

HOUSE BILL No. 6338

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

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 4a (MCL 205.54a), as amended by 2018 PA 113.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (a) A sale of tangible personal property not for resale to a
4 nonprofit school, nonprofit hospital, or nonprofit home for the
5 care and maintenance of children or aged persons operated by an
6 entity of government, a regularly organized church, religious, or
7 fraternal organization, a veterans' organization, or a corporation
8 incorporated under the laws of this state, if the income or benefit
9 from the operation does not inure, in whole or in part, to an

1 individual or private shareholder, directly or indirectly, and if
2 the activities of the entity or agency are carried on exclusively
3 for the benefit of the public at large and are not limited to the
4 advantage, interests, and benefits of its members or any restricted
5 group. A sale of tangible personal property to a parent cooperative
6 preschool is exempt from taxation under this act. As used in this
7 subdivision, "parent cooperative preschool" means a nonprofit,
8 nondiscriminatory educational institution, maintained as a
9 community service and administered by parents of children currently
10 enrolled in the preschool, that provides an educational and
11 developmental program for children younger than compulsory school
12 age, that provides an educational program for parents, including
13 active participation with children in preschool activities, that is
14 directed by qualified preschool personnel, and that is licensed
15 pursuant to 1973 PA 116, MCL 722.111 to 722.128.

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

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

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

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

27 (d) The sale of a vessel designated for commercial use of

1 registered tonnage of 500 tons or more, if produced upon special
2 order of the purchaser, and bunker and galley fuel, provisions,
3 supplies, maintenance, and repairs for the exclusive use of the
4 vessel engaged in interstate commerce.

5 (e) Except as otherwise provided under subsection (3), a sale
6 of tangible personal property to a person engaged in a business
7 enterprise that uses or consumes the tangible personal property,
8 directly or indirectly, for either the tilling, planting, draining,
9 caring for, maintaining, or harvesting of things of the soil or the
10 breeding, raising, or caring for livestock, poultry, or
11 horticultural products, including the transfers of livestock,
12 poultry, or horticultural products for further growth.

13 (f) Except as otherwise provided under subsection (3), a sale
14 of any of the following to a person engaged in a business
15 enterprise that uses or consumes the following for purposes as
16 described in subdivision (e):

17 (i) Machinery that is capable of simultaneously harvesting
18 grain or other crops and biomass and machinery used for the purpose
19 of harvesting biomass.

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

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

24 (iv) Grain drying equipment and the fuel or energy source that
25 powers that equipment, including tangible personal property affixed
26 or to be affixed to that equipment and directly used in the
27 operation of grain drying equipment.

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

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

23 (g) The sale of agricultural land tile, subsurface irrigation
24 pipe, portable grain bins, greenhouses, and grain drying equipment
25 to a person in the business of constructing, altering, repairing,
26 or improving real estate for others to the extent that it is
27 affixed to and made a structural part of real estate for others and

1 is used for an exempt purpose described under subdivision (e) or
2 (f).

3 (h) The sale of tangible personal property used in the direct
4 gathering of fish, by net, line, or otherwise, by an owner-operator
5 of a business enterprise, not including a charter fishing business
6 enterprise.

7 (i) The sale of a copyrighted motion picture film or a
8 newspaper or periodical admitted under federal postal laws and
9 regulations effective September 1, 1985 as second-class mail matter
10 or as a controlled circulation publication or qualified to accept
11 legal notices for publication in this state, as defined by law, or
12 any other newspaper or periodical of general circulation,
13 established not less than 2 years, and published not less than once
14 a week. Tangible personal property used or consumed in producing a
15 copyrighted motion picture film, a newspaper published more than 14
16 times per year, or a periodical published more than 14 times per
17 year, and not becoming a component part of that film, newspaper, or
18 periodical is subject to the tax. Tangible personal property used
19 or consumed in producing a newspaper published 14 times or less per
20 year or a periodical published 14 times or less per year and that
21 portion or percentage of tangible personal property used or
22 consumed in producing an advertising supplement that becomes a
23 component part of a newspaper or periodical is exempt from the tax
24 under this subdivision. For purposes of this subdivision, tangible
25 personal property that becomes a component part of a newspaper or
26 periodical and consequently not subject to tax includes an
27 advertising supplement inserted into and circulated with a

1 newspaper or periodical that is otherwise exempt from tax under
2 this subdivision, if the advertising supplement is delivered
3 directly to the newspaper or periodical by a person other than the
4 advertiser, or the advertising supplement is printed by the
5 newspaper or periodical.

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

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

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

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

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

25 (o) A sale of tangible personal property installed as a
26 component part of a water pollution control facility for which a
27 tax exemption certificate is issued pursuant to part 37 of the

1 natural resources and environmental protection act, 1994 PA 451,
2 MCL 324.3701 to 324.3708, or an air pollution control facility for
3 which a tax exemption certificate is issued pursuant to part 59 of
4 the natural resources and environmental protection act, 1994 PA
5 451, MCL 324.5901 to 324.5908.

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

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

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

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

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

20 (v) Production washroom equipment and mending and packaging
21 supplies and equipment.

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

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

26 (q) A sale of tangible personal property to a person holding a
27 direct payment permit under section 8 of the use tax act, 1937 PA

1 94, MCL 205.98.

2 (r) The sale of a dental prosthesis.

3 (s) 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 (e) or (f). 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 **(T) 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 tangible personal property under subsection (1) is
26 exempt only to the extent that that property is used for the exempt
27 purpose if one is stated in subsection (1). The exemption is

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

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

10 (4) ~~Subsections~~ **SUBSECTION** (1)(e), (f), and (g) as amended by
11 ~~the amendatory act that added this subsection are~~ **2018 PA 113 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.