

# Exemptions from the Michigan Sales Tax

The Sales Tax Act contains many exemptions from tax. The statutory construction of the law defines “gross proceeds” and “sales price” broadly. Exemptions from the sales tax are not allowed unless specifically provided for by law. Tax exemption statutes are interpreted according to ordinary rules of statutory construction, although they are strictly construed against the taxpayer. (*CompuPharm, LTC v. Michigan Department of Treasury* (1996) MTT No. 189802 affirmed (1997) 570 N.W. 2d 476,225 Mich.App. 274, leave for appeal denied (1998) 584 N.W. 2d 585)

## Treasury Guidance

On June 10, 2002, the Michigan Department of Treasury issued Revenue Administrative Bulletin 2002-15 (RAB 02-15) titled Sales and Use Tax Exemptions and Requirements. The bulletin replaced RAB 96-6 for all periods on or after June 29, 2000. This RAB addresses exemption claims based on the status of the purchaser (e.g., exempt entities) and exemption claims based on the use of the acquired property or specified service (e.g., industrial processing). This RAB does not cover exemption claims that are based solely on the type of product being sold (e.g., non-prepared food or prescription drugs for human use).

The Michigan legislature has enacted many exemptions since the inception of the Michigan Sales Tax in 1933. The following is a list of the many exemptions provided for by statute. The specific statute should be referenced because many of the exemptions have sunset dates and may be limited in applicability.

The following are exempt from tax under the Sales Tax Act (MCL 205.54a(1)), but only to the extent that the transaction involves the transfer of tangible personal property and is used for the exempt purpose as stated in the statute. (MCL 205.54a(2)) Any exemption provided for in the Sales Tax Act is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department. (MCL 205.54a(2))

**Nonprofit school** (MCL 205.54a(1)(a))

**Nonprofit hospital** (MCL 205.54a(1)(a))

## **Nonprofit home for the care and maintenance of children or aged persons**

...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. (MCL 205.54a(1)(a))

## **Parent cooperative preschool**

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 by the department of consumer and industry services pursuant to 1973 PA 116, MCL 722.111 to 722.128.  
(MCL 205.54a(1)(a))

## **Church or house of religious worship**

(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. (MCL 205.54a(1)(b))

## **Sale of food to students**

(c) Sale of food to bona fide enrolled students by a school or other educational institution not operated for profit. (MCL 205.54a(1)(c))

## **Sale of a commercial vessel**

(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. (MCL 205.54a(1)(d))

## **Agricultural production**

(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 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. (MCL 205.54a(1)(e))

## **Copyrighted motion picture film or a newspaper or periodical**

(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. A claim for a refund for taxes paid before January 1, 1999, under this subdivision shall be made before June 30, 1999. 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. (MCL 205.54a(1)(f))

### **Commercial radio or television**

(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. (MCL 205.54a(1)(g))

### **Ambulance or fire department vehicles**

(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. (MCL 205.54a(1)(i))

### **Penal or correctional institution**

(j) 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. (MCL 205.54a(1)(j))

### **Textbooks**

(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. (MCL 205.54a(1)(k))

### **Water pollution control facility and air pollution control facility**

(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. (MCL 205.54a(1)(l))

### **Industrial laundry**

(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. (MCL 205.54a(1)(m))

(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. (MCL 205.51(1)(j))

### **Property affixed to real estate**

4c. The sale of material purchased by persons engaged in the business of constructing, altering, repairing or improving real estate for others when the material so purchased by such persons is affixed and made a

structural part of the real estate or used and completely consumed in the fulfillment of a single contract ... (MCL 205.54c)

### **Driver education vehicle**

(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. (MCL 205.54d(b))

(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. (MCL 205.54d(c))

### **Water**

(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. (MCL 205.54d(d))

### **New car or truck demonstrators**

(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. (MCL 205.54d(e))

### **Commercial advertising**

Public Act 209 of 1995 amended the Sales Tax Act to add a commercial advertising exemption. Public Act 208 of 1995 did the same in the use tax act. The exemption is somewhat limited and reads as follows:

(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. MCL 205.54d(h))

#### **Sale of a vehicle to a nonresident member of the US 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. (MCL 205.54e)

#### **Commissions paid to an exempt entity from vending machine sales**

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. (MCL 205.54f)

#### **Deposit on a returnable container**

(b) The deposit on a returnable container for a beverage or the deposit on a carton or case that is used for returnable containers. (MCL 205.54g(b))

#### **Food or meals purchased with food stamps**

(c) Food or tangible personal property purchased under the federal food stamp program or meals eligible to be purchased under the federal food stamp program. (MCL 205.54g(c))

#### **Fruit and vegetable seeds and plants purchased with food stamps**

(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. (MCL 205.54g(d))

## **Live animals purchased for human consumption**

(e) Live animals purchased with the intent to be slaughtered for human consumption. (MCL 205.54g(e))

## **Government and the American Red Cross**

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. (MCL 205.54h)

## **Bad debts**

Sec. 4i. (1) As used in this section, "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. (MCL 205.54i(1))

(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. (MCL 205.54i(2))

(3) 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. (MCL 205.54i(3))

(4) If a certified service provider assumed filing responsibility under the streamlined sales and use tax administration act, 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. (MCL 205.54i(4))

(5) If the books and records of a taxpayer under the streamlined sales and use tax agreement 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. (MCL 205.54i(5))

### **Enterprise zone**

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. (MCL 205.54j(1))

(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. (MCL 205.54j(2))

### **Rail freight or passenger cars**

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. (MCL 205.54m)

## **Sales made for fundraising purposes**

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. (MCL 205.54o(1))

(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. (MCL 205.54o(2))

## **Non profit health, welfare, educational, cultural arts, charitable, or benevolent organization**

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. (MCL 205.54q(1))

(2) The exemptions provided for in subsection (1) do not apply to sales of tangible personal property and sales of vehicles licensed for use on public highways, that are not used primarily to carry out the purposes of the organization as stated in the bylaws or articles of incorporation of the exempt entity. (MCL 205.54q(2))

(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 and that the organization qualifies as an exempt organization under this section. The transferee shall also provide to the transferor a copy of the federal exemption letter. (MCL 205.54q(3))

(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. (MCL 205.54q(4))

(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 as stated in the organization's bylaws or articles of incorporation. The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department. (MCL 205.54q(5))

### **Investment coins and bullion**

Sec. 4s. (1) A sale of investment coins and bullion is exempt from the tax under this act. (MCL 205.54s(1))

(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. (MCL 205.54s(2))

### **Domestic air carrier**

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. (MCL 205.54x(1))

(2) 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. (MCL 205.54x(2))

(3) As used in this section, "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. (MCL 205.54x(3))

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