  
16 interests, and benefits of its members or a restricted group. The  
17 tax levied does not apply to property or services sold to a parent  
18 cooperative preschool. As used in this subdivision, "parent  
19 cooperative preschool" means a nonprofit, nondiscriminatory  
20 educational institution, maintained as a community service and  
21 administered by parents of children currently enrolled in the  
22 preschool that provides an educational and developmental program  
23 for children younger than compulsory school age, that provides an  
24 educational program for parents, including active participation  
25 with children in preschool activities, that is directed by  
26 qualified preschool personnel, and that is licensed pursuant to  
27 1973 PA 116, MCL 722.111 to 722.128.

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

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

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

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

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

18 (l) A newspaper or periodical classified under federal postal  
19 laws and regulations effective September 1, 1985 as second-class  
20 mail matter or as a controlled circulation publication or qualified  
21 to accept legal notices for publication in this state, as defined  
22 by law, or any other newspaper or periodical of general  
23 circulation, established at least 2 years, and published at least  
24 once a week, and a copyrighted motion picture film. Tangible  
25 personal property used or consumed in producing a copyrighted  
26 motion picture film, a newspaper published more than 14 times per  
27 year, or a periodical published more than 14 times per year, and

1 not becoming a component part of that film, newspaper, or  
2 periodical is subject to the tax. After December 31, 1993, tangible  
3 personal property used or consumed in producing a newspaper  
4 published 14 times or less per year or a periodical published 14  
5 times or less per year and that portion or percentage of tangible  
6 personal property used or consumed in producing an advertising  
7 supplement that becomes a component part of a newspaper or  
8 periodical is exempt from the tax under this subdivision. A claim  
9 for a refund for taxes paid before January 1, 1999 under this  
10 subdivision shall be made before June 30, 1999. For purposes of  
11 this subdivision, tangible personal property that becomes a  
12 component part of a newspaper or periodical and consequently not  
13 subject to tax, includes an advertising supplement inserted into  
14 and circulated with a newspaper or periodical that is otherwise  
15 exempt from tax under this subdivision, if the advertising  
16 supplement is delivered directly to the newspaper or periodical by  
17 a person other than the advertiser, or the advertising supplement  
18 is printed by the newspaper or periodical.

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

26 (n) A person who is a resident of this state who purchases an  
27 automobile in another state while in the military service of the

1 United States and who pays a sales tax in the state where the  
2 automobile is purchased.

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

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

8 (q) Water when delivered through water mains, water sold in  
9 bulk tanks in quantities of not less than 500 gallons, or the sale  
10 of bottled water.

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

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

22 (t) Tangible real or personal property donated by a  
23 manufacturer, wholesaler, or retailer to an organization or entity  
24 exempt pursuant to subdivision (h) or (i) or section 4a(1)(a) or  
25 (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

26 (u) The storage, use, or consumption of an aircraft by a  
27 domestic air carrier for use solely in the transport of air cargo,

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

10 (v) The storage, use, or consumption of an aircraft by a  
11 person who purchases the aircraft for subsequent lease to a  
12 domestic air carrier operating under a certificate issued by the  
13 federal aviation administration under 14 CFR part 121, for use  
14 solely in the regularly scheduled transport of passengers.

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



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

5 (x) The use or consumption of services described in section  
6 3a(1)(a) or (b) or 3b by means of a prepaid telephone calling card,  
7 a prepaid authorization number for telephone use, or a charge for  
8 internet access.

9 (y) The purchase, lease, use, or consumption of the following  
10 by an industrial laundry after December 31, 1997:

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

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

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

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

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

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

27 (vii) Wastewater pretreatment equipment and supplies and

1 related maintenance and repair services.

2 (z) Property purchased or manufactured by a person engaged in  
3 the business of constructing, altering, repairing, or improving  
4 real estate for others, to the extent that the property is affixed  
5 to and made a structural part of real estate located in another  
6 state, regardless of whether sales or use tax was due and paid in  
7 the state in which the property is affixed to real estate.

8 (aa) The sale of a dental prosthesis.

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

13 (i) Machinery that is capable of simultaneously harvesting  
14 grain or other crops and biomass and machinery used for the purpose  
15 of harvesting biomass.

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

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

20 (iv) Grain drying equipment and the fuel or energy source that  
21 powers that equipment, including tangible personal property affixed  
22 or to be affixed to that equipment and directly used in the  
23 operation of grain drying equipment.

24 (v) Tangible personal property purchased and installed as a  
25 component part of a structure such as a barn or shop, including,  
26 but not limited to, a water supply system, heating and cooling  
27 system, lighting system, milking system, or any other appurtenance

1 used for purposes described in this subdivision or subdivision (f),  
2 including the maintenance or improvement of existing structures, to  
3 the extent that it is not permanently affixed to and does not  
4 become a structural part of real estate. For purposes of this  
5 subparagraph and subsection (3), property installed as a component  
6 part of a structure as provided in this subparagraph is not  
7 permanently affixed to or a structural part of real estate if it is  
8 assembled and installed in a manner that it can be disassembled  
9 without affecting the physical structural functionality of the  
10 original structure and reassembled and reused for any of the  
11 purposes described in this subdivision or subdivision (f).

12 (vi) Greenhouses, including tangible personal property affixed  
13 to or to be affixed to greenhouses and directly used in the  
14 operation of a greenhouse. For purposes of subsection (3), a  
15 greenhouse is not permanently affixed to or a structural part of  
16 real estate if it is assembled and installed in a manner that it  
17 can be disassembled and reassembled without affecting the  
18 functionality of the greenhouse upon being reassembled.

19 (cc) The sale of agricultural land tile, subsurface irrigation  
20 pipe, portable grain bins, greenhouses, and grain drying equipment  
21 to a person in the business of constructing, altering, repairing,  
22 or improving real estate for others to the extent that it is  
23 affixed to and made a structural part of real estate for others and  
24 is used for an exempt purpose described under subdivision (f) or  
25 (bb).

26 (dd) The sale of tangible personal property used in the direct  
27 gathering of fish, by net, line, or otherwise, by an owner-operator

1 of a business enterprise, not including a charter fishing business  
2 enterprise.

3 (ee) A sale of tangible personal property that is specifically  
4 designed for, and directly used in, the harvesting of aquatic  
5 vegetation from the waters of the state, including parts and  
6 materials used for repairs of that tangible personal property, to a  
7 person engaged in a business enterprise of harvesting aquatic  
8 vegetation and ultimately used for purposes described in  
9 subdivision (f) or (bb). This exemption does not include a motor  
10 vehicle licensed or required to be licensed for use on the public  
11 roads or highways of this state or tangible personal property  
12 permanently affixed to and becoming a structural part of real  
13 estate.

14 **(FF) A SALE OF TANGIBLE PERSONAL PROPERTY NOT FOR RESALE TO A**  
15 **FORMER MUNICIPAL HEALTH FACILITIES CORPORATION THAT IS ACQUIRED BY**  
16 **A BUSINESS ORGANIZATION PURSUANT TO SECTION 306A OF THE MUNICIPAL**  
17 **HEALTH FACILITIES CORPORATIONS ACT, 1987 PA 230, MCL 331.1306A, FOR**  
18 **A PERIOD OF NOT MORE THAN 12 YEARS BEGINNING ON THE DATE OF THE**  
19 **SALE OR TRANSFER OF OWNERSHIP OF THE MUNICIPAL HEALTH FACILITIES**  
20 **CORPORATION TO THAT BUSINESS ORGANIZATION. AS USED IN THIS**  
21 **SUBDIVISION, "BUSINESS ORGANIZATION" AND "MUNICIPAL HEALTH**  
22 **FACILITIES CORPORATION" MEAN THOSE TERMS AS DEFINED UNDER THE**  
23 **MUNICIPAL HEALTH FACILITIES CORPORATIONS ACT, 1987 PA 230, MCL**  
24 **331.1101 TO 331.1507.**

25 (2) The property or services under subsection (1) are exempt  
26 only to the extent that the property or services are used for the  
27 exempt purposes if one is stated in subsection (1). The exemption

1 is limited to the percentage of exempt use to total use determined  
2 by a reasonable formula or method approved by the department.

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

10 (4) ~~Subsections~~**SUBSECTION** (1)(f), (bb), and (cc) as amended  
11 by ~~the amendatory act that added this subsection are~~**2018 PA 114 IS**  
12 intended to be retroactive and to apply to all periods open under  
13 section 27a of 1941 PA 122, MCL 205.27a, but ~~do~~**DOES** not apply to  
14 any refund claims filed prior to April 9, 2018.

15 (5) As used in this section:

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

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

22 (c) "Aquatic vegetation" means both algae and higher aquatic  
23 plants.

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

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

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

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

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

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

14 Enacting section 1. This amendatory act does not take effect  
15 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 6334 (request no.  
16 06661'18) of the 99th Legislature is enacted into law.