

**Michigan Department of Treasury  
Tax Compliance Bureau  
Audit Division**



---

**Other Deductions  
Manual**

---

**August 2018**

## **Disclosure**

This manual is not intended as a statement of law, Department policy, or of the Treasurer's official position. The information contained in this manual has been prepared as instructional text. The purpose of this manual is to explain key provisions of the General Sales Tax Act (GSTA), Public Act 167 of 1933, and the Use Tax Act (UTA), Public Act 94 of 1937.

Any references in this manual to Rules, Revenue Administrative Bulletins (RABs), Internal Policy Directives (IPDs) and Letter Rulings (LRs) are based on the most recent versions available as of the date of this edition. The materials will be reviewed regularly and revised as needed. Where changes in the law supersede and conflict with anything in this document then the new law shall control.

## Table of Contents

Chapter 1 – Introduction.....	8
Chapter 2 – Agricultural Production .....	9
Sales and Use Tax .....	9
Exclusions .....	10
Livestock.....	10
Sales by Farmers.....	11
Contractors .....	11
Chapter 3 – Aircraft/Aircraft Parts Sold/Leased to Domestic Air Carrier.....	14
Sales Tax.....	14
Use Tax .....	14
Aircraft Temporarily Located in Michigan.....	15
Chapter 4 – Bad Debts.....	16
Requirements to Claim the Deduction .....	17
Chapter 5 – Broadcasters .....	19
Chapter 6 – Churches .....	21
Taxable Purchases .....	21
Sales by Churches.....	22
Fundraising Activities.....	22
Contractors .....	22
Chapter 7 – Coins and Bullion.....	24
Chapter 8 – Commercial Advertising.....	25
Chapter 9 – Commercial Fishing .....	26
Chapter 10 – Communication Service Providers.....	28
Sales Tax.....	28
Use Tax .....	28
Intrastate (Within Michigan) .....	28
Interstate (Between States) .....	29
Exempt Entities.....	30
Purchases by Communication Service Providers .....	30
Chapter 11 – Computer Software.....	32
Definitions.....	32
Cloud Software Clarified .....	32
Software Maintenance Contracts.....	34

Sales Tax.....	35
Use Tax .....	35
License/Subscription, Right to Access/Use Prewritten Computer Software.....	35
Sourcing .....	35
Mixed Transactions.....	36
Chapter 12 – Contact Lenses, Dental Prosthesis, Prosthetic Devices, Durable Medical Equipment, and Mobility Enhancing Equipment .....	37
Dental Prosthesis.....	37
Prosthetic Device.....	37
Durable Medical Equipment.....	37
Mobility Enhancing Equipment .....	38
Human Organs .....	39
Medicare and Medicaid Purchases.....	40
Chapter 13 – Conversion .....	41
Application for All Taxpayer and Business Types.....	41
Application to Automobile Dealers .....	41
Chapter 14 – Data Center Exemption .....	42
Chapter 15 – Delivery Charges .....	44
Ownership .....	44
Seller Engaged in A Separate Delivery Business .....	45
Seller Engaged in a Separate Delivery Business .....	46
Seller Not Engaged in a Separate Delivery Business .....	46
Exempt Property.....	47
Chapter 16 – Demonstration .....	48
Exempt Examples.....	49
Taxable Examples .....	49
Chapter 17 – Direct Mail.....	50
Sourcing Sales .....	51
Chapter 18 – Drop Shipments.....	52
Chapter 19 – Exemptions and Requirements.....	53
Claim for Exemption from Tax .....	53
Various Statutory Exemptions .....	53
Documentation Needed to Support an Exemption.....	54
Acceptable Exemption Claims .....	54

Blanket Purchase Exemption Form .....	55
Tax Exemption Numbers .....	55
Chapter 20 – Extractive Operations .....	56
Taxability Chart – Types of Logging Equipment .....	57
Taxability Chart – Types of Oil & Gas Extraction Equipment.....	59
Taxability Chart – Types of Sand & Gravel Extraction Equipment & Activities .....	63
Chapter 21 – Federal Preemption .....	65
Purchases by Federal Government Agencies .....	65
Federal Credit Unions and Federal Home Loan Banks .....	66
Sales by Federal Government Agencies .....	66
Sales by Private Entrepreneurs from Federal Areas.....	66
Chapter 22 – Food for Human Consumption.....	67
Catered Meals .....	69
Employee Meals .....	70
Free Meals (To Non-Employees).....	70
Vending Machines and Other Automatic Sales Devices.....	70
Federal Food Stamp Program .....	71
Dietary Supplements .....	71
Taxability Chart – Food Items.....	72
Chapter 23 – House Rentals (Rentals of Rooms and Lodging).....	77
Taxability Chart – Hotels/Motels .....	78
Chapter 24 – Industrial Laundries .....	91
Chapter 25 – Installation Charges .....	92
Ownership .....	92
Chapter 26 – Interstate Commerce .....	93
Chapter 27 – Interstate Motor Carriers.....	94
Immediate Preceding Tax Year .....	95
Chapter 28 – Isolated/Casual Transactions and Auctioneers.....	96
Isolated/Casual Transactions .....	96
Auctions.....	96
Auctioneers.....	96
Federal Bankruptcy Auctions.....	97
Municipal Surplus Equipment Auctions.....	97

Industrial Processing Auctions.....	97
Retail Store Inventory .....	97
Retail Store Equipment & Fixtures.....	97
Sale or Transfer of a Business .....	98
Vehicles .....	98
Charity Auction of Donated Gifts .....	98
Wholesaler or Distributor of Industrial Machinery or Retail Equipment.....	99
Real Estate .....	99
Construction Contractor's Machinery.....	99
Rental Equipment Company Inventory .....	99
Chapter 29 – Lessors .....	100
Lessor Election to Pay Tax on Rental Receipts .....	100
A Service Distinguished from a Lease .....	101
Sourcing .....	101
Leaseback .....	101
Chapter 30 – Newspapers, Periodicals and Other Publications .....	102
Chapter 31 – Nonprofit Organizations .....	103
Sales to Nonprofit Organizations .....	103
Sales by Nonprofit Organizations .....	103
Chapter 32 – Pollution Control Facilities, Component Parts.....	105
Summary .....	106
Chapter 33 – Prescription Drugs .....	107
Prior to March 14, 2014 .....	107
On and After March 14, 2014 .....	107
Chapter 34 – Promotional Products .....	109
Chapter 35 – Purchase of Business.....	110
Chapter 36 – Railroads .....	111
Chapter 37 – Schools, Hospitals and Certain Nonprofit Institutions .....	112
Schools.....	112
Sales by Schools .....	113
Hospitals.....	114
Sales by Hospitals .....	115
Other Types of Nonprofit Institutions .....	116

Chapter 38 – Transfers Between Related Entities and Within the Same Legal Entity	117
Transfers from Parent to Subsidiary, Subsidiary to Parent, or Subsidiary to Subsidiary	117
Transfers within the Same Legal Entity	117
Chapter 39 – Vehicles	119
Sales Tax	119
New Car Dealerships - Demonstration Vehicles	119
Vehicles for Resale	119
Used Car Dealerships	120
Automobile Manufacturers	120
Presumption Applicable to Vehicles Purchased for Resale, and Used for Non-exempt Purposes	121
Vehicles Purchased for Resale, Not Titled, and Used for Demonstration Purposes	121
Non-Michigan Residents	122
Ambulances and Fire Department Vehicles	123
Non-Resident Military Personnel	123
Use Tax	123
Towing Company Acquisition from Police Agency	125
Sales Tax	125
Core Charges	126
Automobile Purchases by Foreign Diplomatic Personnel	126
Chapter 40 – Vessels	128
Sales Tax	128
Use Tax	128
Index of References	129

---

## **Chapter 1 – Introduction**

In general, sales and use tax exemptions are based on:

- What the item is.
- Who purchases the item.
- How the item is used.

Frequently, a qualifying exemption from tax will be based on a combination of 2 or more of the 3 basic exemption types.

Currently, there are over 100 distinct exemptions provided for in the GSTA and UTA. Generally, exemptions in one act are mirrored in the other, but there are instances when an exemption is not provided for in both acts. This manual highlights some of the more common exemptions and is not intended to be all-inclusive.

The industrial processing exemption is not addressed in this manual; there is a separate manual that deals specifically with the industrial processing exemption and its complexity.

It is the responsibility of all taxpayers to maintain adequate records and required exemption claims, certificates and documents.

**Note: Always reference current tax law. Do not rely solely on this manual for current interpretation of tax law since this manual may not keep pace with changes in the law. This manual replaces any earlier versions.**

References pertaining to this information can be found in the index under [Chapter 1](#)



---

## **Chapter 2 – Agricultural Production**

### **Sales and Use Tax**

The GSTA and UTA provide an exemption for tangible personal property sold to persons engaged in a business enterprise and using or consuming the property, directly or indirectly, for agricultural production in the:

- Tilling, planting, draining, caring for, or harvesting things of the soil; **or**
- Breeding, raising, or caring for livestock, poultry or horticultural products, including transfers of such products for further growth.

The agricultural producing exemption in the GSTA and UTA also specifically include the following when used in the production of agricultural products as a business enterprise:

- Machinery that is capable of simultaneously harvesting grain or other crops and biomass residue from grain or other crops. Biomass is defined in the GSTA and UTA as “crop residue used to produce energy or agricultural crops grown specifically for the production of energy.”
- Agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land.
- Subsurface irrigation pipe.
- Portable grain bins used to shelter grain and designed to be disassembled without significant damage to their component parts and property affixed or to be affixed to portable grain bins and directly used in the operation of them.
- Grain drying fuel and equipment and tangible personal property affixed or to be affixed to grain drying equipment that is directly used in its operation.
- Greenhouses, including tangible personal property affixed to or to be affixed to a greenhouse and directly used in its operation, if the greenhouse is assembled and installed in a manner that it can be disassembled and reassembled without affecting the functionality of the greenhouse upon being reassembled. Property that meets this test is not considered affixed to and a structural part of real estate.
- Tangible personal property installed as a component part of a structure if it can be assembled and installed in a manner that it can be disassembled without affecting the physical structural functionality of the original structure and reassembled and reused for agricultural producing purposes elsewhere.

Property that meets this test is not considered affixed to and a structural part of real estate.

**Note: Grain drying equipment and fuel may qualify for the industrial processing exemption.**

This exemption extends to servicers who use their equipment for agricultural or horticultural growth.

***Exclusions***

The agricultural exemptions in the GSTA and the UTA specifically exclude:

- Transfers of food, fuel, clothing, or any similar tangible personal property for personal living or human consumption.
- Tangible personal property permanently affixed **and** becoming a structural part of real estate except for agricultural land tile, subsurface irrigation pipe, portable grain bins, or grain drying equipment.
- Greenhouses primarily used to grow marihuana.

***Livestock***

Although the term **livestock** is not defined in the statute, it is generally used to include horses, cattle, sheep and other useful animals kept or raised on a farm or ranch. It can also include dogs, cats, birds, goldfish, etc. The exemption includes only livestock, or the offspring of an animal being bred if the offspring are intended to be sold or intended to be used as work animals on a commercial farm. The breeding of an animal whose offspring will be used for the enjoyment of its owner or any other non-commercial farm use would not be exempt from tax. Therefore, it will be necessary for a breeder to maintain records to substantiate property consumed in exempt activities versus property consumed in taxable activities. The owner of livestock producing offspring for resale is required to be licensed for sales tax.

**Examples:**

- Livestock handling equipment and horse equipment, other than a trailer, are usually exempt when purchased by a farmer who raises livestock for resale or who uses horses to till the soil.
- Handling equipment sold to boarding ranches, riding stables or individuals are usually taxable.

- A mare is purchased tax-exempt to breed race horses for sale. When the offspring are sold, sales tax must be collected on the retail-selling price – if they will be used for the enjoyment of its owner or any other non-commercial farm use.

### ***Sales by Farmers***

Farmers who sell more than nontaxable food to final consumers are required to be licensed and pay sales tax on their taxable sales. It is immaterial whether the retail sales are made at the place of production, a roadside stand, a market, from a vehicle, or elsewhere.

Exempt food for human consumption includes sales of live animals purchased with the intent to be slaughtered for human consumption.

### ***Contractors***

Some products are often purchased and installed by a contractor for an agricultural producer. Therefore, an agricultural sales/use tax exemption may apply to the contractor's purchase and affixation of grain bins, tile, grain drying equipment or irrigation pipe for installation on a farm. The contractor's sale of portable grain bins or agricultural land tile to an eligible agricultural producer is exempt from sales and use tax. The contractor's sale of subsurface irrigation pipe to an eligible agricultural producer is exempt from sales and use tax.

### **Examples:**

Sales of the following are **usually not subject to sales or use tax** when used in agricultural production as a business enterprise:

- Seeds and other reproductive portions of plants.
- Fertilizer and similar substances for improving the quality of the soil.
- Spray materials for insecticides, germicides, and fungicides.
- Livestock, poultry, their feeds, and foodstuffs, including salt, bone meal, cod-liver oil, limestone, grit, oyster shell, and other similar substances used to sustain animals or poultry.
- Sacks, wrappers, and other nonreturnable containers resold with crops; also binding twine and baling wire.
- Machinery, tools, other equipment, repair parts, motor fuel, oil, grease, and other tangible personal property necessary for their operation and maintenance, except

for licensed highway vehicles, maintenance of these licensed highway vehicles, and property attached to or becoming a part of real estate.

- Tangible personal property purchased and installed as a component part of an agriculture structure, including a barn, shop, water supply system, heating and cooling system, lighting systems, milking system, irrigation system or any other structure or appurtenance used in the production of agricultural products, including the maintenance or improvement of existing structures if it can be assembled and installed in a manner that it can be disassembled without affecting the physical structural functionality of the original structure and reassembled and reused for agricultural producing purposes elsewhere.
- Greenhouses, including tangible personal property affixed to or to be affixed to a greenhouse and directly used in its operation, if the greenhouse is assembled and installed in a manner that it can be disassembled and reassembled without affecting the functionality of the greenhouse upon being reassembled. For example, this would include a greenhouse constructed by driving pipe into the ground and covering with a plastic framework. This is personal property, as it does not meet the **three-prong test** to determine realty. See *Chapter 2 - Real vs. Personal Property* of the *Contractor Manual*.
- Electricity or gas used directly in producing agricultural products. When one-meter measures both taxable and exempt usage, the farmer will have to substantiate the exempt portion. If the farmer's total electrical consumption exceeds 1,500 kwh per month (or 2,500 kwh per month for a home with electric heat) during the period of November to March, the consumption in excess will be presumed exempt if the farmer provides the seller with the approved agricultural producing exemption certificate.
- The airplane, gas, oil, and parts used in crop-dusting airplanes licensed for restrictive use in agricultural service or fuel consumed in other equipment used for spraying crops.
- Readily movable equipment such as portable hog houses and feeding troughs.
- Boxes used to harvest fruit or vegetables. These containers usually have dual uses and are taxed on a percentage basis.
- Tractor blades used to scrape organic matter from the barn floor and feedlot area.
- Equipment and technology used or consumed in the business enterprise.
- Drones used to monitor agricultural fields.

Sales of the following are **usually subject to sales or use tax** because they do not qualify for the agricultural producing exemption:

- Grass seed, fertilizers, equipment, and all other tangible personal property sold to individuals for use on lawns, non-commercial gardens, parks, boulevards, and golf courses, or for use by landscape gardeners.
- Sales of tangible personal property used to construct, maintain, or repair, fences (other than portable fences), and all other structures forming a part of real estate, other than those listed above.
- Pea gravel, metal outlet pipe or culvert, if used in a subsurface drainage system even when the land tile or perforated tubing is exempt.
- Land tile used in the yard around the farm house.
- Trucks with inseparable sprayer units sold to servicers who will use them in providing a spraying service to farmers. Vehicles including attachments are taxable if licensed for use on public highways.
- Boxes used to ship commercial production to the processor. The agricultural processing exemption ends with harvesting.
- Tangible property used to construct a grain silo that will become part of real estate, i.e., not a portable bin.
- Game animals, feed, supplies, etc. purchased by one who provides animals to be hunted. This business is a service.
- Prescription and nonprescription drugs, animal health products, dog food, feed additives, and supplies sold to veterinarians. Unless purchasing for resale, veterinarian purchases are taxable as they are used in providing a professional service.
- Truck scales, storage/processing tanks, storage tank inventory monitoring equipment, a liquid storage tank, and a personnel elevator not used and consumed in the breeding, raising or caring of livestock, poultry or horticultural products.

References pertaining to this information can be found in the index under [Chapter 2](#)

---

## **Chapter 3 – Aircraft/Aircraft Parts Sold/Leased to Domestic Air Carrier**

### **Sales Tax**

The GSTA provides an exemption for sales to a **domestic air carrier** of:

- **Aircraft** with a maximum certified takeoff weight of at least 6,000 pounds used solely in the transport of air cargo, passengers, or a combination of both.
- **Parts and materials**, excluding shop equipment or fuel, affixed or to be affixed to an aircraft described above.

### **Use Tax**

The UTA provides an exemption for the storage, use, or consumption by a **domestic air carrier** of:

- **Aircraft** with a maximum certified takeoff weight of at least 6,000 pounds used solely in the transport of air cargo, passengers, or a combination of both.
- **Parts and materials**, excluding shop equipment or fuel, affixed to or to be affixed to an aircraft that is owned or used by a domestic air carrier and is any of the following:
  - An aircraft with a maximum certified takeoff weight of at least 6,000 pounds used solely in the transport of air cargo or a combination of air cargo and passengers.
  - An aircraft that is used solely in the regular scheduled transport of passengers.
  - An aircraft that has a maximum certified takeoff weight of at least 6,000 pounds and that is designed to have a maximum passenger seating configuration of more than 30 seats and is used solely in the transport of passengers.

**Domestic Air Carrier** is defined in both acts as an entity primarily engaged in the commercial transport for hire of cargo and/or passengers as a business activity. Both acts exempt aircraft sold or purchased for subsequent lease to a domestic air carrier operated under a certificate issued by the Federal Aviation Administration under 14 CFR. 121, for use solely in the regularly scheduled transport of passengers.

### ***Aircraft Temporarily Located in Michigan***

- **Aircraft** temporarily located in Michigan for the purpose of a sale and pre-purchase evaluation, customization, improvement, maintenance, or repair are exempt from sales and use tax if:
  - The aircraft leaves Michigan within **15** days after sale and the completion of any pre-purchase evaluation, customization, improvement, maintenance, or repair that is associated with the sale; **and**
  - The aircraft was not based in Michigan or registered in Michigan before or after the sale and the completion of any pre-purchase evaluation, customization, improvement, maintenance, or repair that is associated with the sale.
- **Parts and materials**, excluding shop equipment or fuel, affixed to an aircraft are exempt from sales and use tax if:
  - The aircraft leaves Michigan within **15** days after the issuance of the final billing or authorization 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; **and**
  - The aircraft was not based or registered in Michigan before or after the parts or materials were affixed to it.

References pertaining to this information can be found in the index under [Chapter 3](#)

---

## Chapter 4 – Bad Debts

A bad debt is any portion of a debt resulting from a taxable sale at retail that is eligible or would be eligible to be claimed if the taxpayer maintains accounts on an accrual basis. The debt must be eligible to be claimed as a deduction under the Internal Revenue Code (IRC 166).

Prepaid sales taxes on fuel are eligible for the bad debt deduction, regardless whether the sale or transfer is a sale at retail.

Bad debt deductions **are limited to taxable transactions**; they **do not** include amounts for any of the following:

- Interest or finance charges.
- Sales or use tax collected on the purchase price of property.
- Uncollectible amounts on property that remains in the possession of the seller until the full purchase price is paid, e.g., property placed on layaway.
- Expenses incurred attempting to collect any account receivable or any portion of the debt that is subsequently recovered.
- Debts or accounts receivable sold, assigned or transferred to a third party (except to a third-party lender) for collection.
- Repossessed property, including any unrecovered value for property that is repossessed and resold.

Effective on or after September 30, 2009, a third-party lender may claim the deduction if the following conditions are met:

- The retailer and lender execute and maintain a written election designating which party is entitled to take the deduction.
- No deduction or refund was previously claimed or allowed on any portion of the account receivable.

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.

The written election must explicitly state which party is entitled to the deduction before the bad debt is incurred.



A “lender” includes any person that holds an account receivable purchased directly from the taxpayer that reported the tax (i.e., the retailer) or the issuer of a private label credit card (PLLC).

A PLLC is a credit or charge card branded with the name or logo of a retailer that can only be used for purchases from that retailer. This does not include the issuer of a credit or charge card that can be used to make purchases from a person other than the retailer whose name and logo appears on the card.

### ***Requirements to Claim the Deduction***

The bad debt deduction allows an eligible taxpayer to deduct bad debts from its gross proceeds used to compute its sales and/or use tax liability. The following requirements must be met:

- The amount of gross proceeds claimed as bad debt must be written off the taxpayer’s books and records as uncollectible at the time the debt becomes worthless.
- The debt must be deducted on the return for the period the bad debt is written off as uncollectible in the taxpayer’s books and records.
- The debt must be eligible to be deducted for federal income tax purposes.

If after claiming the deduction the taxpayer receives payment of all of a bad debt, the taxpayer must remit the taxes for which it previously claimed the deduction on its next remittance to the Department. If a partial payment is received, the taxpayer must apply the payment to the taxable price of the property and the tax on the property before applying it to any interest, service or other charge and remit the appropriate tax to the Department on its next remittance.

A taxpayer must retain records of the following:

- The name of the purchaser/debtor.
- The date of the sale creating the bad debt.
- The price of the property and the amount of sales tax charged.
- The amount of interest, finance or service charges incorporated in the debt or an account.
- The dates and amounts of any payments made on a debt or an account.

- The portion of the debt or account representing a charge that was not subject to the tax in the original transaction.

Upon the request of the Department, the above records must be provided to substantiate the deduction.

Additionally, if the bad debt claimed is the result of the sale of a vehicle, the taxpayer requesting the refund or claiming the deduction must provide a RD-108 Application for Title and Registration validated by the Secretary of State for each vehicle for which it claims the deduction. However, if a validated RD-108 is unavailable the taxpayer may provide a cleared check in payment of the tax along with other documentation that demonstrates that the payment was directly related to the vehicle sale upon which it is claiming the bad debt deduction.

References pertaining to this information can be found in the index under [Chapter 4](#)

---

## **Chapter 5 – Broadcasters**

Sales or Use Tax does not apply on tangible personal property sold to or purchased by persons licensed to operate commercial radio or television stations if the tangible personal property is used in the origination or integration of the various sources of program material for commercial radio or television transmission.

The following items are usually not subject to tax if they are used in the origination or integration of various sources of program material for commercial radio or television transmission:

- Tapes, recordings and film.
- Tape editing equipment.
- Film processing, editing and previewing equipment.
- Film cameras and projectors.
- TV cameras and associated equipment.
- Microphones.
- Turntables and playback equipment.
- Broadcast tape recorder systems, compact disks, audio cartridge decks, R-dat.
- Audio tape recorders, edit controllers, mixers.
- Routing/switching equipment.
- Master digital clock.
- Automated logging (traffic/scheduling) system.
- Audio and video cartridge machines.
- Monitoring and switching equipment.
- Computer and weather graphic equipment.
- Studio consoles and production interconnecting amplifiers.

- Teleprompters, teletypewriters, wire service.
- Character generators, animation devices and frame synchronizers.
- Image storage equipment (still store) and associated disc drivers.
- Digital audio and video effect equipment (paint box).
- Optical laser (video) equipment.
- Remote broadcast equipment.
- Audio news gathering equipment.
- Electronic news gathering and electronic film production equipment.
- Processing amplifiers.
- EQ amplifiers.
- Telephone lines/service between remote broadcast and permanent studio.
- Production lighting systems including studio lighting boards and fixtures.
- Production materials - props, script materials, sets.
- Racks and cabinets to house equipment if not real property or an integral part of a vehicle.

The exemption specifically excludes a vehicle licensed and titled for use on public highways. Equipment which is an integral part of a vehicle licensed and titled for use on public highways is excluded from this exemption, even if it is used in the origination or integration of the various sources of program material for commercial radio or television transmission. If the equipment is bought or sold with the vehicle, it is considered an integral part of the vehicle and would not qualify for the exemption. However, equipment purchased separately from the vehicle and later placed in the vehicle does not automatically qualify for the exemption. **Only equipment that is readily removable from the vehicle and used in the origination or integration of the various sources of program material for commercial radio or television transmission may qualify for the exemption.**

References pertaining to this information can be found in the index under [Chapter 5](#)

---

## **Chapter 6 – Churches**

The GSTA and the UTA provide an exemption for churches to purchase items with **church funds for church use**.

Effective March 28, 2013, a church exempt from sales tax as (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, or (b) an organization not operated for profit and exempt from federal income tax under IRC 501(c)(3) or 501(c)(4), may purchase tangible property exempt from sales tax to the extent that it is used 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.

Effective 9/26/2018, the sale of the first \$10,000 of tangible personal property in a calendar year for fund raising purposes by a church with a tax-exempt status and has aggregate sales at retail in the calendar year of less than \$25,000 are exempt. Prior to 9/26/2018, 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.

### ***Taxable Purchases***

A purchase by an individual on behalf of the organization is taxable, even if the church later reimburses the individual. Sales to religious organizations and societies composed of church members are taxable (e.g., men's club, women's guild) unless the exemption discussed above applies. No exemption applies if members or others reimburse the church for participation in a tour or program.

Vehicles purchased by a church and licensed for use on public highways are generally taxable. The exception is the purchase of a passenger van or bus that has a manufacturer's rated seating capacity of 10 or more and is used primarily for transporting people for religious purposes. Repairs, gas and maintenance on all church vehicles are exempt if paid for with church funds.

Sales of property used in a commercial enterprise by a church or a house of worship are taxable.

## ***Sales by Churches***

Effective 9/26/2018, the first \$10,000 of retail sales of tangible personal property made by a church in a calendar year for fund raising purpose are exempt from tax if aggregate sales at retail for the calendar year are less than \$25,000. Churches making retail sales are still required to register for a sales tax license even if their total sales are below the limit. If the total sales at retail are \$25,000 or greater, the tax is due on the entire amount. Sales tax billed separately must be remitted regardless of the amount.

Prior to 9/26/2018, the retail sales exempt from tax were limited to less than \$5,000 in a calendar year. If total sales at retail were \$5,000 or greater, the tax was due on the entire amount. Sales tax billed separately must be remitted regardless of the \$5,000 exemption.

### **Example:**

A church has a weekly fish fry during Lent. They contract with a caterer, who prepares the food. A ticket is purchased at the door to cover the cost of the meal, as well as the cost of the church's overhead (lights, heat, etc.). This is considered a commercial enterprise transaction, and the church is required to register and obtain a sales tax license.

## ***Fundraising Activities***

Food and beverages served at fundraisers are sales of prepared food for immediate consumption and are subject to sales tax. If food is purchased from a caterer or other preparer and sales tax is paid on the purchase, then there is no further tax obligation on the food. The same tax treatment applies to alcoholic beverages if the charge for the beverage is included in the admission fee or donation and there is no further charge.

The tax base is the fair market value of the food sold. Usually the fair market value is the price of admission or a donation to attend the fundraiser or to purchase and prepare the food. If the admission or a donation exceeds the fair market value of the food or drink, fair market value may be determined by any other reasonable method. The sale of alcoholic beverages at a fundraiser is taxable. Sales tax is due on the total amount of the sales of beer, wine, and liquor.

## ***Contractors***

Generally, a contractor that affixes materials to realty is the consumer of materials and is liable for use tax, even when the church purchases the materials and transfers them to the contractor for affixation. Only tangible personal property acquired by a contractor and affixed to or made a structural part of a sanctuary is exempt from sales and use tax. As defined in the statutes, **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”. The religious organization must be qualified under IRC 501(c)(3).

References pertaining to this information can be found in the index under [Chapter 6](#)

---

## ***Chapter 7 – Coins and Bullion***

The sale, purchase, storage, use, or consumption of investment coins and bullion is exempt from sales and use tax.

The acts define **bullion** as 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.

The acts also define **investment coins** as numismatic (collector) coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium (metallic element alloy mixed with gold, silver, etc.), 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.

References pertaining to this information can be found in the index under [Chapter 7](#)



---

## **Chapter 8 – Commercial Advertising**

The sale or purchase of commercial advertising elements is exempt when:

- The element is used to create or develop a print, radio, television, or other advertisement;
- The element is discarded or returned to the provider after the advertising message is completed; **and**
- The element is custom developed by the provider for the purchaser.

**Commercial advertising elements** are specifically defined in the statute as:

- A negative or positive photographic image.
- An audiotape or videotape master.
- A layout.
- A manuscript.
- Writing of copy.
- A design.
- Artwork.
- An illustration.
- Retouching.
- Mechanical or key line instructions.

**Commercial advertising elements do not include** black and white or full color process separation elements, an audiotape reproduction or a videotape reproduction; therefore, these items are taxable.

References pertaining to this information can be found in the index under [Chapter 8](#)

---

## Chapter 9 – Commercial Fishing

To qualify for the exemption, the items purchased must be used only by an owner-operator of the business enterprise in the direct gathering of fish, by net, line, or otherwise, not including a charter fishing business enterprise. Purchases made from out-of-state sellers and lease arrangements where the lessor collects use tax on rental receipts are not exempt.

There are individuals in the business of harvesting bait, etc. for sale to others. These businesses do not qualify for the commercial fishing exemption unless their catch is fish. The exemption is limited to items used in the direct gathering of fish.

Tangible personal property that may be purchased **exempt** from sales tax includes:

- Nets of all types.
- Bottom stakes.
- Hook lines.
- Baits.
- Winches.
- Lines.
- Ropes.
- Commercial fishing boats.
- Oil and fuel.
- Fish and depth finders.
- Buoys.
- Markers.
- Anchors.
- Any safety equipment required by law to be on board.
- Any other property used in the direct gathering of fish.

The raising of fish on fish farms qualifies for the agricultural producing exemption and does not rely on the exemption established for commercial fishermen.

References pertaining to this information can be found in the index under [Chapter 9](#)

---

## Chapter 10 – Communication Service Providers

### **Sales Tax**

The sale of a prepaid telephone calling card or a prepaid authorization number for telephone use rather than resale, including the reauthorization of a prepaid telephone calling card or a prepaid authorization number, is subject to sales tax. However, the sale of “top-up” prepaid telephone minutes does not constitute the taxable sale of “a prepaid telephone calling card or a prepaid authorization (or reauthorization) number for telephone use” for sales tax purposes (*Garfield Mart, Inc v Dep’t of Treasury*). A “top up” transaction occurs when the customer purchases prepaid telephone minutes without obtaining a PIN or other reference number used to access the minutes; use of the customer’s telephone number or a reference number used solely if there is an issue with the purchase do not constitute a prepaid authorization number. *Id.*

### **Use Tax**

The use or consumption of certain **communication services** is subject to use tax in the same manner as tangible personal property.

### **Intrastate (Within Michigan)**

**Taxable** intrastate telecommunications services include:

- Private communications service.
- Ancillary services (that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing, directory assistance, vertical service, and voice mail services).
- Conference bridging service.
- 900 service.
- Pay telephone service other than coin-operated telephone service.
- Paging service.
- Value-added non-voice data service.

**Exempt** intrastate telecommunications services include:

- 800 service.

- Coin-operated telephone service.
- Fixed wireless service.
- Prepaid calling service.
- Telecommunications nonrecurring charges.
- Directory advertising proceeds.

### ***Interstate (Between States)***

Interstate telephone communications are generally taxable. This includes telephone communications that originate **or** terminate in this state if the charge for the service is billed to a Michigan service address or phone number.

**Taxable** interstate telecommunications services **include**:

- Conference bridging service.
- 900 service.
- Pay telephone service other than coin-operated telephone service.
- Value-added non-voice data service.
- Paging service.

**Exempt** interstate telecommunications services **include**:

- Private communications service.
- 800 service.
- Coin-operated telephone service.
- Fixed wireless service.
- Prepaid calling service.
- Telecommunications nonrecurring charges.
- International telecommunications service.

**Note:** In the case of a bundled transaction that includes telecommunications service, ancillary service, internet access, or audio or video programming, the purchase price may be attributable to both taxable and nontaxable products. The Department may tax the purchase price attributable to the nontaxable products unless the provider can identify that portion from its regularly kept books and records. The same rule applies to intrastate telecommunications services or telecommunications services between Michigan and another state and other billed services not subject to use tax if they are aggregated with and not separately stated from charges for taxable telecommunications services.

### ***Exempt Entities***

Sales of communication services to the following **are exempt** from tax:

- United States Government and its entities.
- State of Michigan and its entities.
- American Red Cross.
- Nonprofit schools.
- Nonprofit hospitals.
- Nonprofit homes for the aged or children.
- Nonprofit charitable institutions.

### ***Purchases by Communication Service Providers***

**Machinery and equipment** used in providing taxable communication services are exempt from tax if they are:

- Located on the premises of the subscriber; **or**
- Central office equipment or wireless equipment directly used or consumed in transmitting, receiving, or switching 2-way interactive communication. Central office equipment or wireless equipment does not include distribution equipment including cable or wire facilities.

The qualifying machinery and equipment is only exempt to the extent it is used for an exempt purpose. However, the statute contains an irrefutable presumption that 90% of total use is for exempt purposes.

References pertaining to this information can be found in the index under [Chapter 10](#)

---

## **Chapter 11 – Computer Software**

### **Definitions**

**Computer Software** is a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. This includes operating software, systems software, or application software.

**Cloud Computing** is a generic phrase that is not defined by statute that refers to an array of delivery models over the internet. These models can range from the mere storage of data to the outsourcing of a customer's information technology department. Included in this spectrum is the delivery of software products to customers, whether by electronic download or remote access.

**Custom Software** generally refers to computer software originally designed for the **exclusive** use and special needs of the purchaser. Custom software is not specifically defined in either the GSTA or UTA.

**Digital products** are a product that is accessed or obtained electronically for sales and use tax purposes.

**Prewritten Computer Software (Canned Software)** is computer software that is **delivered by any means** and that is not designed and developed to the specifications of a specific purchaser.

### **Cloud Software Clarified**

There are two major areas to review when determining the taxability of cloud computing products:

The first category consists of products that do not include the delivery of “code that enabled” the vendor's system to operate. The software was entirely accessed remotely. If there is no proof that code was electronically delivered, these products do not satisfy the requirement that prewritten computer software was delivered in any manner.

The second category consists of products where some prewritten computer software was electronically delivered. The electronic delivery of a “local client” or “desktop agent” is sufficient to constitute an “ownership-type right over the product.

If only a portion of a software program is electronically delivered to a customer, the “incidental to service” test will be applied to determine whether the transaction constitutes the rendition of a nontaxable service rather than the sales of tangible personal property. However, if a software program is electronically downloaded in its entirety, it will be taxable (*Auto-Owners Insurance Company v Dep't. of Treasury*).



The following computer software charges are exempt from sales and use tax:

- Charges for custom software.
- Charges for technical support (e.g., phone support), if optional **and** separately stated.
- Charges for modifying prewritten computer software to a purchaser's needs if the modification charges are separately stated and identified.
- Charges for software, which is to be used in an exempt activity (e.g., industrial processing).

**Tax is imposed** on the sale or use of certain prewritten computer software products. There is no specific tax imposition on the sale or use of other types of digital products.

The following digital goods are examples of non-taxable products from sales or use tax regardless of whether they are downloaded, streamed, or accessed through a subscription service:

- E-books.
- Podcasts.
- Movies streamed over the internet.
- Electronic music (such as that purchased through iTunes).
- Telephone ringtones.

Exempt items include (but are not limited to):

- Online services - data processing.
- Feedback/survey.
- On line payment.
- Evaluations from customer.
- Other items where no prewritten software is downloaded.

Taxable items include (but are not limited to):

- Desktop agent or local client – remote access agent to be installed on user's desktop in order for it to be connected with network and its features (but subject to the incident to the service" test.
- Support center – prewritten computer software to be installed on user's desktop to aid the user in fixing problems incurred during on line webinar.
- Other items where ownership of prewritten software was transferred.

### ***Software Maintenance Contracts***

In many cases, sales of prewritten computer software are accompanied by the sale of a software maintenance contract. Software maintenance contracts may include any combination of phone support, software updates, and software upgrades. Usually, these maintenance contracts allow the purchaser to receive upgrades/updates for a stated period. If the purchaser receives an upgrade during the period covered, the maintenance contract would be subject to tax.

- **Single Period Agreements** – Agreement covers one period (typically a year) with payment being made at the beginning of the period or at stated intervals throughout the period covered. If an update or upgrade is received during this single period, the contract would be subject to tax.
- **Multiple Period Agreements** – Agreement to cover multiple periods (typically multiple years) that is paid in full at the beginning of the contract or at stated intervals throughout the period covered (e.g., annually). These agreements are not renewed each period. If an update or upgrade is received during any of the periods covered, the entire contract would be subject to tax.
- **Renewable Agreements** – Agreement covers a stated number of periods (typically a number of years) but must be renewed each period. Each period is considered a separate transaction and tax would apply if an update or upgrade is received during that specific period.

If software updates or software upgrades were received, and the maintenance contract separately states taxable items (upgrades/updates) and non-taxable items (phone support), tax would be applied to the taxable items of the maintenance contract. If the maintenance contract is one lump sum amount, then the entire amount would be subject to tax.

If the purchaser does not receive an upgrade/update during the period of time covered, the maintenance contract would be exempt from tax.

If the sale of potential upgrades/updates constitute a mandatory maintenance contract (i.e., a contract necessary to complete the sale of the prewritten computer software) then it is taxable regardless whether upgrades or updates are delivered.

### ***Sales Tax***

License to use prewritten computer software is subject to sales tax if a copy of the software code or program is provided to the buyer along with the license.

### ***Use Tax***

License to use prewritten computer software is subject to use tax.

### ***License/Subscription, Right to Access/Use Prewritten Computer Software***

The right to access/use prewritten computer software (cloud computing) will generally not be subject to sales tax if the consumer does not receive either a copy of the software program or any part of the program's computer code.

Reciprocity and credit for tax due and paid to another state may be applicable.

### ***Sourcing***

If a transaction includes not only a license agreement but also a copy of the software itself and the software is received by the purchaser at a business location of the seller, the sale is sourced to that business location. If the software is not received by the purchaser at the 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, as indicated by instructions for delivery.

Where access to and use of prewritten computer software is purchased by a Michigan taxpayer, where no copy of the software is provided to the purchaser, and the software is placed or remains on the seller's (or a third party's) server in Michigan or in another state, the transaction would be sourced according to the hierarchy outlined in MCL 205.110(1)(c) and 205.110(1)(d), as follows:

- (1)(c):** to the location indicated by an address for the purchaser available from the seller's business records maintained in the ordinary course of business, provided use of the address does not constitute bad faith, or;
- (1)(d):** if (1)(c) above does not apply, 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.

### ***Mixed Transactions***

A Single Mixed Transaction (one transaction) requires application of the incidental test, which is based on *Catalina's incidental to service* test.

A Multiple Mixed Transaction involves more than one transaction and each transaction is evaluated separately.

#### **Example 1:**

Company A purchases prewritten computer software from Company B. At the time of purchase, Company A purchases optional phone support, which is separately itemized and negotiated. In this example, there are two separate transactions: the purchase of the prewritten computer software, which is taxable, and the purchase of optional and separately itemized/negotiated phone support, which is exempt.

#### **Example 2:**

Company A purchases prewritten computer software from Company B. At the time of purchase, Company A negotiates with Company B to modify a portion of the software to their specific needs. The modifications are optional, separately negotiated, and separately itemized on the purchase contract/sales invoice. The purchase of the prewritten computer software is taxable, while the charges to modify the software to the specific needs of Company A are exempt (custom software).

References pertaining to this information can be found in the index under [Chapter 11](#)

---

## ***Chapter 12 – Contact Lenses, Dental Prosthesis, Prosthetic Devices, Durable Medical Equipment, and Mobility Enhancing Equipment***

The following items are exempt from tax:

- Dental prosthesis.
- A prosthetic device.
- Durable medical equipment.
- Mobility enhancing equipment.

Repair and replacement parts for the above items are also exempt.

### ***Dental Prosthesis***

**Dental prosthesis** means a bridge, crown, denture or other similar artificial device used to repair or replace intraoral defects such as missing teeth, missing parts of teeth, and missing soft or hard structures of the jaw or palate. Dental prosthesis do not need to be dispensed pursuant to a prescription to be exempt.

This is in effect for all transactions occurring on or after July 1, 2017.

### ***Prosthetic Device***

**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 one or more of the following:

- Artificially replace a missing portion of the body.
- Prevent or correct a physical deformity or malfunction of the body.
- Support a weak or deformed portion of the body.

### ***Durable Medical Equipment***

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

- Can withstand repeated use.

- Is primarily and customarily used to serve a medical purpose.
- Is not useful generally to a person in the absence of illness or injury.
- Is not worn in or on the body.

Durable medical equipment repairs or replacement parts are defined by statute to include the components or attachments used in conjunction with durable medical equipment. Therefore, single patient use items such as diabetic test strips and lancets are included in this exemption.

### ***Mobility Enhancing Equipment***

**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 the following:

- Primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use at home or on a motor vehicle.
- Not generally used by a person with normal mobility.

**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, the definition of 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.

Exempt prescription sales **must** be supported by **all** the following:

- Record showing the date the prescription was issued.
- Name of the person issuing the prescription.
- Name of the individual for whose consumption prescription was issued.
- Brief description of the property sold.
- Amount charged to the customer.

The original prescription should be attached to the seller's copy of the sales invoice as proof of its authenticity and exemption.

**Examples of items that may qualify as exempt if sold pursuant to a prescription or order:**

- Artificial eyes, limbs.
- Braces.
- Canes.
- Corrective shoes.
- Crutches.
- Eyeglasses.
- Hearing aids and hearing aid batteries.
- Hydraulic lift (patient lift for vehicles and homes).
- Hypodermic syringes and needles.
- Oxygen equipment.
- Pacemakers.
- Specially built hospital beds.
- Trusses.
- Walkers.
- Wheelchairs.

The sales of **nonprescription** apparatus, devices or equipment and their repair and replacement parts are **taxable**. All **contact lenses** are taxable.

***Human Organs***

Human Organs are defined to include all or any portion of the “human kidney, liver, heart, lung, pancreas, intestine, bone marrow, cornea, eye, bone, skin, cartilage, dura mater, ligaments, tendons, fascia pituitary gland, and middle ear structures.” MCL 333.10204

Where a human organ is transferred, the Public Health Code only allows consideration to be exchanged for various services such as “removal, transportation, implementation, processing, preservation, quality control, and storage.” MCL 333.10204. In effect, Michigan law characterizes a legal transfer of a human organ as a pure service transaction. Therefore, there is no sales or use tax due on such transfers.

The definition of “human organ” excludes “whole blood, blood plasma, blood products, blood derivatives, other self-replicating body fluids, or human hair.” MCL 333.10204(5) (b). Other regulations within the Public Health Code only apply to tissues that are intended for use in human tissue transplantation, injection, or transfusion into a human body and do not apply to human tissue specimens used solely for medical research and training purposes. MCL 333.9121(2); MCL 333.10116. Related federal provisions similarly only restrict tissue transfers that are intended for human transplantation.

In this regard, there are no apparent transfer restrictions regarding non-transplantable tissues used for research and training where those tissues are not “human organs.” Because such tissues constitute tangible personal property under the plain language of the statute, the transfer of these tissues is subject to Michigan sales and use tax. (MCL 205.51a (q); MCL 205.92(k)). The tax is measured upon the total amount of consideration for the property as determined by reference to the list price on the customer invoice.

### ***Medicare and Medicaid Purchases***

**Medicare** is a medical insurance program covering certain health services and drugs obtained by the insured with the cost of the program being shared between the federal government and the individual. The supplier sells tangible property or services directly to the person insured. Sales, other than prescription items, made to persons covered by Medicare are subject to tax.

**Medicaid** is a medical assistance program administered by the State of Michigan for the medically indigent. Sales of tangible property or services can be made **directly to** the appropriate state agency or there may be a contract arrangement with a fiscal agent. Payment made directly from state funds for Medicaid sales are exempt.

References pertaining to this information can be found in the index under [Chapter 12](#)



---

## **Chapter 13 – Conversion**

The UTA defines **convert** to mean putting a service or tangible personal property acquired for a use exempt from the tax levied under this Act at the time of acquisition to a use not exempt from the tax levied under this Act, whether the use is in whole or in part, or permanent or not permanent. A motor vehicle purchased for resale by a new vehicle dealer licensed under section 248(8)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.248, and not titled in the name of the dealer shall not be considered to be converted prior to sale or lease by that dealer.

In addition, the definition of **purchase** per the UTA includes converting tangible personal property acquired for a use exempt from the tax levied under the act to a use not exempt from the tax levied under the act. The UTA also states as part of the definition of **use** that converting tangible personal property acquired for a use exempt from the tax levied under the act to a use not exempt from the tax levied under the act is a taxable use.

### ***Application for All Taxpayer and Business Types***

The following items should be considered in relation to the definition of **convert**:

- Except for certain motor vehicles (discussed below), all tangible personal property and all services can be converted from an exempt use to a taxable use.
- Conversion under the statute is a one-way scenario and will only result in a tax. No credits or refunds are available when tangible personal property or services are converted from a taxable use to an exempt use.
- Except for new vehicle dealers (discussed below), the Act does not specify a different tax base upon which use tax is calculated when property or services are converted; therefore, the tax base is the original purchase price.

### ***Application to Automobile Dealers***

See the “Vehicles” section of this text.

References pertaining to this information can be found in the index under [Chapter 13](#)

---

## Chapter 14 – Data Center Exemption

Effective January 1, 2016 through December 31, 2035, both the GSTA and UTA exempt the sale, use, and consumption of data center equipment if it is sold to a “qualified data center” or colocated business for assembly, use or consumption in the operations of a qualified data center. The exemption also extends to data center equipment sold to a contractor to the extent that the equipment is affixed to or made a structural part of a qualified data center.

The data center equipment must be physically placed in a qualified data center. Qualified data centers are limited to facilities of one or more buildings located in Michigan that are owned or operated by an entity whose primary business is operating a data center for itself and colocated business. The entity must also receive 75% or more of its revenue from unaffiliated colocated businesses.

A **Qualified Data Center** must meet the following criteria:

- A facility composed of one or more buildings located in Michigan;
- 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 one or more colocated businesses to centralize, the storage, processing, management, or dissemination of data of one 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**
- The entity must also receive 75% or more of its revenue from colocated businesses that are not an “affiliate” of the owner or operator of the qualified data center.

An **Affiliate** is a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a specified person.

A **Colocated Business** is 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 one or more years.

**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.

References pertaining to this information can be found in the index under [Chapter 14](#)

---

## Chapter 15 – Delivery Charges

**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 transportation, shipping, postage, handling, crating, and packing. Delivery charges do not include charges for delivery of direct mail from delivery charges if the direct mail charges are separately stated on an invoice or similar billing document given to the purchaser.

Delivery charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser, are included in the definition of **sales price** under the GSTA and **purchase price** under the UTA. It is immaterial whether such transportation charges are billed separately or whether they are paid by the seller or the purchaser. Delivery charges incurred after the completion of transfer of ownership are not subject to sales or use tax.

### **Ownership**

Ownership can be determined by (this list is not all inclusive):

Whether ownership of the property is transferred before or after the delivery charges are incurred determines if those charges are subject to tax. All facts and circumstances should be considered to determine if delivery charges are taxable, including, but not limited to:

- Whether the customer has the option to either pick up the property or have the property delivered.
- Whether the delivery or installation charge is separately negotiated and contracted for on a competitive basis.
- Whether the property and delivery or installation charges are separately invoiced.
- Whether the taxpayer's books and records separately identify the transactions used to determine the tax on the sale at retail.
- Whether delivery or installation service records indicate a net profit (i.e., the delivery or installation service is a commercial endeavor separate from the retail business).
- The time at which risk of loss transfers from seller to buyer.
- The time at which title to the property passes from seller to buyer.
- Any other information that is relevant in determining when ownership transfers.

None of the above facts, standing alone, conclusively determine the taxability of delivery charges; the Department must look at the entire transaction when making its determination.

**Examples:**

FOB Origin:

- Buyer assumes title and control of the goods when carrier signs bill of lading.
- Buyer assumes risk of transportation and is entitled to route the shipment.
- Buyer can file claimss for loss of damage.

FOB Destination:

- Seller maintains title and control of the goods until delivered and contract completed.
- Seller selects carrier and is responsible for risk of transportation.
- Seller can file claims for loss or damage.

Shipping details cannot be relied upon as the determining factor in all situations.

***Seller Engaged in A Separate Delivery Business***

**Note: Emphasis is placed on when delivery charges are incurred, not necessarily when the actual delivery occurs.**

**Examples:**

FOB Origin:

- Buyer assumes title and control of the goods when carrier signs bill of lading.
- Buyer assumes risk of transportation and is entitled to route the shipment.
- Buyer can file claims for loss or damage.

FOB Destination:

- Seller maintains title and control of the goods until delivered and contract completed.

- Seller selects carrier and is responsible for risk of transportation.
- Seller can file claims for loss or damage.

Shipping details cannot be relied upon as the determining factor in all situations.

### ***Seller Engaged in a Separate Delivery Business***

Delivery charges for a seller delivering its own product are exempt from tax if:

- The charges are incurred or to be incurred after the transfer of ownership from the seller to the purchaser; **and**
- The seller is simultaneously engaged in a separate delivery service business.

A seller, simultaneously engaged in a separate delivery service business, can substantiate delivery charges are exempt from tax when all four of the following requirements are met:

- The customer has the option to either pick up or have the merchandise delivered (thus, the delivery service is not always necessary to complete the transfer of tangible personal property or the performance of the transaction);
- The delivery service charge is separately negotiated and contracted for on a competitive basis and is not a cost in calculating the merchandise price, as the customer pays a separate price (thus, the delivery charge is not incidental to the purchase price - demonstrating a separate service transaction);
- The taxpayer's books and records separately identify the transactions used to determine the tax on the sale at retail; **and**
- Delivery service records show a net profit (thus, the delivery service has evidence of a separate competitive, commercial endeavor).

### ***Seller Not Engaged in a Separate Delivery Business***

Delivery charges on merchandise delivered by a seller who is not engaged in a separate delivery service business are taxable if the charges are incurred prior to the transfer of ownership. Delivery charges are not taxable if incurred after the transfer of ownership.

### ***Exempt Property***

A seller is not liable under the Act for delivery charges allocated to the delivery of exempt property.

If a shipment is comprised of both taxable and exempt property, the seller should allocate the delivery charge based on:

- A fraction equal to the total sales price of the taxable property divided by the total sales price of all property in the shipment; **or**
- A fraction equal to the total weight of the taxable property divided by the total weight of all property in the shipment.

### **Example:**

- Seller makes sales of exempt tangible personal property to an industrial processor – 30% of total sales.
- Seller maintains title and control of the goods until delivered and contract is completed.
- Delivery weight of exempt property is 40% of total weight; 60% of total weight applies to taxable property.

It is the seller's discretion to determine allocation of taxable delivery charges. Seller may choose to remit sales tax based on the total sales price of the taxable property divided by the total sales of all property in the shipment (70% of delivery charge); or it may allocate based on the total weight of taxable property divided by the weight of all property in the shipment (60% of delivery charge).

References pertaining to this information can be found in the index under [Chapter 15](#)

---

## Chapter 16 – Demonstration

Property purchased for demonstration purposes is exempt. For information on demonstration vehicles, see the “Vehicles” section of this text.

Demonstration is the display or operation of a product to induce actual retail sales by enticing actual customers to buy the product.

**All** the following guidelines must be met to qualify for demonstration purposes:

- The product was purchased.
- The product is being used for bona fide demonstration purposes.
- The sole use of the product is for demonstration.
- The item is not a sample. Title and possession is transferred when samples are given away.
- The taxpayer is in the business of selling the type of property demonstrated.
- Title is retained by the company using the product for demonstration.

Demonstration activities may include:

- Product display.
- Salesperson using the product to show the use or features of the product.
- Customer using the product to see how the product operates.

Activities that do not constitute demonstration include:

- Advertising of the product.
- Company personnel using the product for their own personal use.
- Company personnel using the product for testing, quality control, or marketing purposes.

If **all** the above guidelines are not met, refer to *Chapter 13 - Inventory Withdrawals/Consumed Goods* of the *Industrial Processing Manual* for further guidance. If a company retains title to the property and the above criteria are met, the item can qualify as demonstration property even if independent representatives make the demonstration.



Any shelving, equipment, software, electricity, etc. used in displaying or demonstrating the demonstration property is taxable, since those items are not sold in the ordinary course of business.

Any subsequent sale of the item used for demonstration is subject to sales tax on the retail selling price. If the items used for demonstration are eventually given away, tax is due on purchase price unless an exemption applies (e.g., a qualified exempt entity).

### ***Exempt Examples***

#### **Example 1:**

A furniture retailer withdraws furniture from purchased inventory. The furniture is used in company showrooms in Michigan and throughout the country. The furniture is used for display purposes only and **not** used for the retailer's own general use at any time. The furniture is not sellable and is destroyed.

#### **Example 2:**

A chain saw retailer has its own salespersons demonstrate chain saws to prospective customers. The chain saws are not used for any other purpose.

### ***Taxable Examples***

#### **Example 1:**

A retailer of computers uses inventory items for display and **after-market** training purposes.

#### **Example 2:**

A retailer of snowmobiles uses the same snowmobile for display and racing purposes.

#### **Example 3:**

A furniture manufacturer withdraws furniture from finished goods inventory. The furniture is used in company showrooms in Michigan and throughout the country. The furniture is used for display purposes only and **not** used for the manufacturer's own general use at any time. The furniture is not exempt for demonstration purposes because it was not purchased.

References pertaining to this information can be found in the index under [Chapter 16](#)

---

## **Chapter 17 – Direct Mail**

**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.

**Advertising and promotional direct mail** means direct mail where the primary purpose is to attract public attention to a product, service, person, business, or organization, or to attempt to sell, popularize or secure financial support for a product, service, person, business or organization.

**Other direct mail** means any direct mail that is not advertising and promotional direct mail regardless of whether advertising and promotion direct mail is included in the same mailing.

Other direct mail includes such items as:

- Transactional direct mail that contains personal information specific to the addressee such as invoices.
- Statements of account and payroll advices.
- Any legally required mailing such as privacy notices.
- Tax reports.
- Stockholder reports.
- Any other non-promotional direct mail delivered to existing or former shareholders, customers, employees, or agents such as newsletter and informational pieces.

The statutes also explain the sourcing of a sale of direct mail. 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.

The following are methods to collect and remit tax for direct mail and sourcing of sales.

- If a **direct payment authorization or an exemption form** is provided to the seller, the purchaser is obligated to remit the tax. The exemption form remains in effect for all subsequent sales of advertising and promotional direct mail by the seller to the purchaser until revoked in writing.

### ***Sourcing Sales***

The **purchaser** shall source the sale to the taxing jurisdictions (states and others who tax where direct mail is distributed) to which the advertising and promotional direct mail is to be delivered to the recipients and pay applicable tax due.

- If the purchaser provides information to the seller indicating the taxing jurisdictions (states and others who tax where direct mail is distributed) of the recipients of advertising and promotional direct mail, the seller is obligated to collect and remit the tax according to that delivery information.

The **seller** shall source the sale to the taxing jurisdiction to which the advertising and promotional direct mail is to be delivered to the recipients and pay applicable tax due.

- If the purchaser provides the seller with a direct payment authorization or an exemption form, the purchaser is obligated to remit the tax on any transactions involving other direct mail.

The **purchaser** shall source the sale to the taxing jurisdiction to which the other direct mail is delivered to the recipients and pay applicable tax due.

- If none of the above applies, the seller collects tax from the purchaser and the seller remits tax to this state.

The **seller** shall source the sale to the location indicated by the address from which the tangible personal property was shipped.

References pertaining to this information can be found in the index under [Chapter 17](#)

---

## Chapter 18 – Drop Shipments

A **drop shipment** (or third-party sale) is a transaction where an out-of-state retailer accepts an order from a Michigan consumer. The out-of-state retailer then places this order with a third party. The out-of-state retailer directs the Michigan wholesaler to ship the property directly to the Michigan consumer.

To be a drop shipment, all the following **must be true**:

- Wholesaler or manufacturer is located in Michigan.
- The retailer must be located outside Michigan.
- The consumer must be located in Michigan.

**Michigan wholesalers** are **not liable** for Michigan sales tax on drop shipments **if** they submit a list to the Michigan Department of Treasury on an annual basis of all Michigan drop shipments. The list should include **all** the following for both the Michigan purchaser and the out-of-state retailer:

- Name.
- Address.
- Federal ID Number (if available).

The Michigan purchaser **is liable for use tax** on the **purchase price** of tangible personal property, **unless** the tangible personal property was previously taxed or is exempted by the UTA.

References pertaining to this information can be found in the index under [Chapter 18](#)

---

## **Chapter 19 – Exemptions and Requirements**

### ***Claim for Exemption from Tax***

A claim for exemption from sales or use tax is **a purchaser's statement to the seller stating that there is a reason for which tax should not be charged on the sale of tangible personal property or taxable services.** This claim can be achieved by the purchaser providing a document that tells the seller that the item(s) being purchased is (are) exempt from sales or use tax.

The seller shall obtain from the buyer identifying information and the reason for claiming the exemption. A seller who receives and maintains a record of a properly completed Certificate of Exemption (or the required data elements) is not liable for sales or use tax on the transaction, even if the purchaser improperly claims an exemption. If the purchaser's exemption claim is deemed to have been improperly made, the purchaser will be liable for the tax. This does not apply if the seller fraudulently fails to collect the tax (fraud on the part of the seller), solicits a purchaser to make an improper claim for exemption, or accepts an exemption form for an entity-based exemption under the circumstances outlined in MCL 205.62(5)(a) & (b). An exemption claim must be made by the customer for each exempt purchase unless a blanket exemption form is completed.

A paper exemption form must contain the signature of an authorized purchaser. Additionally, a seller who obtains a fully completed exemption form or captures the relevant data within **120** days after the sale is not liable for the tax. If the seller has not obtained an exemption form or the relevant data, it may later prove that the transaction was not subject to tax by other means or by obtaining a fully completed exemption form from the purchaser according to the time limits prescribed in RAB 2016-14.

### ***Various Statutory Exemptions***

The more common exemptions allowed by the GSTA and UTA are:

- Sales for resale.
- Sales for agricultural production.
- Sales for industrial processing.
- Sales to governmental entities.
- Sales not for resale to nonprofit schools, nonprofit hospitals, and churches.
- Sales not for resale to other nonprofit organizations.

- Sales for commercial fishing.
- Sales of materials consumed in construction contracts and affixed to and made a structural part of the real estate of a nonprofit hospital or nonprofit housing.
- Sales of materials consumed in construction contracts and affixed to or made a structural part of a church sanctuary.

### ***Documentation Needed to Support an Exemption***

If exemption is claimed, a record shall be kept of:

- The name and address of the person to whom the sale is made.
- The date of the sale.
- The article purchased.
- The reason for claiming the exemption.
- The amount of the sale.
- The sales tax license number, if a resale/lease exemption is claimed.

### ***Acceptable Exemption Claims***

- The prescribed claim Form 3372, *Michigan Sales and Use Tax Certificate of Exemption*.
- Any exemption certificate found in a Sales and Use Tax Administrative Rule.
- The Uniform Sales & Use Tax Certificate – Multi-jurisdiction, approved by the Multistate Tax Commission.
- A purchase order issued by the purchaser should include such information as the purchaser's name and address, exemption type (or reason for the exemption) claimed and any information or documentation required for that exemption. For example, if the purchaser is claiming the resale/lease exemption, the seller must also obtain the purchaser's sales tax license number/use tax registration number.
- The Streamlined Sales and Use Tax Agreement Certificate of Exemption.
- The same information in another format, from the purchaser, such as in a signed letter on the purchaser's letterhead.

No signature is required from the purchaser, unless the purchaser uses a paper Certificate of Exemption.

### ***Blanket Purchase Exemption Form***

- Renewed every 4 years unless there is a recurring business relationship between the seller and the purchaser (no more than 12 months between sales).
- Lesser period if agreed upon by the seller and the purchaser.
- Will be superseded by conflicting purchase order for that particular purchase only.
- Purchase orders intending to serve as a Blanket Certificate of Exemption for multiple purchases must expressly state that intention on the purchase order.

### ***Tax Exemption Numbers***

The Michigan Department of Treasury does not issue tax exemption numbers. Sellers do not need to obtain state-issued tax exemption number as evidence of a purchaser's ability to claim an exemption from sales and use taxes. A sales tax license or use tax registration number may **support** a tax exemption claim based on resale or for lease.

References pertaining to this information can be found in the index under [Chapter 19](#)

---

## Chapter 20 – Extractive Operations

The State of Michigan allows an exemption from sales and use tax for extractive operators. This extractive operations exemption is allowed for tangible personal property used or consumed in the activity. The GSTA and UTA define extractive operations as the activity of taking or extracting for resale ore, oil, gas, coal, timber, stone, gravel, clay, minerals, or other natural resource material. An **extractive operator** is a person who, either directly or by contract, performs extractive operations. The natural resource material may be taken from the extractive operator's own land or from the land of another, but it must be extracted for resale.

Extractive operations begin when contact is made with the actual type of natural raw product being recovered. No exemption is available until such contact is made. Thus, activities such as drilling, prospecting, and exploration, as well as equipment, materials, and supplies used in these activities, are taxable.

Exempt activity includes:

- All necessary processing operations before shipment from the place of extraction.
- 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.

Generally, tangible personal property consumed or used in transporting the product from the place of extraction is taxable. However, the statute provides that 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.

Vehicles, including special bodies or attachments, that are required to display a vehicle permit or license plate to operate on public highways are specifically taxable. These vehicles are not eligible for any exemption based upon use in extractive operations.

Additionally, tangible personal property used or consumed in the construction, alteration, improvement or repair of buildings, storage tanks, storage and housing facilities is taxable. As in industrial processing, storage of extracted natural resources is a taxable activity and equipment, materials, and supplies used in storing, withdrawing, or distributing the resources are taxable.



*Exemption for property used as or at mineral-producing property:* Effective December 20, 2012, a person subject to sales tax may exclude from the gross proceeds used for the computation of sales tax the sale of tangible personal property to a taxpayer for use as or at mineral-producing property. Also, effective December 20, 2012, use tax does not apply to the storage, use, or consumption of tangible personal property sold to a taxpayer for use as or at mineral-producing property.

For both sales and use tax exemptions, the terms **taxpayer** and **mineral-producing property** means those terms as defined in MCL 211.782 of the mineral severance tax.

If tangible personal property is being used for both extractive operations and for a taxable activity, the exemption is only available to the extent of the exempt usage. The percentage of exempt use must be determined by a reasonable formula or method approved by the Department.

When selling the extracted natural resources to a wholesaler or manufacturer for the purpose of resale and a resale exemption from sales tax is claimed, the extractive operator is not required to pay tax. However, should the extractive operator make a sale to the ultimate consumer, sales tax must be remitted on the gross proceeds. Similarly, if the extractive operator self-consumes any of its own product, use tax on the fair market value of the product must be remitted.

The following charts list examples of common equipment and activities involved in extractive operations and the likely taxability of each. As noted in the charts, these categorizations are subject to change, as facts and circumstances differ from one taxpayer to another.

#### ***Taxability Chart – Types of Logging Equipment***

<b>No.</b>	<b>Description</b>	<b>Most Likely Categorization (Dependent on Facts &amp; Circumstances)</b>
<b>1</b>	<b>Axes</b> - Used to cut trees down	Exempt
<b>2</b>	<b>Bulldozer</b> - Used to build roads	Taxable
<b>3</b>	<b>Bunching Shears</b> - Cuts wood	Exempt
<b>4</b>	<b>Chain Saw</b> - Cuts wood	Exempt

No.	Description	Most Likely Categorization (Dependent on Facts & Circumstances)
5	<b>Chipper</b> - Used to chip wood branches after tree has been cut down	Exempt
6	<b>Chip Truck</b> - Used to haul the chipped wood	Taxable
7	<b>De-limber</b> - Cuts the limbs off the log of wood	Exempt
8	<b>Dump Trucks</b> - Used to move equipment, haul products, & build roads.	Taxable [unless used to transport to temporary storage – see #13 below]
9	<b>Forwarder</b> - Used for logging & skidding pulpwood. Also used for cutting after the trees are laid on the ground.	Exempt
10	<b>Grapple Hooks</b> - Grabs several logs to bring them out of the woods.	Exempt
11	<b>Grapple Skidder</b> - Brings the whole tree out of the woods after it has been cut & laid on the ground.	Exempt
12	<b>Harvester</b> - Used for logging & skidding pulpwood. Also used for cutting after the trees are laid on the ground.	Exempt
13	<b>Loader</b> - Used to transport timber from the point of extraction to a place of temporary storage at the extraction site and/or 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	Exempt
14	<b>Skyline/Skycar</b> - Brings the trees out of the woods	Exempt
15	<b>Vehicles licensed for highway use</b>	Taxable

### ***Taxability Chart – Types of Oil & Gas Extraction Equipment***

<b>No.</b>	<b>Description</b>	<b>Most Likely Categorization (Dependent on Facts &amp; Circumstances)</b>
<b>1</b>	<b>Blow out preventers (BOP's)</b> - To control blowouts and casing pressure either in the annular space between the casing and drill pipe or in an open hole.	Taxable
<b>2</b>	<b>Brine and salt tanks</b> - Used for storage and disposal of waste	Exempt
<b>4</b>	<b>Buildings – Flooring</b> - If thicker for equipment to sit on.	Exempt
<b>5</b>	<b>Casing pipe and drive pipe</b> - If used in production and 8" (8 5/8" O.D.) or under	Exempt
<b>6</b>	<b>Casing pipe and drive pipe</b> - If over 8" (8 5/8" O.D.)	Taxable
<b>7</b>	<b>Casing cement</b> - Used to bond casing to the walls of the well bore.	Taxable
<b>8</b>	<b>Casing (pipes, heads, hangers, spools)</b> - Left in dry hole.	Taxable
<b>9</b>	<b>Casing heads, hangers, and spools</b> - If both ends are 8" or under	Exempt
<b>10</b>	<b>Casing heads, hangers, and spools</b> - If both ends are over 8"	Taxable
<b>12</b>	<b>Chemicals or acids</b> - Used in the treatment of crude oil, gas, brine, or other natural resources.	Exempt

No.	Description	Most Likely Categorization (Dependent on Facts & Circumstances)
13	<b>Christmas trees, derricks, or other wellhead equipment</b> - Control valves, pressure gauges, and chokes assembled at the top of the well to control the flow of oil and gas after the well has been drilled and completed.	Exempt
14	<b>Comminglers</b> - Sometimes called production packs.	Exempt
15	<b>Compressor</b> - Depends on use. Taxable if used to boost pressure for transmission in pipe lines. Exempt if used for the purpose of removing moisture from the product. Normally taxed as a percentage.	Taxable/Exempt
16	<b>Equipment, materials, and supplies</b> - Used in exploring, prospecting, or drilling for oil, gas, brine, or other natural resources.	Taxable
17	<b>Equipment, materials, and supplies</b> - Used in the storage, withdrawing, or distribution of oil, gas, or brine from a storage facility.	Taxable
18	<b>Explosives or acids</b> - Used in fracturing, acidizing, or shooting wells.	Exempt
19	<b>Fishing tools</b> - Used to recover equipment lost in well.	Taxable
20	<b>Flow lines</b> - Used for the movement of the oil and gas from one processing function to another.	Exempt
21	<b>Gas well unit equipment</b> - Heater treater, dehydrator, and separator.	Exempt
22	<b>Indirect heaters (Gas)</b> - Keeps gas from freezing. Can be near well head prior to separator. Depends on how and where used.	Exempt/Taxable

No.	Description	Most Likely Categorization (Dependent on Facts & Circumstances)
23	<b>Insulated tanks</b> - Used to recover natural gas from crude oil after the <b>heater treater</b> process.	Exempt
24	<b>L.A.C.T. (Lease Automatic Custody Transfer) units</b> - Automated system for measuring and transferring oil from a lease-gathering system into a pipeline.	Exempt
25	<b>Meters</b> - Used in production.	Exempt
26	<b>Meters</b> - Used to measure for payments to producers, royalty payments, and severance tax.	Taxable
27	<b>Mud (Magcobar, Magcogell, Lagel, and Mud Seal)</b> - Used to hold and seal casing to hold back subsurface pressure. Brings cuttings to surface, cools and lubricates the bit and drilling stem.	Taxable
28	<b>Packer</b> - Seals the hole. Used to block the flow of fluids through the annular space between the tubing and the wall of the wellbore by sealing of the space between them. Depends on how and where used.	Exempt/Taxable
29	<b>Piping, valves or pumps</b> - Used before movement or transportation of the natural resources from the production area.	Exempt
30	<b>Piping, valves or pumps</b> - Used after movement or transportation of the natural resources from the production area.	Taxable
31	<b>Safety equipment</b> - Alarms, fans, gas masks at sour gas plants.	Exempt
32	<b>Servicers</b>	Taxable

No.	Description	Most Likely Categorization (Dependent on Facts & Circumstances)
33	<b>Signs</b>	Taxable
34	<b>Storage tanks</b> - Storage of oil produced.	Taxable
35	<b>Tangible personal property</b> - Consumed or used in the construction, alteration, improvement, or repair of buildings, storage tanks, and storage and housing facilities.	Taxable
36	<b>Tangible personal property</b> - 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.	Taxable
37	<b>Tangible personal property</b> - Produced and 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 the state based upon the product's fair market value.	Taxable
38	<b>Tanks</b> - on lease site on Central Production Facility (CPF) – Used to separate gas and oil.	Exempt
39	<b>Thread protectors</b> - Screws onto or into pipe threads to protect threads from damage when the pipe is not in use.	Taxable
40	<b>Tools</b> - on licensed vehicles	Taxable
41	<b>Treatment tanks</b>	Exempt
42	<b>Vehicles</b> - licensed to operate on public highways.	Taxable

<b>No.</b>	<b>Description</b>	<b>Most Likely Categorization (Dependent on Facts &amp; Circumstances)</b>
<b>43</b>	<b>Weather protection</b> - For exempt equipment and gauges. Does not include buildings.	Exempt
<b>44</b>	<b>Well pump equipment</b>	Exempt

***Taxability Chart – Types of Sand & Gravel Extraction Equipment & Activities***

<b>No.</b>	<b>Description</b>	<b>Most Likely Categorization (Dependent on Facts &amp; Circumstances)</b>
<b>1</b>	<b>Bulldozer</b> - Used to build roads	Taxable
<b>2</b>	<b>Compressors</b> - to pump water out of pit	Exempt
<b>3</b>	<b>Conveyors</b>	Exempt
<b>4</b>	<b>Crushing Equipment</b>	Exempt
<b>5</b>	<b>Feeders</b>	Exempt
<b>6</b>	<b>Hoppers</b>	Exempt
<b>7</b>	<b>Removal of topsoil/trees before contact with gravel</b>	Taxable
<b>8</b>	<b>Road Grading</b>	Taxable
<b>9</b>	<b>Screening</b>	Exempt

<b>No.</b>	<b>Description</b>	<b>Most Likely Categorization (Dependent on Facts &amp; Circumstances)</b>
<b>10</b>	<b>Separators</b>	Exempt
<b>11</b>	<b>Snow Removal</b>	Taxable
<b>12</b>	<b>Sorters</b>	Exempt
<b>13</b>	<b>Tangible personal property</b> – Consumed or used in extracting the lithologic units necessary to process iron ore or used or consumed in depositing tailings from hard rock mining processing.	Exempt
<b>14</b>	<b>Trucks or Vehicles</b> – not used to move gravel out of pit	Taxable
<b>15</b>	<b>Trucks or Vehicles</b> - used to move gravel out of pit, not licensed for use on public highways	Exempt
<b>16</b>	<b>Washing Equipment</b>	Exempt

References pertaining to this information can be found in the index under [Chapter 20](#)



---

## **Chapter 21 – Federal Preemption**

The GSTA and UTA grant exemption to the following:

- Sales to the United States Government.
- Sales to its unincorporated agencies and instrumentalities.
- Sales to any incorporated agency or instrumentality which is **wholly** owned by the United States.
- Sales to the American Red Cross and its chapters and branches.

### ***Purchases by Federal Government Agencies***

Sales to and purchases by the United States Government are not taxable if such sales are ordered on the prescribed government forms with payment made directly to the seller by warrants on government funds.

Credit cards used by federal employees to pay for products or services are referred to as SmartPay cards. There are three types of federal credit cards: purchase, fleet and travel.

**Purchase and Fleet Cards** are used for purchasing general supplies and services, and for vehicle fuel and maintenance, respectively. Acquisitions using these cards are exempt from Michigan's taxes because they are billed direct to the federal government.

**Travel and Integrated Cards** are for official travel and are used at hotels, restaurants and similar establishments. Purchases using one of these cards can be taxable (billed to the employee) while another card's purchases can be exempt (billed direct to the government). Taxability depends upon the numbers on the card. A card billed to the individual (taxable) will:

- Start with 4486, 4614, 5565 or 5568 and have a sixth digit that is either 1, 2, 3, or 4; **or**
- Have an account number that begins with 55826 from the Department of the Interior, the traveler does not carry an I.D. from the Bureau of Reclamation, and the purchase is for lodging or food.

The above categories of SmartPay cards are different colors with different graphics. They can say **For Official Government Travel** or **For Official Government Purchases Only** but, to be taxable, they must have the billing digits mentioned above. All other SmartPay cards with the other numbers are centrally billed and are exempt from Michigan's taxes.

### ***Federal Credit Unions and Federal Home Loan Banks***

Included in the definition of a federal instrumentality are federal credit unions and federal home loan banks. The federal credit union exemption is unique because it was granted by the court in the decision of *U.S. v State of Michigan*, 851 F2d 803 (CA 6, 1988). The Sixth Circuit Court of Appeals decision stated that the incidence of the Michigan Sales Tax falls upon federal credit unions as purchasers rather than upon the retailer selling to them. Therefore, federal credit unions, which are exempt from direct state taxation by federal law, are not subject to sales tax on their purchases of tangible personal property for their own use. This exemption does not extend to national banks or federally chartered savings and loan institutions.

### ***Sales by Federal Government Agencies***

Sales made by federal credit unions and federal home loan banks are subject to tax. This includes sales of checks or drafts to their customers. If checks were provided and a **service charge** was assessed, a sale was made.

Sales by the United States Postal Service of un-cancelled United States postage stamps, stamp books, envelopes, packaging materials, video tapes, neckties, etc. are handled differently from sales made by federal credit unions or by private entrepreneurs making sales on federal land. These sales by the United States Postal Service are not subject to tax.

The reason that tax is not imposed on the above sales is that the federal government is claiming **federal preemption** (states may not impose a tax on the federal government). Michigan's sales tax is statutorily imposed on the seller for the privilege of making sales at retail in Michigan. Thus, Michigan tax cannot be imposed on the federal government.

### ***Sales by Private Entrepreneurs from Federal Areas***

Tax applies on sales made by private entrepreneurs who sell their wares on federal property, if the sale is not made directly to an exempt entity, including federal instrumentalities and nonprofit organizations. An example of this would be a privately-operated concession stand at a national park.

References pertaining to this information can be found in the index under [Chapter 21](#)

---

## Chapter 22 – Food for Human Consumption

Generally, food and food ingredients are exempt from sales and use tax.

**Food and food ingredients** are 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 (beverages suitable for human consumption that contain  $\frac{1}{2}$  of 1% or more of alcohol by volume) and tobacco (cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco).

### **Prepared food is subject to sales and use tax. Prepared food is:**

- Food sold in a heated state or that is heated by the seller;
- Two or more food ingredients mixed or combined by the seller for sale as a single item; **or**
- Food sold with eating utensils provided by the seller.

An **eating utensil** is a tool, instrument, or item used or intended to be used to facilitate the eating of food. Eating utensil does not include a container or packaging used to transport food, such as a plastic container in which take-out soup or salad is sold. Eating utensils include, but are not limited to, knives, forks, spoons, glasses, cups, napkins, straws, plates, and bowls. Waxed paper sheets (e.g., for doughnuts or cookies), paper wrappers (e.g., for ice cream cones), and skewers (e.g., for kabobs or fruit) used to transport food are presumed not to be eating utensils unless there is evidence to the contrary.

Eating utensils are provided by the seller under the following conditions:

- For a seller with a prepared food sales percentage greater than 75%, when the utensils are made available to purchasers.
- For a seller with a prepared food sales percentage of 75% or less, if the seller's practice, as represented by the seller, is to physically give or hand the utensils to purchasers, except that plates, bowls, glasses, or cups necessary for the purchaser to receive the food, for example, dispensed soft drink or milk, or salad bar, need only be made available.

### **Prepared food does not include:**

- Food that is only cut, repackaged, or pasteurized by the seller;

- 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;
- Food sold in an unheated state by weight or volume as a single item, without eating utensils; **or**
- 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.

Regardless if an item might otherwise fall within the definition of prepared food outlined above, **if that item is described in one of the exclusions to prepared food, it is not prepared food.**

- Meals Provided by Schools and Qualified Exempt Non-Profit Organizations.
- The sale of food to bona fide enrolled students by a school or other educational institution not operated for profit is exempt.
- A sale of tangible personal property, not for resale, to a qualified exempt non-profit organization is exempt.
- Sales by a qualified exempt nonprofit organization are not exempt simply because of the nonprofit status of the organization.

#### **Examples of taxable food or meals:**

- Food provided by a nonprofit organization at an event where an admission fee is required or a donation is made.
- Meals sold by schools to nonstudents, including teachers.
- Meals or direct sales from the caterer to the students.

#### **Examples of exempt food or meals:**

- Meals provided to nonprofit groups, where the group pays for the meals, not the individuals attending.
- Snacks such as coffee, juice or donuts, provided by nonprofit groups as part of a conference with no extra charge to persons attending.

- Meals sold by schools to students duly enrolled in a program of that school.

The tax base for food and drink items included in a mandatory lump sum donation is the gross proceeds. The tax base is the fair market value of the food sold. Usually the fair market value is the price of admission or a donation to attend the fundraiser or to purchase and prepare the food. If the admission or a donation exceeds the fair market value of the food or drink, fair market value may be determined by any reasonable method. When food is provided by a caterer, sales tax is paid by the caterer, who may add the tax to the customer's bill. If the fundraising organization claims a sales tax exemption for resale on the caterer's purchase, then sales tax must be paid by the organization.

The sale of alcoholic beverages at a fund-raiser is taxable. Sales tax is due on the total amount of the sales of beer, wine, and liquor. If an organization pays sales tax on alcoholic beverages when purchased and provides the alcoholic beverages at the fund-raiser at no additional charge to attendees, then no additional sales tax is owed. If at the fund-raiser there is a charge for alcoholic beverages, sales tax is due on the total gross proceeds of the beverage sales (a credit may be taken for any sales tax paid when the organization purchased the alcoholic beverages).

### ***Catered Meals***

All meals sold by caterers are subject to sales tax, except those sold to qualified exempt entities as not for resale. **Not for resale** means that the catered meals are paid directly from the exempt entity's funds, with no reimbursement from the individuals attending the event. When a tax-exempt entity pays a subsidy to the caterer, this amount is not taxable.

#### **Example of an exempt catered meal:**

- The United Way sponsors a dinner for individuals that worked on the previous year's campaign. The dinner is paid for from United Way funds with no reimbursement from the individuals attending.

#### **Example of a taxable catered meal:**

- The United Way hosts a dinner for business owners to encourage them to donate to the current year's campaign. The business owners are required to purchase a ticket in order to attend the dinner.

### **Example of a third party taxable catered meal:**

- A catering company provides food service to a university. The food service is exempt from tax for the meals provided by the university to the enrolled students. An association within the university contracts with the university to have a banquet in the university's ballroom. This is a taxable event. The university would provide the catering company with a resale exemption certificate, then charge the association the appropriate taxes due.

### **Example of third party exempt catered meal:**

- Assume the same facts as above, with one difference; the association provides the university with a proper claim for exemption as a non-profit organization, plus a copy of its exempt letter from the IRS as a designated 501(c)(3) or (4) entity.

### ***Employee Meals***

Meals provided free of charge or at a reduced rate to employees during work hours by a food service establishment licensed by the U.S. Department of Agriculture are exempt.

### ***Free Meals (To Non-Employees)***

Meals given to non-employees are exempt from tax. These could be gratis meals, food provided upon presentation of a coupon, or meals given away for other goodwill or marketing purposes.

Meals given to restaurant patrons who have made a related purchase (the related purchase is subject to tax) are not subject to tax as the price for the first meal covers the cost of the item given away. This is a tie-in sale.

### ***Vending Machines and Other Automatic Sales Devices***

Food or drink which is 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 sales and use tax.

A taxpayer selling both taxable and exempt items from a vending machine must calculate the tax using actual gross proceeds from sales at retail or 45% of the items subject to and exempt from tax, not including the sales of carbonated beverages.

## ***Federal Food Stamp Program***

The GSTA and the UTA include provisions referencing the Federal Food Stamp Program, and exempt the following items from sales tax and from use tax:

- Food or tangible personal property purchased under the federal food stamp program.
- Meals sold by a person exempt from tax eligible to be purchased under the federal food stamp program (e.g., Meals-on-Wheels meals).
- 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 U.S. 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.

For example, the purchase of a raspberry plant at a qualifying business would be exempt from sales and use tax, while the purchase of an ornamental flowering plum tree would be taxable. The purchase of carrot seeds at a qualifying business would be exempt from sales and use tax, while the purchase of zinnia seeds would be taxable.

## ***Dietary Supplements***

Dietary supplements are exempt from sales and use tax as food for human consumption if they have nutritional value.

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

- 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.
- Contains 1 or more of the following dietary ingredients:
  - A vitamin.
  - A mineral.
  - An herb or other botanical.
  - An amino acid.

- A dietary substance for use by humans to supplement the diet by increasing the total dietary intake.
- A concentrate, metabolite, constituent, extract, or combination of any ingredient listed above.
- Intended for ingestion in tablet, capsule, powder, soft gel, gel cap, or liquid form, or if not intended for ingestion in one of those forms, is not represented as conventional food or for use as a sole item of a meal or of the diet.

Where such nutritional value is evident, marketing or labeling as a homeopathic or natural drug should not be a determining factor in whether these types of items should be considered food. An example would be a substance advertised for relief of joint pain, which is no more than a vitamin or mineral supplement.

Under this definition, few items would be taxable if sold as a product for human consumption whose primary purpose is to supplement daily dietary requirements. Items such as nicotine replacement gums or tablets, Aspergum, some cough drops, or other similar items consumed for their medicinal value, and not for their taste or nutritional value, would be taxable.

### ***Taxability Chart – Food Items***

No.	Description	Taxable or Exempt
<b>Items sold at concessions at special events and entertainment facilities (i.e. theaters, fairs, recreation centers, athletic events, parks and zoos), bakeries, food bars, delicatessens, carryout-restaurants, or convenience stores</b>		
<b>1</b>	Bottled Water	Exempt
<b>2</b>	Box of doughnuts w/o eating utensils	Exempt
<b>3</b>	Catered meals resold by tax-exempt entities that are reimbursed by an individual or for-profit organization.	Taxable
<b>4</b>	Catered meals sold to tax-exempt entities, not for resale	Exempt
<b>5</b>	Chicken (seller roasts/fries, maintains in heated state)	Taxable



<b>No.</b>	<b>Description</b>	<b>Taxable or Exempt</b>
<b>6</b>	Container of macaroni salad in an unheated state, w/o eating utensils	Exempt
<b>7</b>	Cookies, doughnuts and muffins sold with a waxed paper sheet provided by the seller and used for transport	Exempt
<b>8</b>	Cookies, doughnuts and muffins sold with a waxed paper sheet used as an eating utensil	Taxable
<b>9</b>	Deli tray sold below room temp, in container, by weight, w/ utensils provided by seller	Taxable
<b>10</b>	Deli tray sold below room temp, in container, by weight, w/o utensils	Exempt
<b>11</b>	Dish of ice cream w/eating utensils provided by seller	Taxable
<b>12</b>	Food purchased under Federal Food Stamp Program	Exempt
<b>13</b>	Fruit and vegetables sold in a container w/ utensils provided by seller or in a heated state	Taxable
<b>14</b>	Fruit and vegetables sold in an unheated state by weight or volume in a container w/o utensils provided by seller	Exempt
<b>15</b>	Fruit basket/cheese and cheeseboard set/candy dish with candy - primary purchase is fruit/cheese/candy	Exempt
<b>16</b>	Fruit basket/cheese and cheeseboard set/candy dish with candy - primary purchase is basket/cheeseboard	Taxable
<b>17</b>	Hot dogs available in heated state on roller grill and pizza heated by seller	Taxable
<b>18</b>	Ice cream cone with cone wrapped in paper to facilitate transport	Exempt
<b>19</b>	Ice cream pre-packaged with wooden spoon	Taxable

No.	Description	Taxable or Exempt
20	Ice cream sold by the gallon, no eating utensils provided by seller	Exempt
21	Ice-block (not intended for human consumption)	Taxable
22	Ice-cubes w/o eating utensils	Exempt
23	Meals on Wheels (eligible to be purchased with food stamps and sold to an exempt entity)	Exempt
24	Popcorn heated by seller	Taxable
25	Popcorn <b>made</b> by seller, sold in unheated state w/eating utensils provided by the seller	Taxable
26	Popsicle in a wrapper to facilitate transport	Exempt
27	Pre-made frozen pizza, heated by seller w/ eating utensils	Taxable
28	Prepackaged candy bar/chips w/ napkin	Taxable
29	Prepackaged items (candy bars, chips, ice cream, popcorn, nuts, cans or bottles of soda pop), in an unheated state and w/o eating utensils provided by the seller	Exempt
30	Ready-made soup sold heated by seller, cup/pint/quart.	Taxable
31	Sandwich <b>made</b> by seller (not sold by weight or volume)	Taxable
32	Sandwich pre-made, sold in an unheated state, w/ utensils provided by seller	Taxable
33	Sandwich pre-made, sold in an unheated state, w/o utensils provided by seller	Exempt
34	Sausage and egg biscuit, pre-packaged by third party, buyer heats in seller's microwave after purchase, w/o utensils provided by seller	Exempt

No.	Description	Taxable or Exempt
35	Sausage and egg biscuit, pre-packaged by third party, buyer heats in seller's microwave prior to purchase, w/o utensils provided by seller	Taxable
36	Soda pop sold by the cup or coffee sold by the cup, brewed by seller	Taxable
37	Tuna salad sold by the pound in an unheated state, w/o eating utensils	Exempt
38	Water delivered in bulk tanks < 500 gallons	Taxable
39	Water delivered in bulk tanks ≥ 500 gallons	Exempt
<b>Items sold at business authorized or that made proper application for authorization to accept food stamps</b>		
40	Flower seeds (not intended for human consumption)	Taxable
41	Fruit or vegetable plant	Exempt
42	Fruit or vegetable seeds	Exempt
43	Ornamental flowering plum tree (not intended for human consumption)	Taxable
<b>Food sold through Vending Machines or Other Automatic Sales Devices (subject to % chosen by taxpayer)</b>		
44	Bakery items w/o utensils at room temperature	Exempt
45	Chilled pop in cup	Taxable
46	Chilled pop in sealed container	Exempt
47	Gum, nuts, crackers, chips, candy, cookies (sold at room temperature)	Exempt

No.	Description	Taxable or Exempt
<b>48</b>	Hot coffee in cup	Taxable
<b>49</b>	Milk in a sealed container	Exempt
<b>50</b>	Sandwich cooled < 65°, w/o eating utensils	Taxable

References pertaining to this information can be found in the index under [Chapter 22](#)

---

## ***Chapter 23 – House Rentals (Rentals of Rooms and Lodging)***

The receipts for room and lodging are generally taxable under the UTA, except receipts for rooms and lodging rented for a continuous period of more than one month are exempt. The statute covers rooms or lodging furnished by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public on the basis of a commercial and business enterprise. Included in the meaning of hotel and motel are:

- Inns.
- Motels.
- Tourist homes.
- Tourist houses or courts.
- Lodging houses.
- Rooming houses.
- Nudist camps.
- Apartment hotels.
- Resort lodges and cabins.
- Camps operated by other than nonprofit corporations where a structure is rented.
- Any other building or group of buildings in which accommodations are available to the public.

Not included in the meaning are childcare facilities licensed under 1973 PA 116 and accommodations furnished by hospitals or nursing homes.

For purposes of this topic, business is defined as an activity engaged in by a person with the **object of gain, benefit or advantage, either direct or indirect.**

### ***Taxability Chart – Hotels/Motels***

<b>No.</b>	<b>Description</b>	<b>Taxable Yes or No</b>	<b>Tax Type</b>	<b>Comments</b>
<b>Hotel Revenue</b>				
<b>1</b>	<b>Attrition fees</b> - liquidated damages charged because a group did not fulfill their total event commitment.	No, if able to re-rent		<p>If the hotel is able to re-rent the room, the fee charged to the customer is a penalty, not a taxable use.</p> <p><b>Example</b> - an event books 200 rooms and only 150 are rented and occupied. A penalty is charged for the 50 remaining rooms. At no time does a guest occupy or have the right to occupy the 50 remaining rooms.</p>
<b>2</b>	<b>Attrition fees (banquet rooms)</b> - liquidated damages charged because a group did not fulfill their total event commitment.	Yes	Use	<p>MCL 205.92(f)</p> <p><b>Example</b> - an event books a banquet for 200 people, and only 150 attends. A penalty is charged for 50 non-attendees.</p>

No.	Description	Taxable Yes or No	Tax Type	Comments
3	<b>Banquet room/convention charges</b> - separately stated fees/labor for rigging, electrical cabling, theme equipment, decorations, phone line/internet setup, etc. <ul style="list-style-type: none"> <li>• Performed by an unrelated third party.</li> <li>• Performed by hotel employees.</li> </ul>	          No          No	          Use          Use	If an employee is required to operate the equipment in a. or b., the transaction would become taxable.          MCL 205.92(2)(f)
4	<b>Bottled water provided in room.</b> <ul style="list-style-type: none"> <li>• Complimentary.</li> <li>• At Retail.</li> </ul>	          No          No	          Use          Use	          MCL 205.54d(d)
5	<b>Cake-cutting charges</b> - guest provides cake.	No		Separately stated
6	<b>Cancellation fees</b> - liquidated damages charged when a scheduled event is cancelled. Guest never occupies or has the right to occupy the room.	No, if able to re-rent		If the hotel is able to re-rent the room, the fee charged to the customer is a penalty, not a taxable use.

No.	Description	Taxable Yes or No	Tax Type	Comments
7	<p><b>Cancellation fees (banquet rooms)</b> - liquidated damages when an event is cancelled. Damages may cover lost revenue from the room rental, food that was ordered and must be thrown away, party decorations ordered, etc. Guest never occupies or has the right to occupy the room.</p> <ul style="list-style-type: none"> <li>• Room only.</li> <li>• Room and other taxable product (e.g., prepared food, decorations, etc.).</li> </ul>	<p>No</p> <p>No</p>		<p>If the hotel is able to re-rent the room, the fee charged to the customer is a penalty, not a taxable use.</p> <p>In order to determine the taxability of a single mixed transaction that includes both the provision of a taxable and nontaxable product, follow the <i>Catalina</i> "incidental to service test."</p>
8	<b>Charges for refrigerator, rollaway bed, safe, etc.</b>	Yes	Use	Subject to tax as part of accommodations furnished.
9	<b>Child care charges</b> - provided by hotel employees or by an unrelated third party.	No		
10	<b>Commissions paid to hotel by outside vendors and service providers.</b>	No		
11	<b>Complimentary food</b> - e.g., food provided to entertain a prospective guest, for customer satisfaction, or for promotional purposes.	Yes	Use	The hotel will owe use tax on the ingredients.



<b>No.</b>	<b>Description</b>	<b>Taxable Yes or No</b>	<b>Tax Type</b>	<b>Comments</b>
<b>12</b>	<b>Complimentary meal/beverage provided for each room occupant</b> - meal/beverage is included in the price of the room, and the guest cannot opt out of the meal/beverage for a lower rate.	Yes	Use	Subject to tax as part of accommodations furnished.
<b>13</b>	<b>Complimentary rooms</b> - provided at no charge to guests, travel agents, advertisers, etc. (hotel does not receive consideration from anyone).	No		If the room is provided through a hotel reward program, the answer will depend on the nature of the program.
<b>14</b>	<b>Computer usage and fax charges.</b>	No		
<b>15</b>	<b>Copy charges.</b>	Yes		MCL 205.51(1)(b)
<b>16</b>	<b>Corkage</b> - charge for re-corking.	No		Separately stated.
<b>17</b>	<b>Cover or minimum charges.</b>	Yes	Sales	R205.116(2); Sales tax applies to the cover or minimum charge and all other charges, except to those charges for entertainment and dancing, separately listed on the bill or collected as an admission fee or fixed charge.
<b>18</b>	<b>Damage fee</b> – fee charged by the hotel to repair or replace items damaged by the guest. The guest does not gain ownership of any damaged property.	No		Sales/use tax is paid by the hotel upon purchase of a replacement item.

<b>No.</b>	<b>Description</b>	<b>Taxable Yes or No</b>	<b>Tax Type</b>	<b>Comments</b>
<b>19</b>	<b>Early departure fees.</b>	No, if able to re-rent	Use	If the hotel is able to re-rent the room, the fee charged to the customer is a penalty, not a taxable use.
<b>20</b>	<b>Employee meals</b> – free, at, below, or above cost.	No		MCL 205.52(4); If provided by a licensed food service establishment during work hours
<b>21</b>	<b>Equipment rental</b> – e.g., audio visual equipment.	Yes	Use	MCL 205.95; Lessor has the option of paying tax on the acquisition of the tangible personal property that is to be leased or collecting and remitting use tax on rental receipts.
<b>22</b>	<b>Flowers provided by the hotel for a banquet.</b> <ul style="list-style-type: none"> <li>• Itemized/separately stated.</li> <li>• Not separately stated.</li> </ul>	Yes  Yes	Sales  Use	  Subject to tax as part of the banquet room rental.
<b>23</b>	<b>Food and beverage sales</b> – restaurant operated by hotel.	Yes	Sales	MCL 205.54g(4)

<b>No.</b>	<b>Description</b>	<b>Taxable Yes or No</b>	<b>Tax Type</b>	<b>Comments</b>
<b>24</b>	<b>Gratuities</b> – voluntary or mandatory. <ul style="list-style-type: none"> <li>Fully distributed to server as a tip.</li> <li>Restaurant retains a portion.</li> </ul>	No  Yes	Sales  Sales	MCL 205.51(1)(d)(iii)(A); If the gratuity or tip is separately identified or itemized on the guest check or billed to the customer, it is not subject to sales tax. However, if the gratuity is paid out to the employee as a wage through payroll, it is subject to sales tax.
<b>25</b>	<b>Guaranteed no-show revenue</b> – room is unavailable to re-rent.	Yes	Use	MCL 205.93a(1)(b)
<b>26</b>	<b>Guest laundry/dry cleaning.</b> <ul style="list-style-type: none"> <li>Performed by hotel.</li> <li>Performed by outside vendor.</li> <li>Coin-operated facilities.</li> </ul>	No  No  No		
<b>27</b>	<b>Health spa and salon services.</b>	No		
<b>28</b>	<b>High-speed internet access.</b>	No		If optional to the guest and separately stated.
<b>29</b>	<b>Ice-carving charges</b> – hotel provides ice.	Yes	Sales	MCL 205.51(1)(d)(ii)
<b>30</b>	<b>Late departure fees.</b>	Yes	Use	MCL 205.93a(1)(b)

<b>No.</b>	<b>Description</b>	<b>Taxable Yes or No</b>	<b>Tax Type</b>	<b>Comments</b>
<b>31</b>	<b>Mandatory pet clean-up fees (cleaning of room after stay).</b>	Yes	Use	MCL 205.93a
<b>32</b>	<b>Meeting room revenue (meals served).</b> <ul style="list-style-type: none"> <li>• Room rental separately stated from meal.</li> <li>• Separately billed food.</li> <li>• Lump sum billing.</li> <li>• Complimentary food.</li> </ul>	Yes    Yes    Yes    Yes	Use    Sales/ Use    Use    Use	MCL 205.93a(1)(b)    MCL 205.54g    MCL 205.93a(1)(b); MCL 205.54g    MCL 205.93a(1)(b); MCL 205.54g
<b>33</b>	<b>Meeting room revenue (no meals served).</b>	Yes	Use	MCL 205.93a(1)(b)
<b>34</b>	<b>Meeting supplies.</b>	Yes	Sales/ Use	MCL 205.51(1)(b); MCL 205.92(b)
<b>35</b>	<b>Minibar revenue.</b>	Yes/No	Sales	MCL 205.54g; R205.136; RAB 2009-8; Alcohol is subject to tax. Water is exempt. The revenue of the minibar must be combined with hotel's other sales of prepared food.
<b>36</b>	<b>Miscellaneous fees</b> – club membership fees, green fees, tennis court fees, swimming fees, charges for lessons, etc.	No		

<b>No.</b>	<b>Description</b>	<b>Taxable Yes or No</b>	<b>Tax Type</b>	<b>Comments</b>
<b>37</b>	<b>Newspapers and periodicals.</b>	No		MCL 205.54a(1)(f)
<b>38</b>	<b>Non-food retail sales.</b>	Yes	Sales	MCL 205.94g
<b>39</b>	<b>Packages</b> – golf, honeymoon, ski, etc.	Yes	Use	In order to determine the taxability of a single mixed transaction that includes both the provision of a taxable and nontaxable product, follow the <i>Catalina</i> “incidental to service test.”
<b>40</b>	<b>Parking, transportation charges, destination services</b> – separately itemized.	No		In order to determine the taxability of a single mixed transaction that includes both the provision of a taxable and nontaxable product, follow the <i>Catalina</i> “incidental to service test.”
<b>41</b>	<b>Pay-per-view television and pay-per-play video game rental</b> – provider owns and services equipment in the hotel. Service and selections are controlled by the provider via the internet. The provider, not the hotel, is the seller of the service, per the terms of the provider’s contract with the hotel.	No		Pay-per-view movies or video rentals are nontaxable services. The provider of the service must pay tax on the acquisition of all property purchased, used, or consumed in providing the service. The receipts from the hotel guests are not subject to tax.
<b>42</b>	<b>Pet charges (pet’s occupancy of guest room).</b>	Yes	Use	MCL 205.93a

No.	Description	Taxable Yes or No	Tax Type	Comments
43	<b>Resort Fees</b> – per diem charge for additional amenities provided by a resort (e.g., beach chairs, bottled water in the hotel room, access to the hotel fitness center, newspaper delivery, shuttle service, etc.). <ul style="list-style-type: none"> <li>• Mandatory.</li> <li>• Optional.</li> </ul>	Yes  No		Subject to tax as part of accommodations furnished. If separately itemized/stated.
44	<b>Retail beer/wine sales.</b>	Yes	Sales	MCL 205.94g
45	<b>Retail food, candy.</b>	No/Yes	Sales	MCL 205.54g; R205.136; RAB 2009-8; The revenue of the gift shop must be combined with hotel's other sales of prepared food.
46	<b>Retail video or DVD rental.</b>	Yes	Use	MCL 205.95; Lessor has the option of paying tax on the acquisition of the tangible personal property that is to be leased or collecting and remitting use tax on rental receipts.
47	<b>Room Service.</b> <ul style="list-style-type: none"> <li>• Food and beverage.</li> <li>• Separately stated delivery charges.</li> </ul>	Yes  Yes	Sales  Sales	MCL 205.54g(4)  MCL 205.51(1)(d)(iv)

<b>No.</b>	<b>Description</b>	<b>Taxable Yes or No</b>	<b>Tax Type</b>	<b>Comments</b>
<b>48</b>	<b>Rooms sold to tour operators, meeting planners, and others who resell rooms to their customers.</b>	Yes	Use	Unless exemption claim for resale is provided.
<b>49</b>	<b>Salvage Sale.</b>	Yes	Sales	MCL 205.51(1)(b)
<b>50</b>	<b>Telephone charges.</b>	Yes	Use	MCL 205.93a
<b>51</b>	<b>Transient rooms revenue.</b>	Yes	Use	MCL 205.93a(1)(b)
<b>52</b>	<b>Vending machine sales - hotel maintains vending machine.</b>	Yes	Sales	MCL 205.54g; R205.136; RAB 2009-8; The GSTA states that "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 tax under this act."
<b>Hotel Expenses/Purchases</b>				
<b>53</b>	<b>Uniforms.</b>	Yes	Sales/ Use	Subject to tax at time of purchase by hotel.

<b>No.</b>	<b>Description</b>	<b>Taxable Yes or No</b>	<b>Tax Type</b>	<b>Comments</b>
<b>54</b>	<b>Cleaning of Uniforms.</b>	Yes	Use	MCL 205.93a(1)(d); The laundering or cleaning of textiles under a sale, rental, or service agreement with a term of at least <b>5</b> days is taxed in the same manner as tangible personal property. However, an exemption is allowed for the laundering or cleaning of textiles used by a restaurant or retail sales business.
<b>55</b>	<b>In-room amenities provided with the guest room at no charge - shampoo, soap, toilet paper, laundry bag, coffee.</b>	No		Subject to tax when accommodations are furnished. Taxable when purchased by the accommodation provider.
<b>56</b>	<b>Newspapers provided to guests.</b>	No		MCL 205.54a(1)(f)
<b>57</b>	<b>Linens/ towels, in-room coffeemakers, decorative items, other operating supplies.</b>	Yes	Sales/ Use	
<b>58</b>	<b>China, glassware, utensils, dining linens.</b>	Yes	Sales/ Use	





<b>No.</b>	<b>Description</b>	<b>Taxable Yes or No</b>	<b>Tax Type</b>	<b>Comments</b>
61	<b>If telephone charges are taxable, is there a credit for taxes paid to the telephone company?</b>	Yes		If a hotel bills the guest the exact amount of its cost without markup, the hotel may pay tax to the telephone company and not itemize tax on the bill to the guest, or the hotel may claim exemption for resale at the time of purchase from the telephone company and bill the guest for use tax. If the hotel charges any markup, it may purchase tax-exempt "for resale" from the telephone company and collect use tax on the price charged to the customer. This would include the hotel's charge for .50 per call, etc. If the hotel pays tax to the telephone company based on the price billed to the hotel and collects tax on the price billed to the guest, the hotel may take a credit on the tax return worksheet for tax paid at source.

References pertaining to this information can be found in the index under [Chapter 23](#)

---

## Chapter 24 – Industrial Laundries

Sales or leases of the following categories of products to industrial laundries are exempt from taxation:

- Textiles and disposable products, e.g., soap, paper, chemicals, tissue, deodorizer and dispensers, packaging, supplies, hangers and name tags.
- Equipment used to repair and dispense textiles, owned or leased.
- Machinery, equipment, parts, lubricants, and repair services used to clean, process, and package textiles and related items.
- Various utilities.
- Production washroom equipment and mending/packaging supplies and equipment.
- Material handling equipment.
- Wastewater pretreatment equipment supplies and related maintenance and repair services.

The UTA contains similar language.

The UTA imposes tax on the laundering or cleaning of textiles under a sale, rental, or service agreement with a term of at least **5** days. However, the tax does not apply to the laundering or cleaning of textiles used by a restaurant or retail sales business.

**Ownership of the textiles is not required to claim the exemption.**

**Restaurant** means a food service establishment defined and licensed under the food law of 2000.

**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, pillowcases, 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.

References pertaining to this information can be found in the index under [Chapter 24](#)

---

## **Chapter 25 – Installation Charges**

**Sales price** (for sales tax purposes) and **purchase price** or **price** (for use tax purposes) includes installation charges incurred or to be incurred before ownership is transferred from seller to buyer.

### **Ownership**

Whether ownership of the property is transferred before or after the installation charges are incurred determines if those charges are subject to tax. All facts and circumstances should be considered to determine if installation charges are taxable, including, but not limited to:

- Whether the customer has the option to either pick up the property or have the property delivered.
- Whether the delivery or installation charge is separately negotiated and contracted for on a competitive basis.
- Whether the property and delivery or installation charges are separately invoiced.
- Whether the taxpayer's books and records separately identify the transactions used to determine the tax on the sale at retail.
- Whether delivery or installation service records indicate a net profit (i.e., the delivery or installation service is a commercial endeavor separate from the retail business).
- The time at which risk of loss transfers from seller to buyer.
- The time at which title to the property passes from seller to buyer.
- Any other information that is relevant in determining when ownership transfers.

None of the above factors standing alone, conclusively determine the taxability of installation charges; the Department will look at the entire transaction when making its determination.

References pertaining to this information can be found in the index under [Chapter 25](#)

---

## **Chapter 26 – Interstate Commerce**

Interstate or foreign commerce means any activity between different states and countries. Sales where ownership transfers out of this state are not subject to Michigan's Sales Tax as these transactions involve interstate commerce activities. Taxation of these activities is prohibited by Constitution of the United States. Intrastate transactions, or those transactions in which tangible personal property is located within this state at the time of sale and is delivered within this state, are subject to sales tax.

To make a valid claim of deduction for interstate commerce, a seller must document **each shipment** outside this state. Acceptable documentation includes the following:

- A waybill or bill of lading.
- An insurance or registry receipt issued by the U.S. Postal Service.
- Original shipping documents.

### **Examples of Interstate Commerce Transactions:**

- An in-state seller delivers goods to an out-of-state buyer who will not return the goods to Michigan for storage, use or consumption
- A Michigan resident purchases goods for delivery and use outside the state

### **Example of a Transaction Which Is Not Interstate Commerce:**

- Property delivered to a buyer in Michigan which is subsequently shipped out of state by the buyer or used in interstate commerce

References pertaining to this information can be found in the index under [Chapter 26](#)

---

## Chapter 27 – Interstate Motor Carriers

The GSTA and UTA do not apply to the sale, storage, use, or consumption of **rolling stock** used in **interstate commerce** and purchased, rented, or leased by an **interstate fleet motor carrier**.

**Rolling Stock** - 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. Amendments in 2012 specify that **rolling stock** includes other tangible personal property affixed to or to be affixed to either a qualified truck or a trailer after the original purchase.

**Qualified Truck** - A commercial motor vehicle power unit that has two axles and a gross vehicle weight rating in excess of 10,000 pounds or a commercial motor vehicle power unit that has three or more axles regardless of its gross vehicle rating.

**Gross Vehicle Weight Rating** – The value specified by the manufacturer as the loaded weight of a single vehicle.

**Parts** – Parts include such items as global positioning systems (GPS), in-cab heaters, alternate power units, straps, chains, and refrigeration units, so long as they are affixed to (or are to be affixed to) and directly used in the operation of a qualified truck or trailer.

**Parts** do not include fluids (e.g., oil, windshield solvents), gases (e.g., Freon), or decals and markings.

**Interstate Commerce** – Trade in goods or services between different states.

**Used in Interstate Commerce** – Rolling stock that never leaves the State of Michigan but carries freight or persons originating in or destined for locations outside of Michigan is used in interstate commerce and qualifies for exemption from sales and use tax. Even if a vehicle never leaves a state, it is **used in interstate commerce** if it carries goods moving in a continuous stream from an origin in one state to a destination in another.

In determining whether or not the goods are destined for another state, consider whether there was any change (value added) to the general form of the product being transported that would create a different product. If so, the point of origin would change accordingly. For example, a mirror is manufactured in Grand Rapids, Michigan and transported (by a transportation company) to Detroit, Michigan. In Detroit, the mirror is attached to an automobile, which ultimately is shipped to Alabama. While the mirror ends up in Alabama, the transportation between Grand Rapids and Detroit would constitute one trip in **intrastate** commerce.

If a company has two rolling stock fleets, one operating only within Michigan and another operating both inside and outside of Michigan, with each fleet carrying goods

that are destined for another state or from another state destined for Michigan, then both rolling stock fleets would be considered interstate commerce.

The phrase **rolling stock used in interstate commerce** does not mean that a carrier needs only to be part of an interstate freight business to obtain exempt status. Rather, it is possible that a vehicle is part of an interstate freight business but does not qualify for the exemption because it is not used in interstate commerce, (e.g., it carries no interstate goods or services). Similarly, a single freight company does not have to carry the goods from the out-of-state location to the in-state location or from the in-state location to an out-of-state location in order for the freight company to be engaged in interstate commerce. It's only necessary that the freight company transports goods that travel from one state to another.

**Interstate Fleet Motor Carrier** - a person that is particularly engaged in the business of carrying persons or property, other than themselves, their employees, or their own property, for hire across state lines and whose **fleet mileage was driven at least 10% outside of this state in the immediate preceding tax year**. Mere incidental hauling of persons or property for other is insufficient to satisfy the rolling stock exemption (*Midwest Power Line, Inc v Dep' of Treasury*).

### ***Immediate Preceding Tax Year***

The **immediate preceding tax year** requirement means that a business must have at least 12 months of activity to qualify for a sale or use tax exemption.

References pertaining to this information can be found in the index under [Chapter 27](#)

---

## **Chapter 28 – Isolated/Casual Transactions and Auctioneers**

### ***Isolated/Casual Transactions***

An isolated or casual transaction by a person not licensed or required to be licensed under the GSTA is an exemption from a **sale at retail**. A sales tax exemption for an isolated or casual transaction does not apply if a person is licensed or required to be licensed under the GSTA. Isolated transactions are not directly defined in the statutes, rules, etc. Sales made on a repeated or successive basis are not isolated.

Also see the “Purchase of Business” section of this text.

### ***Auctions***

Auctions often qualify as casual or isolated transactions exempt from tax. The sale of household furniture by a homeowner, a farmer’s sale of his farm machinery or equipment, or a merchant’s sale of his store’s cash registers and fixtures is unlikely to be part of the ordinary course of repeated and successive transactions of a like character. If sales at an auction are isolated transactions, they are not subject to sales tax. However, the purchasers are subject to use tax on the acquisition amounts.

### ***Auctioneers***

An auctioneer, agent, factor, broker, etc. is a retailer when he/she sells tangible personal property on a repeated basis from a fixed location. This is true whether the auctioneer is selling goods on his own behalf or on behalf of a principal. As a general rule, an auctioneer should be registered for and remitting sales tax.

Under certain circumstances, an auctioneer is relieved of his or her sales tax liability. This exception applies when:

- The auctioneer is engaged by a manufacturer, farmer, or householder to act at his agent;
- The auctioneer is selling tangible property at the premises of the manufacturer, farmer, or householder; **and**
- The auctioneer does not purchase the merchandise and sell it on his own behalf.



Specific types of auctions are listed below. Assume these auctions are being conducted on the client's premises, and the client retains ownership of the goods being auctioned. The factors that determine whether the client is responsible for sales tax or the purchaser is responsible for use tax are:

- The type of goods sold.
- Repetitiveness.
- Whether the client has or should have a sales tax license.

### ***Federal Bankruptcy Auctions***

Appointed bankruptcy trustees conduct these auctions in the ordinary course of business. These auctions would be considered taxable. The bankruptcy trustee would be required to remit sales tax.

### ***Municipal Surplus Equipment Auctions***

These auctions are conducted in the ordinary course of business by the municipal entity. These auctions would be considered taxable. The municipality would be required to remit sales tax.

### ***Industrial Processing Auctions***

These auctions normally contain a mixture of items; some items are goods sold in the ordinary course of business and some items are not. Goods that would be sold in the ordinary course of business would be subject to sales tax. This includes goods that are not the normal stock of goods sold but are sold on a regular or repeated basis. For example, a business that sells excess office equipment at auction once every two years or when volume warrants would be subject to sales tax on these sales.

### ***Retail Store Inventory***

Inventory is ordinarily sold in the normal course of business **and is subject to sales tax**. Sales of inventory are taxable if the items sold are ordinarily of a taxable nature. For example, if the inventory of a grocery store is auctioned, nontaxable food items would not be taxable, but items such as paper products would be taxable. The retailer would be required to remit sales tax. Also see "Sale or Transfer of a Business" below.

### ***Retail Store Equipment & Fixtures***

Sales of depreciable tangible personal property used in a seller's business are subject to sales tax if the seller is licensed or required to be licensed for sales tax.

## ***Sale or Transfer of a Business***

Property purchased or transferred as part of the purchase or transfer of a business is exempt from use tax. However, inventory items purchased in the sale or transfer of a business are subject to use tax unless they are exempt for resale or another valid exemption applies. The purchase of a motor vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft is also subject to use tax unless another valid exemption applies.

The sale or transfer of a business is not specifically exempted or included in the GSTA. However, the transferor is generally entitled to claim a sales tax exemption for an isolated sale.

## ***Vehicles***

Normally, vehicle auction sales for clients other than vehicle dealers are not considered goods sold in the normal course of the client's business activity. However, if the client sold five or more vehicles in a twelve-month period, the client would be required to remit sales tax. This number includes vehicles sold at the auction. The seller must collect sales tax if the auction is a multiple client auction. If fewer than five vehicles have been sold by the client within twelve months, these sales would not be subject to sales tax.

Vehicle transactions are generally taxable, and if the sale is not subject to tax at the auction, the purchaser must pay use tax.

## ***Charity Auction of Donated Gifts***

Auctions of donated gifts do not represent isolated transactions. The charity would be considered to be engaged in **fundraising** in the ordinary course of business, regardless of the frequency of auctions. The charity would be required to remit sales tax on its return.

A qualified nonprofit organization may claim a credit on the amount equal to 6% of the gross proceeds of a qualified sale of an auctioned item in excess of the fair market value of that auctioned item, provided sales tax was not collected from the purchaser. The person seeking the credit must be able to document the fair market value of the item.

Effective 9/26/2018, the first \$10,000 of sales of tangible personal property for fundraising purposes by a school, church, hospital, parent cooperative preschool, or nonprofit organization with a tax-exempt status and has aggregate retail sales in the calendar year of less than \$25,000 are exempt. Prior to 9/26/2018, the sales were limited to aggregate retail sales of less than \$5,000 in the calendar year.

### ***Wholesaler or Distributor of Industrial Machinery or Retail Equipment***

These items are ordinarily sold in the normal course of business and are subject to sales tax. Sales of industrial machinery can quite often be taxable; however, sales for certain uses or to certain purchasers may be exempt.

### ***Real Estate***

Sales tax is imposed upon transactions involving tangible personal property, **not real property**. Sales of real estate are not subject to sales tax. However, an item normally considered real estate can become tangible personal property when sold. For example, a farmer sells his barn with the condition that it be dismantled and removed from the land. This represents tangible personal property in the form of wood representing a barn structure without the accompanying rights to the land upon which the barn sits.

Likewise, the sale of a house with the condition that it be removed from the land upon which it sits represents a sale of tangible personal property for the same reasons.

If the client makes regular repeated sales of this nature, the client would be required to remit sales tax when tangible personal property is being sold.

### ***Construction Contractor's Machinery***

These items would not ordinarily be sold in the contractor's normal course of business. These auctions would not be taxable **unless** the contractor is in the business of selling machinery or sells his machinery on a repeated basis. Transactions would be taxable should the contractor have a sales tax license or be required to have a sales tax license.

### ***Rental Equipment Company Inventory***

This inventory would fall within the definition of ordinary goods sold (rented) in the normal course of the client's business. The auction of this inventory would represent taxable sales. The rental equipment company would be required to remit sales tax on its return.

References pertaining to this information can be found in the index under [Chapter 28](#)

---

## **Chapter 29 – Lessors**

A **lessor** is a person engaged in the business of renting or leasing tangible personal property to others.

**Lease or rental** of tangible personal property means 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 to extend.

A lease or rental does not include installment sales. Nor does a lease or rental include a security agreement or a deferred payment plan.

### ***Lessor Election to Pay Tax on Rental Receipts***

Both the GSTA and UTA provide the lessor with an option to make an election to pay tax on rental receipts. If the lessor does not make the election, the property is taxed at acquisition and rental receipts will be exempt from use tax.

To make the election to pay on rental receipts, the lessor must satisfy all three of the following requirements:

- The lessor must be in the business of leasing, which requires a profit motive.
- The transaction must involve the rental of tangible personal property (as opposed to the provision of a service).
- The lessor must register with the Department to pay use tax unless the lessor already holds a sales tax license.

If a lessor elects to pay tax on its rental receipts instead of on its acquisition cost, then the lessor must pay the use tax on the total rental receipts including payments made to compensate the lessor for the cost of the property, materials, labor or service costs necessary to complete the transaction, taxes other than use taxes, delivery charges, and installation charges. These charges are part of the tax base even if they are separately stated.

A lessor that elects to pay use tax on rental receipts may not use the property for purposes unrelated to its leasing business. If the lessor does use the property for a purpose other than leasing, then the lessor election is invalid and use tax is due on the purchase price of the property as of the date of acquisition, less any use tax paid on the rental receipts.

### ***A Service Distinguished from a Lease***

A single transaction that involves a mixture of non-taxable service(s) and taxable tangible personal property must be analyzed to determine the nature of the transaction. If the transaction is for a service, then it does not constitute a lease of tangible personal property and the lessor election does not apply. Any tangible personal property used in the completion of the service is merely incidental to the service.

### ***Sourcing***

Lease payments are sourced to the location where the property is received by the lessee or where the lessor has been instructed to deliver the property. If the transaction/payment cannot be sourced to that location, then it is sourced to the lessee address maintained by the lessor. If the transaction/payment cannot be sourced based on the address in the lessor's records, then the transaction/payment is sourced based on information obtained at the time of the transaction. If insufficient information is available, the transaction/payment is sourced to the shipping address.

### ***Leaseback***

In a leaseback arrangement where the sublessor leases the property back to the original lessor, use tax will be owed by the sublessor if the original lessor did not pay sales or use tax on the property when it first purchased the property or if the original lessor did not pay use tax on the property under a lessor election.

References pertaining to this information can be found in the index under [Chapter 29](#)

---

## Chapter 30 – Newspapers, Periodicals and Other Publications

Sales of the following items are exempt from sales tax:

- A newspaper or periodical admitted under federal postal laws and regulations effective September 1, 1985 as:
  - Second-class mail matter (now designated as a **periodical**).
  - A controlled circulation publication (now called **requestor publications**).
- A newspaper or periodical qualified to accept legal notices for publication in this state, as defined by law.
- Any other newspaper or periodical of general circulation, if:
  - Established not less than 2 years; **and**
  - Published not less than once a week.
- Advertising supplements (political pamphlets, grocery coupons, clothing store ads, etc.) distributed as a component part of an exempt newspaper or periodical and delivered directly to the newspaper or periodical by a person other than the advertiser or printed by the newspaper or periodical.

**Note: An advertising supplement delivered to the advertiser or retailer, even if it will be distributed as part of an exempt newspaper or periodical, is subject to sales tax because the printer is making a retail sale to the advertiser/retailer.**

- Service sales where the printer is merely printing on stock furnished by the customer. For example, the printing of business cards on customer furnished stock would be exempt.

**Note: The identification statement “Periodicals postage paid” will appear in a qualifying tax-exempt newspaper or periodical. It can be found on one of the first five pages, which may exclude advertising pages, or on one of the last three editorial pages inside the back cover.**

References pertaining to this information can be found in the index under [Chapter 30](#)

---

## **Chapter 31 – Nonprofit Organizations**

This section addresses the sales and use tax exemptions available to:

- Nonprofit organizations that are exempt from federal income tax under IRC § 501(c)(3) or 501(c)(4); **and**
- Nonprofit health, welfare, educational, cultural arts, charitable, or benevolent organizations that have been issued an exemption ruling letter by the Sales and Use Tax Division.

To be exempt from sales and use tax, the property purchased must be used or consumed primarily in carrying out the purposes of the organization, as stated in the organization's bylaws or articles of incorporation. Fundraising is not the stated purpose of an organization, even if the bylaws allow for such activities.

The sales and use tax exemptions available to schools, hospitals, churches, homes for the care and maintenance of children or aged persons, and other entities specifically identified in the sales and use tax statutes are addressed elsewhere in this manual (see *Chapter 6 - Churches* and *Chapter 34 - Schools, Hospitals and Certain Nonprofit Institutions*).

### ***Sales to Nonprofit Organizations***

On or after March 28, 2013, the **sales** tax exemption was expanded to include items sold to an eligible organization and used primarily for fundraising or to obtain resources necessary to carry out the purposes of the organization as stated in its bylaws or articles of incorporation. The exemption for any single item of tangible personal property or vehicle used to raise funds or obtain resources is limited to a maximum sales price of \$5,000.

For the sales to be exempt, the payment for the purchase must come directly from the funds of the exempt nonprofit organization. If the organization is selling the items to the members at cost or above cost, the purchase is not exempt unless a valid resale exemption applies.

The use tax statute does not include an exemption for items used to raise funds or obtain resources necessary to carry out the purposes of the organization.

### ***Sales by Nonprofit Organizations***

The statute provides exclusion for organizations that qualify for either of the above exemptions. These organizations with less than \$25,000 of sales at retail in the previous calendar year may exclude from gross proceeds from fundraising sales their first \$10,000

of sales of tangible personal property in a calendar year. If a nonprofit organization exceeds \$25,000 in retail sales in a calendar year it is liable for sales tax on all of its sales, including the first \$10,000 even if it did not reimburse itself the incident of the tax from its customer. See 2018 PA 249 effective 9/26/2018. Nonprofit organizations making retail sales are still required to register and obtain a sales tax license even if their total sales are below the limit.

Veterans' organization exempt under IRC 501(c)(19) are exempt for sales of tangible personal property of an aggregate of \$25,000.00 or less per fundraising event if the fundraiser is for the benefit of an activity duty service member or veteran.

References pertaining to this information can be found in the index under [Chapter 31](#)



---

## Chapter 32 – Pollution Control Facilities, Component Parts

The GSTA and UTA allow a deduction or exemption for the sale or purchase of tangible personal property to be installed as a component part of a water or air pollution control facility. The deduction or exemption is dependent on a tax exemption certificate issued by the State Tax Commission. Issuance of a certificate is contingent upon satisfying the conditions found in the Natural Resources and Environmental Protection Act, Act No. 451 of the Public Acts of 1994.

The GSTA and UTA are interpreted in 1979, AC R 205.137 (Rule 87), *Air and Water Pollution* as follows:

- Tangible personal property purchased for installation as a component part of an air or water pollution control facility for which the State Tax Commission issues a tax exemption certificate is exempt from tax.
- When tax has been paid on tangible personal property which later qualifies for exemption as a result of obtaining a certificate of exemption from the State Tax Commission, a refund may be requested upon submission of both of the following documents to the Department:
  - A copy of the exemption certificate issued, indicating the approved cost of the tangible personal property installed and entitled to exemption.
  - A copy of the seller's invoice showing the name and address of seller, identification of the purchaser, identification of the items purchased, date of purchase, and amount of tax paid.

The entity that paid the tax to the Department requests the refund. Their customer, who provides a copy of the Pollution Control Exemption Certificate and asks for their tax to be refunded, prompts the request.

To facilitate the refund process, the owner of the pollution control facility can provide the Department with a copy of the Pollution Control Exemption Certificate, together with a list of vendor invoices qualifying for the sales tax credit. The Department will respond with approval or disapproval to facilitate the refund process through the vendor.

The certificate describes the property that qualifies for tax exemption. It includes items that become part of real property. **The flow through exemption applies when the contractor purchases exempt personal property for these pollution control projects.**

## **Summary**

- An entity must apply for and be granted a Pollution Control Exemption Certificate by the State Tax Commission before any of its purchases qualify for this exemption.
- The certificate will state the total cost of the property entitled to exemption. The final cost of material in the pollution control facility may exceed this amount. Amounts exceeding this limitation are subject to tax.
- Equipment benefiting the business or personnel will be taxable. Examples would include but are not limited to heat recovery equipment, air make-up units, equipment used to prepare and return contaminants to the process, etc.
- Replacement equipment and repair parts acquired in subsequent years may be taxable items if their additional costs would cause the project to exceed the stated exempt value in the original exemption certificate.
- The utility costs associated with the operation of these facilities do not qualify for the exemption given to the facilities.
- The effective date of the certificate is its date of issue.
- It continues in force until it is revoked or the facility is no longer used for its primary purpose.

If the State Tax Commission, through a Pollution Control Exemption Certificate, states that certain property is exempt from sales and use taxes, it is exempt.

References pertaining to this information can be found in the index under [Chapter 32](#)

---

## Chapter 33 – Prescription Drugs

### ***Prior to March 14, 2014***

Sales or purchases of drugs for human use that can only be legally dispensed by prescription are not subject to tax.

Prescription drugs for human use include:

- Insulin.
- Drugs that can only be dispensed by a licensed pharmacist.
- Oxygen dispensed pursuant to a written prescription or order issued by a licensed physician or other health professional as defined in PA 368 of 1978.

As a general rule, if you can purchase the identical drug at any time over the counter, it does not qualify for the exclusion.

Samples of drugs given out by a manufacturer to physicians and dispensed as free samples to patients are not taxable if they can only be dispensed legally by prescription. However, any packaging or container that comes with the sample drug is taxable.

### ***On and After March 14, 2014***

**GSTA and UTA:** MCL 205.54g(1)(a) was amended effective March 14, 2014 to exempt from the sales and use tax drugs sold for human use that are either a **prescription drug (including copays)** or a drug sold over the counter pursuant to a prescription. If the over-the-counter medication is not legally dispensed by prescription, the taxability of the retail sale will depend on whether the sale is to an entity that qualifies for a statutory sales tax exemption.

**Prescription** – is 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.

**“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.

Over the counter (OTC) drugs dispensed with a prescription are exempt if labeled in accordance with the format and content requirements required for labeling OTC drugs under 21 CFR (Code of Federal Regulations) 201.66. The product should contain a “Drug Facts” label on the outside container or wrapper of the retail package or the immediate container label if there is no outside container or wrapper.

<b>Drug Facts</b>	
<b>Active ingredient (in each tablet)</b>	<b>Purpose</b>
Chlorpheniramine maleate 2 mg.....	Antihistamine
<b>Uses</b> temporarily relieves these symptoms due to hay fever or other upper respiratory allergies: ■ sneezing ■ runny nose ■ itchy, watery eyes ■ itchy throat	
<b>Warnings</b> Ask a doctor before use if you have ■ glaucoma ■ a breathing problem such as emphysema or chronic bronchitis ■ trouble urinating due to an enlarged prostate gland Ask a doctor or pharmacist before use if you are taking tranquilizers or sedatives When using this product ■ drowsiness may occur ■ avoid alcoholic drinks ■ alcohol, sedatives, and tranquilizers may increase drowsiness ■ be careful when driving a motor vehicle or operating machinery ■ excitability may occur, especially in children If pregnant or breast-feeding, ask a health professional before use. Keep out of reach of children. In case of overdose, get medical help or contact a Poison Control Center right away.	
<b>Directions</b>	
adults and children 12 years and over	take 2 tablets every 4 to 6 hours; not more than 12 tablets in 24 hours
children 6 years to under 12 years	take 1 tablet every 4 to 6 hours; not more than 6 tablets in 24 hours
children under 6 years	ask a doctor

<b>Drug Facts (continued)</b>	
<b>Other information</b> ■ store at 20-25° C (68-77° F) ■ protect from excessive moisture	
<b>Inactive ingredients</b> D&C yellow no. 10, lactose, magnesium stearate, microcrystalline	

References pertaining to this information can be found in the index under [Chapter 33](#)

---

## ***Chapter 34 – Promotional Products***

Promotional merchandise and packaging material acquired for use in fulfilling a redemption offer or rebate to a person located outside this state are exempt.

Promotional direct mail and advertising items sent to locations outside of this state are exempt.

References pertaining to this information can be found in the index under [Chapter 34](#)

---

## Chapter 35 – Purchase of Business

The UTA provides that sales of business assets purchased as part of the purchase or transfer of a business are exempt. Although isolated/casual transactions are not subject to sales tax, there are no provisions in the UTA to exempt them. Therefore, the UTA provides an exemption for property purchased from a seller if the property is part of the purchase or transfer of a business. A purchase or transfer of a business takes place if **one or more of the following occurs**:

- Acquirer intends to use the seller's trade name or goodwill.
- Acquirer intends to continue all or part of the seller's business.
- At least 75% of the seller's tangible personal property is acquired at 1 or more of the existing locations.

The exemption **does not** apply to:

- Property that would be sold in the ordinary course of a trade or business (inventory items). Inventory items purchased in the lump sum sale of a business are subject to tax unless they are exempt for resale or another valid exemption applies.
- Motor vehicles, ORVs, mobile homes, aircraft, snowmobiles or watercraft.

References pertaining to this information can be found in the index under [Chapter 35](#)

---

## ***Chapter 36 – Railroads***

Sales and use tax does not apply to the sale, storage, use, or consumption 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. This exemption does not include vehicles licensed and titled for use on public highways or material for track repairs.

This exemption applies to anyone with flanged wheel rolling stock capable of being moved on rail tracks. For example, this exemption would apply to an industrial processor hauling materials from one location to another or merely storing raw materials in a rail car on rail tracks connected to a rail line.

References pertaining to this information can be found in the index under [Chapter 36](#)

---

## **Chapter 37 – Schools, Hospitals and Certain Nonprofit Institutions**

Gross proceeds used for the computation of sales or use taxes generally need not include sales **not for resale** of tangible personal property to nonprofit schools, nonprofit hospitals, or certain nonprofit institutions. This deduction is not limited to institutions incorporated or domiciled in Michigan. For example, ownership of personal property can transfer to an out-of-state nonprofit hospital in Michigan and the sale can be exempt from sales tax.

The exclusion also applies to homes for the care of children or aged persons which are operated either by an entity of government, a church, a religious or fraternal organization, a veteran's organization, or a corporation incorporated under the laws of this state.

All of the above entities must have nonprofit status and meet the various qualifications and restrictions mentioned below before a deduction can be allowed. Acceptable exemption claims supporting tax exempt sales are discussed in the "Exemptions and Requirements" section of this text.

### **Schools**

An **educational institution** as defined in R205.74, means an institution of learning, organized solely for educational purposes, which maintains a faculty of qualified instructors, and teaches regular, continuous courses of study, and which confers upon students a recognized diploma after completion of a specified curriculum. It must be operated by an entity of government, a church or a religious or fraternal organization and be organized solely for educational purposes. To qualify for a sales tax exemption, an **educational institution** must also be not operated for profit.

Public and nonprofit private schools, charter schools, and colleges may qualify. Public schools could be operated, for example, by the State of Indiana and be exempt from sales tax when purchasing in Michigan.

Purchases made by nonprofit schools are exempt **if** payment moves from the funds of the school **and** the item(s) acquired is (are) to be used or consumed in connection with the operation or purpose of the institution.

A sale of tangible personal property to a parent cooperative preschool is exempt from taxation under both the GSTA and UTA.

**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 Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws.

**Note: Because the exemption is limited to institutions that are licensed by Michigan's Department of Consumers and Industry Services, an out-of-state "parent cooperative preschool" is not exempt under the school deduction.**

### ***Sales by Schools***

The first \$10,000 in a calendar year of school's sale of tangible personal property for fundraising purposes are exempt from sales tax if its total calendar year sales at retail are less than \$25,000, and the sales tax was not collected as a separate item effective 9/26/2018. If the school's sales exceed \$25,000 in the calendar year, all of its sales, including the first \$10,000 is subject to sales tax even if the school did not reimburse itself for the incidence of the tax. **School** is defined to allow a separate exemption to the elementary, middle, and junior or high school sites.

Total calendar year sales at retail include all sales other than for resale or for lease. Examples of these sales at retail would be exempt meals and textbooks sold to students, meals sold to teachers, and fund-raising items sold to the public.

### **Examples of Exempt Sales:**

- Sales made by a nonprofit educational institution of food to its enrolled students.
- Textbooks sold by public or nonpublic schools to their enrolled students in kindergarten through the twelfth grade.
- Athletic equipment sold to an educational institution for consumption or use if the athletic activities are under the management and control of the educational institution and the entire receipts are expended for athletic or educational purposes.
- Printing materials sold to a school for use by the student government, school newspaper and school magazine, if the items were purchased on a nonprofit school's purchase order using general funds.
- Building materials sold to a school for use in their building trades' curriculum (the materials are used by the students to build homes that are sold upon completion).
- A manufacturer and seller of jackets who sells its wares to a school after accepting an exemption claim. The seller did not know that the jackets would

later be sold to student groups, booster clubs, and PTA groups. The school would be liable for sales tax on its sales of these jackets assuming its total calendar year sales at retail met or exceeded \$10,000 or if its sales during the calendar year exceed \$25,000.

### **Examples of Taxable Sales:**

- Food sold to teachers or visitors by schools or educational institutions.
- Food sold by a state college to students attending a high school prom.
- Fundraising items sold to a nonprofit school without an exemption claim.
- Sales of class pins, rings, and similar articles when paid for, directly or indirectly, by the students.
- Sales to educational associations, parent teacher organizations, teachers, and other personnel of an educational institution.

### ***Hospitals***

The term hospital is not defined in the GSTA or UTA. It is, however, defined in 1979, AC R 205.87 (Rule 37), *Hospitals* as follows:

A **hospital**, for the purpose of this rule, means only a separately organized institution or establishment, the primary purpose of which is to provide medical, obstetrical, psychiatric or surgical attention **and** nursing to persons requiring the same.

For sales and use tax purposes, the Department will use the above description to identify a hospital. It is the only definition of a hospital available when determining if the purchase is by or the sale is to a nonprofit hospital.

**Note: A different definition of hospital is used for purposes of the contractor flow through exemption. See the “Contractor” section of this text.**

In order for a hospital to qualify for the sales tax exemption it must meet the following requirements:

- The entity must be a nonprofit hospital. Parent holding companies, brother/sister or subsidiary property companies are not entitled to the exemption.
- The **medical, obstetrical, psychiatric, or surgical attention** must be of an acute nature and required in treating the illness, injury, disease or other similar medical condition. **Usually** this treatment would require the daily supervision of

a physician and admittance to the hospital of **all** patients. A few individuals receiving acute care in a nursing facility setting would not qualify the facility for the hospital exemption.

- Nursing **must** be provided but it cannot be the primary function of the facility.

Only a hospital can lawfully use the word **hospital** in its name. However, a veterinary hospital may use the word and not qualify for the exemption. The lack of state or federal government accreditation may suggest that an entity is not a hospital. Not all hospitals (e.g., VA hospitals) are required to be accredited.

### ***Sales by Hospitals***

When a hospital makes retail sales, they must be licensed for and collect sales tax. Sales by non-profit hospitals which are **taxable** retail sales include, but are not limited to the following:

- Meals sold to visitors and employees.
- Non-prescription drugs, non-prescription medicines, and supplies sold to the public through the hospital pharmacy.
- Sales of cosmetics, souvenirs and other similar merchandise.
- Equipment sales to doctors or professional corporations. Hospitals sometimes use their purchasing power to acquire items at prices below those available to a colleague associated with the hospital.
- Utility sales where the hospital is prorating its tax-exempt utility bills among its lessees of office space.

Retail sales by non-profit hospitals that are exempt include, but are not limited to, the following:

- Prescription drugs and medicines, insulin, meals, and other miscellaneous items furnished to patients and consumed on the premises.
- Charges for oxygen, blood plasma, and blood administered to patients.
- Dressings and bandages applied in the hospital.
- Charges for X-ray radiation treatments, braces, splints, cases, therapeutic diets, and intravenous solutions furnished to patients.

- Charges for anesthesia supplies and laboratory tests.
- Sales of eyeglasses prescribed or dispensed to correct a person's vision by an ophthalmologist, optometrist, or optician, and repair and replacement parts for such eyeglasses.

### ***Other Types of Nonprofit Institutions***

Churches, schools and governmental agencies are nonprofit entities that are discussed elsewhere in this manual. This section addresses other nonprofit institutions that are limited to homes for the care and maintenance of children or aged persons. To qualify for the exemptions found in the GSTA and UTA, the following conditions have to exist:

- The home must be operated by an entity of government, a regularly organized church, religious or fraternal organization, a veteran's organization, or a corporation incorporated under the laws of this state. The home does not have to be separately incorporated.
- The home cannot be operated for profit, which means that the income does not inure, in whole or in part, to an individual or private shareholder.
- The activities of the home 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 a restricted group.

Purchases are still not automatically exempt from tax. Items sold to or acquired by these homes are exempt to the extent they are used or consumed primarily in carrying out the purposes of the institution or agency as stated in its bylaws or articles of incorporation and not resold. In addition, the sales tax exemption requires that the transferee sign a statement, approved by the Department, stating that the property is to be used or consumed in connection with the operation of the institution or agency and that it qualifies as exempt under the statute.

References pertaining to this information can be found in the index under [Chapter 37](#)

---

## **Chapter 38 – Transfers Between Related Entities and Within the Same Legal Entity**

### ***Transfers from Parent to Subsidiary, Subsidiary to Parent, or Subsidiary to Subsidiary***

- Since two different entities exist, a transfer to a Michigan-based manufacturing firm could be taxable (if not exempt for industrial processing or exempt for another reason). If the transferor is licensed or required to be licensed for Michigan Sales Tax, the transferor is responsible for collecting and remitting sales tax. If the transferor is not licensed or required to be licensed for Michigan Sales Tax, the transferee is responsible for remitting use tax.
- The tax base is selling price on the date of transfer. This is the value or price recorded in the purchaser's books, oftentimes representing the net book value at the time of transfer.
- No credit is allowed for tax paid at the time of purchase by the transferring entity.
- Tax is not due on the transfer of a business. See the UTA for what constitutes a **transfer of a business** and for exceptions to the definition.

**Exceptions to the Above:** If the item being transferred is a motor vehicle, ORV, manufactured house, aircraft, snowmobile, or watercraft, tax is due on the higher of the transfer selling price, or retail market value. A vehicle could be exempt if transferred in connection with the organization, reorganization, dissolution, or partial liquidation of a business and the beneficial ownership is not changed and Michigan Tax has been previously paid.

### ***Transfers within the Same Legal Entity***

- As no sale has taken place, the tax base would be the original cost (not net book value) of any fixed asset transferred from out-of-state to Michigan.
- Credit is given for any sales or use tax due and paid to another state or other local jurisdiction, if proof can be shown.
- Tax is generally not due on transfers between Michigan-based divisions.
- The date of transfer to a Michigan division determines whether the transaction is within the 4-year statutory audit period, not the purchase date.

**Note: Transfers between divisions or within divisions are generally not supported by invoices or other documentation. It may be necessary**

**to review journal entries, asset location records, property apportionment worksheets, etc. when auditing taxpayers with substantial intra-corporate transfers from out-state into the State of Michigan.**

References pertaining to this information can be found in the index under [Chapter 38](#)

---

## Chapter 39 – Vehicles

### Sales Tax

The GSTA provides exemptions for sales of vehicles when specific criteria are met.

#### ***New Car Dealerships - Demonstration Vehicles***

Vehicles acquired by a new car or truck dealer for demonstration purposes may be eligible for exemption. The exemption is determined by the number of new cars and trucks sold during the current calendar year or immediately preceding year without regard to the specific make or style. The statute provides the following schedule:

0 – 25 units sold	2 exempt demonstrators
26 – 100 units sold	7 exempt demonstrators
101 – 500 units sold	20 exempt demonstrators
501 or more units sold	25 exempt demonstrators

Once the number of exempt demonstrators has been exceeded, subsequent vehicles would be subject to use tax. The tax base of these vehicles is calculated using the formula provided in MCL 205.93(2) which is: Purchase price of the vehicle x 2.5% + \$30 per month. This is the monthly tax base which should be reported for each month of non-exempt use until the vehicle is sold.

#### ***Vehicles for Resale***

- **New vehicles** at a new car dealership that are purchased for resale.
  - Titled in the dealership's name:
    - The first 25 (or other allowable number) would be exempt for demonstration purposes. Demonstration use would include spouse-assigned vehicles, vehicles assigned to any employee, shuttle vehicles, loaners, etc., but would **not** include a parts runner vehicle.
    - The #26 titled vehicle (or other taxable number) would be subject to use tax under the formula provided in MCL 205.93(2).

- **Parts runner vehicle titled in the dealership's name** – Taxable at cost.
- **Not titled** – All vehicles would be exempt without limitation, unless converted to a non-exempt purpose.
- **Used vehicles** at a new car dealership that are purchased for resale.
  - **Titled in the dealership's name** – Taxable use would be calculated using the formula provided in MCL 205.93(2) beginning with the first vehicle each year.
  - **Not titled** – All vehicles would be exempt without limitation, unless converted to a non-exempt purpose.
- A new or used vehicle held for resale by a new car dealer that is used for a non-exempt purpose and is not exempt as a demonstrator is taxed beginning with the month that the non-exempt use begins and should be calculated using the formula provided in MCL 205.93 (2).

### ***Used Car Dealerships***

- Used vehicles at a used car dealership that are purchased for resale:
  - All vehicles would be exempt without limitation, unless converted to a non-exempt purpose.
- A vehicle held for resale by a used car dealer that is used for a non-exempt purpose is taxed beginning with the month that the non-exempt use begins using the formula provided in MCL 205.93(2).

Charges made to employees for the use of a vehicle will not be considered a taxable rental receipt subject to use tax.

### ***Automobile Manufacturers***

The exemptions provided to automobile dealers for resale and demonstration purposes do not apply to automobile manufacturers. MCL 205.94(l)(c)(i) & (iii) state: "Property purchased for resale..." and "Property purchased for demonstration purposes..." A prerequisite for the application of either exemption is that the property be **purchased**. A manufacturer does not purchase its vehicles, it manufactures them. In addition, the Motor Vehicle Code defines a **demonstrator** as "a motor vehicle used by a prospective customer or a motor vehicle dealer or his agent for testing and demonstration purposes."



### ***Presumption Applicable to Vehicles Purchased for Resale, and Used for Non-exempt Purposes***

- **Presumption:** If a vehicle accumulates more than 1,000 miles between acquisition and disposition, the vehicle will be assumed to have been used for a non-exempt purpose. A dealer may overcome this presumption by presenting records that document the breakdown of non-exempt and exempt use. The Department will allow a de-minimis 1,000-mile safe-harbor between the time of purchase and sale.
- If there are no mileage records for a vehicle it will be presumed that the vehicle accumulated more than 1,000 miles after entering inventory and has been converted.
- The first month of non-exempt use triggers tax. A log or record should be maintained to document the breakdown of non-exempt and exempt usage.

#### **Example:**

A vehicle accumulates 2,500 miles between purchase and sale. The vehicle cost the dealer \$14,000. If no record has been kept documenting the breakdown of non-exempt and exempt usage, tax should be computed using the formula provided in MCL 205.93(2).  $2\frac{1}{2}\%$  of \$14,000 + \$30 = \$380 tax base for each month in possession or  $\$380 \times 6\% = \$22.80$  tax per month.

### ***Vehicles Purchased for Resale, Not Titled, and Used for Demonstration Purposes***

- If a vehicle accumulates more than 1,000 miles between acquisition and disposition, the vehicle will be assumed to have been used for non-exempt purposes. A dealer may overcome this presumption by presenting records that document the breakdown of non-exempt and exempt use. The Department will allow a de-minimis 1,000-mile safe-harbor between the time of purchase and sale.
- If there are no mileage records for a vehicle it will be presumed that the vehicle accumulated more than 1,000 miles after entering inventory and has been converted.
- The first month of non-exempt use triggers tax. A log or record should be maintained to document the breakdown of non-exempt and exempt usage.

**Example:**

A vehicle accumulates 2,500 miles between purchase and sale. The vehicle cost the dealer \$14,000. If no record has been kept documenting the breakdown of non-exempt and exempt usage, tax should be computed using the demo formula.  $2\frac{1}{2}\%$  of \$14,000 + \$30 = \$380 tax base for each month in possession or  $\$380 \times 6\% = \$22.80$  tax per month.

***Non-Michigan Residents***

If a non-resident is issued a special registration (in-transit permit) for the purchase of a vehicle to be titled and registered in his/her home state, Michigan sales tax must be reduced by the use tax imposed on the vehicle by the state to which it was removed and registered; and by the sales tax that would have been charged by the other state. Non-reciprocal states are exempt from Michigan sales tax with the special registration. In computing the tax due in the non-resident's home state, trade-ins, if applicable, are part of the tax base to the extent permitted under Michigan law.

The dealer must obtain a certificate from the purchaser and furnish the Department the following information:

- Name of the purchaser.
- Address of the purchaser.
- Signature of the purchaser.
- Statement that the vehicle shall be primarily used, stored, and registered outside of Michigan.
- Jurisdiction of registration.

The information can be provided by way of certification on the RD-108, *Application for Title and Registration* form that is completed at the dealership.

A sale of a vehicle in interstate or foreign commerce is exempt if the following conditions are met:

- The dealer must not have knowledge that the vehicle will be returned to Michigan.
- Vehicle ownership passes outside the state.
- A Michigan title and license are not required.

- The dealer maintains records to substantiate the above facts.

### ***Ambulances and Fire Department Vehicles***

Ambulances and fire department vehicles not for resale and sold to a Michigan nonprofit corporation organized exclusively to provide a community with ambulance or fire department services are exempt from sales and use tax.

**Note: The Federal government and the State of Michigan and its local governmental entities are exempt from tax. Therefore, any ambulance or fire department vehicle purchased by them is exempt.**

### ***Non-Resident Military Personnel***

A vehicle sold to non-resident military personnel for registration in his/her home state is exempt from Sales Tax. At the time the vehicle is sold, the purchaser shall provide a sworn statement to the vendor from his/her immediate commanding officer certifying that the purchaser is a member of the armed forces on active duty and furnishing the recorded domiciliary or home address of the purchaser.

### ***Use Tax***

A vehicle brought into Michigan within **90** days of purchase from outside of the state is presumed to be subject to tax. The burden of proof of exemption rests with the purchaser. This presumption does **not** mean items brought into Michigan on the 91<sup>st</sup> day or thereafter are not subject to tax if the intent was to bring the item(s) into Michigan.

An exemption from use tax is provided for property used solely for personal, non-business purposes that is purchased outside this state and that is not an aircraft if one or more of the following conditions are satisfied:

- The property is purchased by a person who is not a resident of this state at the time of purchase and is brought into this state more than **90** days after the date of purchase.
- The property is purchased by a person who is a resident of this state at the time of purchase and is brought into this state more than **360** days after the date of purchase.

Tax must be collected by the designated state department before the transfer of title of vehicles, ORVs, manufactured housing, aircraft, snowmobiles or watercraft unless the purchaser is a licensed dealer or retailer purchasing for resale.

Taxable price is not less than retail market value.

The following purchases or transfers are not subject to use tax:

- Among and between the following specific relatives:
  - Spouse.
  - Mother or step-mother.
  - Father or step-father.
  - Brother or step-brother.
  - Sister or step-sister.
  - Child.
  - Step-child.
  - Grandparent.
  - Grandchild.
  - Legal ward.
  - Legally appointed guardian with a certified letter of guardianship.
- Beginning January 1, 2014, if the transferee or purchaser is the father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or grandparent-in-law of the transferor.
- A gift received as a beneficiary in the administration of an estate.
- As part of a(n) organization, reorganization, partial liquidation or dissolution of a business if the beneficial ownership is not changed.
- Distressed vehicles acquired by an insurance company.

The use tax base for a vehicle cannot be less than its retail dollar value at the time of acquisition. The Department may request and use information from any other state agency in order to verify vehicle exemption or questionable valuation claims.

### ***Towing Company Acquisition from Police Agency***

An exemption from use tax is allowed for a vehicle acquired by a towing company from a police agency as satisfaction for towing and storage charges. The vehicle must be impounded by the police agency or determined to be an abandoned vehicle or an abandoned scrap vehicle by the police agency.

An abandoned vehicle is a vehicle that has remained on public property or any other place open to travel by the public without written consent of the police agency for a period of 48 hours after a police agency has affixed a written notice to the vehicle.

An abandoned scrap vehicle is a vehicle that meets **all** of the following requirements:

- Is on public property or other property open to travel by the public.
- Is 7 or more years old.
- Is inoperable or extensively damaged to the extent that the cost of repairing the vehicle to an operational and safe state would exceed the fair market value of that vehicle.
- Is not currently registered pursuant to the Michigan vehicle code.
- Is not removed within 48 hours after a police agency has affixed a written notice to the vehicle.

### ***Sales Tax***

**Sales Price on the Difference for Purchases of Vehicles and Watercraft on and after December 15, 2013:** Prior to 2013, the GSTA and UTA imposed tax on trade-in allowance for vehicles and watercraft. The amendments remove some or all of the trade-in allowance from the tax base for specific watercraft and vehicles by altering the definition of **sales price** in the GSTA and **purchase price** in the UTA. As of December 15, 2013, credit given for eligible motor vehicles used as partial payment for another eligible motor vehicle will not be subject to tax on the agreed upon value of the trade-in up to \$2,000. This deduction amount increases by \$500 each January 1 beginning 2015 and continuing through December 31, 2018. Beginning on January 1, 2019, the amount eligible increases to \$5,000. Beginning on January 1, 2020, the amount increases by \$1,000 on each January 1 thereafter until 2029 when the full value of the trade in vehicle is eligible for the deduction. The deduction for motor vehicles is only available for vehicles that are required to be registered and titled under the Michigan Vehicle Code (MVC) pursuant to MCL 257.216 or vehicles that meet the MVC definition of **recreational vehicle**. The deduction only applies when the trade-in is to a dealer licensed in Michigan as a new or used vehicle dealership; it is not available when the vehicle is purchased from an out-of-state dealer.

Beginning January 1, 2018, credit for the agreed-upon value of a recreational vehicle from a dealer for the purchase of a recreational vehicle is not subject to sales tax with no limit.

The amendments also provide that as of November 15, 2013, credit for the agreed-upon value of eligible titled watercraft used as partial payment for the purchase of a new or used titled watercraft from a watercraft dealer is not subject to tax up to the full value of the trade-in (no limit and no phase-in). To qualify for the deduction, both the trade-in watercraft and the newly purchased watercraft must be titled. Titled watercraft trade-ins to out-of-state dealers do qualify for the deduction. The dealer must separately state the agreed-upon trade-in value of the motor vehicle or titled watercraft on the sales invoice. Motor vehicles used as partial payment for titled watercraft or titled watercraft used as partial payment for a motor vehicle do not qualify for the deduction. Finally, lease transactions are not eligible for the deduction.

### ***Core Charges***

Beginning on January 1, 2017, credit is given for the core charge attributable to a recycling fee, deposit or disposal fee for a motor vehicle or recreational vehicle part or battery if the recycling fee, deposit or disposal fee is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

### ***Automobile Purchases by Foreign Diplomatic Personnel***

All vehicle purchases/leases by diplomatic personnel must be cleared or denied for Sales or Use tax exemption through the issuance of a Motor Vehicle Tax-Exemption Letter issued by the Office of Foreign Missions (OFM) before the transaction is completed. In instances where the diplomatic personnel are denied tax exemption, the vendor (dealer) should collect any tax that is normally imposed at the time of purchase.

**Tax exemption cards may not be used in lieu of a tax exemption letter.**

Michigan vehicle dealer must follow these guidelines when selling/leasing automobiles to diplomatic personnel.

- Call the appropriate office, the OFM Regional Office at (312) 353-5765 between the hours of 8:00 a.m. and 4:45 p.m., Central Time, Monday through Friday or TECO's (Taipei Economic and Cultural Offices) Chicago Office at (312) 616-0100 between 9:00 a.m. and 5:00 p.m., Central Time, Monday through Friday, to request a tax exemption letter on an automobile purchase.

The following information will need to be provided to OFM or TECO by the dealer:

- The seller/lessor's name, mailing address, and telephone and fax numbers;
- The vehicle identification number (VIN), color, year, make, and model of the motor vehicle that the mission or accredited mission member intends to acquire; **and**
- For **official** motor vehicles: the name of the foreign mission that is purchasing or leasing a motor vehicle; **or**
- For **personal** motor vehicles: the name (as it appears on their current "A series" or "G series" visa) of the accredited mission member or their dependent who is purchasing or leasing a motor vehicle, the name of the foreign mission to which the individual is assigned and the individual's U.S. Department of State-Issued Personal Identification Number (PID).
- The dealer must retain a copy of the purchaser's valid passport containing their current "A series" or "G series" visa, U.S. Department of State-issued Personal Identification Number (PID), U.S. Department of State-issued driver's license, or U.S. Department of State or TECO issued Diplomatic Tax-Exempt Card.
- The tax exemption letter issued by the OFM or TECO will instruct the dealer to send transaction documents directly to the OFM or TECO.
- If the purchaser is not eligible for tax exemption (i.e., the OFM or TECO does not issue a tax exemption letter), the seller shall collect and/or remit the appropriate Michigan tax.

All foreign diplomatic personnel must register their automobiles with the U.S. Department of State, and not with the State of Michigan, regardless whether tax exemption is granted.

References pertaining to this information can be found in the index under [Chapter 39](#)

---

## **Chapter 40 – Vessels**

Both the GSTA and UTA exempt the sale/purchase of certain commercial (water) vessels. Exempt vessels must be:

- Specially ordered by the purchaser.
- Net registered tonnage of 500 tons or more.

### ***Sales Tax***

The sale of bunker and galley fuel, provisions, supplies, maintenance, and repairs are exempt if they are for the exclusive use of the vessel produced upon special order and the vessel is engaged in interstate commerce. Sales of these items to vessels operating in foreign commerce are taxable.

### ***Use Tax***

Bunker and galley fuel, provisions, supplies, maintenance, and repairs are exempt from use tax if they are for the exclusive use of any vessel of 500 tons or more, and the vessel is engaged in interstate commerce.

Fuel and supplies for use on pleasure craft are subject to tax.

Food sold for resale on vessels plying the Great Lakes is exempt if the vessel operator has a sales tax license and remits tax on all sales within Michigan waters.

References pertaining to this information can be found in the index under [Chapter 40](#)



---

## ***Index of References***

### **Chapter 1 - Introduction:**

- None

### **Chapter 2 – Agricultural Production:**

- MCL 205.54a(1)(e)
- MCL 205.94(1)(f)
- 1979 AC R 205.51 (Rule 1), *Agricultural Producing*
- 1979 AC R 205.115 (Rule 65), *Public Utilities; Gas, Electricity, and Steam*
- RAB 2016-4, *Determination of Tangible Personal Property or Real Property*
- RAB 1990-2, *Sales and Use Taxes - Storage Facilities*
- RAB 1990-24, *Sales and Use Tax Guidelines for Veterinarians*
- RAB 1991-11, *Sales and Use Taxes - Agricultural Production Amendments*
- LR 72-10, *Agricultural Production (Eggs)*
- LR 79-16, *Agricultural Production (Tractor Accessories)*
- LR 83-7, *Agricultural Production (Temperature Measuring Unit)*
- LR 85-16, *Agricultural Production (Greenhouse)*
- LR 86-37, *Agricultural Production (Crop Dusting)*
- LR 89-1, *Lease of Farm Equipment*

### **Chapter 3 – Aircraft/Aircraft Parts:**

- MCL 205.54x
- MCL 205.94(1)(u) and (v)
- MCL 205.94k

### **Chapter 4 – Bad Debts:**

- MCL 205.54i
- MCL 205.56a(5)
- MCL 205.99a
- RAB 2015-27, *Sales and Use Taxes Bad Debt Deduction*

### **Chapter 5 – Broadcasters:**

- MCL 205.54a(1)(g)
- MCL 205.94(1)(m)
- RAB 1997-1, *Sales and Use Tax Exemption for Commercial Radio and Television Broadcasters*

## **Chapter 6 – Churches:**

- MCL 205.54a(1)(b)
- MCL 205.54o
- MCL 205.54p
- MCL 205.54q
- MCL 205.94(1)(h) and (i)
- MCL 205.94m
- 1979 AC R 205.65 (Rule 15), Churches and Houses of Religious Worship
- RAB 1991-19, *Tax Base Used in Determining Sales Tax Liability on Food and Beverages Served at Fundraising Events*
- RAB 1995-3, *Sales and Use Tax – Nonprofit Entities*
- RAB 2016-4, *Determination of Tangible Personal Property or Real Property*
- RAB 2016-18, *Sales and Use Taxation of the Construction Industry (Excluding Manufacturer/Contractors)*
- RAB 2002-15, *Sales and Use Tax Exemptions and Requirements*
- LR 81-4, *Sales to a Church*

## **Chapter 7 – Coins and Bullion:**

- MCL 205.54s
- MCL 205.94u

## **Chapter 8 - Commercial Advertising:**

- MCL 205.54d(h)
- MCL 205.94a(e)

## **Chapter 9 – Commercial Fishing:**

- MCL 205.54a(h)
- MCL 205.94(dd)

## **Chapter 10 – Communication Service Providers:**

- MCL 205.52(2)(b)
- MCL 205.54v
- MCL 205.93a(1)(a) and (c)
- MCL 205.93a(2)-(4)
- MCL 205.94q
- MCL 205.94(1)(x)
- 1979 AC R 205.110 (Rule 60), *Telephone and Telegraph*
- *Garfield Mart, Inc v Dep't of Treasury*, 320 Mich App 628 (2017)

## **Chapter 11 – Computer Software:**

- MCL 205.51a(c),(d) and (o)
- MCL 205.54d(f) and (g)
- MCL 205.69(1)(e)
- MCL 205.110(1)(c) and (d)
- MCL 205.92b(c),(d) and (o)
- MCL 205.92(e),(f) and (k)
- MCL 205.94a(c) and (d)
- RAB 1999-5, *Sales and Use Taxation of Computer Software*
- *Auto-Owners Insurance Co v Dep't of Treasury*,
- *Catalina Marketing Sales Corp v Dep't of Treasury*, 470 Mich 13 (2004)

## **Chapter 12 – Contact Lenses, Prosthetic Devices, Durable Medical Equipment, and Mobility Enhancing Equipment:**

- MCL 205.51a(f), (j), (n), and (q)
- MCL 205.54a(1)(h) and (o)
- MCL 205.92b(f), (j), (n), and (q)
- MCL 205.94(1)(p) and (aa)
- 1979 AC R 205.139, *Medical Equipment and Appliances*
- LR 78-8, *Medical Equipment and Appliances*
- LR 87-46, *Hot Tub*
- LR 87-51, *Hydraulic Wheel Chair Lifts*
- LR 87-52, *Medical Equipment and Appliances*
- LR 2002-1, *Sales and Use Tax Medical Equipment Exemption: The Meaning of "Device"*
- LR 2002-2, *Sales and Use Tax Medical Equipment Exemption: Orthotics*
- LR 2017-1, *Sales and Use Tax Treatment of Transfers of Human Tissues Used for Research and Training Purposes*

## **Chapter 13 – Conversion:**

- MCL 205.92(b),(e) and (q)
- MCL 205.93
- MCL 205.94
- MCL 205.97
- MCL 257.11a
- 2013 AACRS R 205.8, *Consumer; Use; Conversion*

## **Chapter 14 - Data Center:**

- MCL 205.54ee(4)(d)
- MCL 205.94cc(4)(d)

## **Chapter 15 – Delivery Charges:**

- MCL 205.51a(e)
- MCL 205.92b(e)
- MCL 205.51(1)(d)(iv)
- MCL 205.92(f)(iv)
- 1979 AC R205.124 (Rule 74), *Transportation Charges*
- RAB 2015-17, *Sales Tax Treatment of Delivery and Installation Services Provided by Retailers*

## **Chapter 16– Demonstration:**

- MCL 205.54t(5)(d)
- MCL 205.94o(5)(d)
- MCL 205.94(1)(c)(iii)

## **Chapter 17 – Direct Mail:**

- MCL 205.51a(g)
- MCL 205.54a(n)
- MCL 205.69(1)(b)
- MCL 205.69(1)(e)
- MCL 205.71a
- MCL 205.92(b)
- MCL 205.92b(g)
- MCL 205.93(1)
- MCL 205.103a
- MCL 205.110(1)(b)
- MCL 205.110(1)(e)

## **Chapter 18 – Drop Shipments:**

- MCL 205.54k
- MCL 205.94i
- RAB 2002-10, *Sales and Use Taxes - Drop Shipments*

## **Chapter 19 – Exemptions and Requirements:**

- MCL 205.54q
- MCL 205.62
- MCL 205.94(1)(c)(i)
- RAB 2002-15, *Sales and Use Tax Exemptions and Requirements*
- Form 3372, *Michigan Sales and Use Tax Certificate of Exemption*
- 2013 AACS R 205.1, *Sales Tax Licenses*

## **Chapter 20 – Extractive Operations:**

- MCL 205.94p
- MCL 205.54u
- MCL 205.54dd
- MCL 205.94aa
- MCL 211.784
- 1979 AC R 205.99 (Rule 49), *Mining, Oil Wells, and Extractive Operations*
- RAB 1989-56, *Sales and Use Tax - Taxability of Dry Hole or Dry Well Casing for Oil and Gas Well Drilling Operations*
- LR 81-1, *Drilling Equipment, Supplies and Materials: 8 Inch or Under Casing and Dry Pipe*
- LR 86-2, *Sand and Gravel Processing*
- LR 86-18, *Production of Electrical Energy from Waste Materials*

## **Chapter 21 – Federal Preemption:**

- MCL 205.54h
- MCL 205.94(1)(g)
- 1979 AC R 205.79 (Rule 29), *Federal and State Governments*
- RAB 1989-64, *Sales Tax - Federal Credit Unions and Federal Home Loan Banks*
- LR 90-24, *State Government Contracts*
- *U.S. v State of Michigan*, 851 F2d 803 (CA 6, 1988)

## **Chapter 22 – Food for Human Consumption:**

- MCL 205.51a
- MCL 205.52(4)
- MCL 205.54a
- MCL 205.54d(d)
- MCL 205.54g
- MCL 205.94(1)(q) & (w)
- MCL 205.94a(h)
- MCL 205.94d
- 2007 AACCS R 205.56 (Rule 6), *Bakeries*
- 1979 AC, R 205.58 (Rule 8), *Beer, Wine, and Liquors*
- 2007 AACCS R 205.126 (Rule 76), *Vending Machines and Other Automatic Sales Devices*
- 2007 AACCS R 205.127 (Rule 77), *Water*
- 2013 AACCS R 205.136 (Rule 86), *Food for Human Consumption*
- RAB 2009-8, *Sales Tax - Food for Human Consumption*
- RAB 1988-42, *Sales Tax – Catered Meals*

### **Chapter 23 – House Rentals (Rentals of Rooms and Lodging):**

- MCL 205.92(h)
- MCL 205.93a(1)(b)
- 1979 AC R 205.88 (Rule 38), *Hotels, Motels, Cabins, and Camps; Accommodations*
- RAB 2013-4, *Exemption for Foreign Diplomatic Personnel*
- LR 71-3, *Church [Travel Accommodations]*
- LR 86-6, *Schools*
- LR 87-8, *Hotel/Motel Charges*
- LR 89-3, *Sales to Other State Agencies*

### **Chapter 24 – Industrial Laundries:**

- MCL 205.54a(1)(m)
- MCL 205.92(l)
- MCL 205.93a(1)(d)
- MCL 205.94(1)(y)

### **Chapter 25 – Installation Charges:**

- MCL 205.51(1)(d)(v)
- MCL 205.92(f)(v)
- RAB 2015-17, *Sales Tax Treatment of Delivery and Installation Services Provided by Retailers*

### **Chapter 26 – Interstate Commerce:**

- MCL 205.69
- MCL 205.110
- 1979 AC R 205.81 (Rule 31), *Foreign Commerce*
- 1979 AC R 205.91 (Rule 41), *Interstate Commerce*

### **Chapter 27 – Interstate Motor Carriers:**

- MCL 205.54r
- MCL 205.94k
- RAB 2016-2 *Sales and Use Tax Treatment of Interstate Motor Carriers*
- *Midwest Power Line, Inc v Dep't of Treasury*, Docket No. 336451 (2018)

### **Chapter 28 – Isolated/Casual Transactions and Auctioneers:**

- MCL 205.54d(i) and (j)

- MCL 205.54o
- MCL 205.54q
- MCL 205.94g
- 1979 AC R 205.13 (Rule 13), *Casual or Isolated Sales*
- 1979 AC R 205.53 (Rule 3), *Auctioneers, Agents, Factors, and Brokers*
- RAB 2004-3 *Sales and Use Tax Guidelines for Distinguishing Between the Sale of a Service and the Sale of Tangible Personal Property*
- LR 72-8, *Isolated Transaction/Estate*
- LR 77-2, *Commercially Promoted Community Garage Sale Determined to be Rental Event Subject to Sales Tax*
- LR 79-1, *Isolated Transactions/Purchase of Existing Business*
- LR 85-7, *Duty of Assessing Officer - Unlicensed Seller*
- LR 86-30, *Casual or Isolated Garage Sales*

#### **Chapter 29 - Lessors:**

- MCL 205.92b(1)
- MCL 205.92b(1)(iii)
- MCL 205.92(h)
- MCL 205.94(4)
- MCL 205.54d(a)
- MCL 205.94a(a)
- MCL 205.92(f)
- MCL 205.110(6)(b)
- MCL 205.110(2)
- MCL 205.62
- 1979 AC, R 205.132 (Rule 82)
- *Devonair Enterprises, LLC v Dep't of Treasury*, 297 Mich App 90 (2012)
- *Catalina Marketing Sales Corp v Dep't of Treasury*, 470 Mich 13 (2004)
- *Kal-Aero, Inc v Michigan Dep't of Treasury*, 123 Mich App 46 (1983)
- RAB 2015-25 *Sales and Use Taxes – Lessors*

#### **Chapter 30 – Newspapers, Periodicals and Other Publications:**

- MCL 205.54a(1)(f)
- MCL 205.94(1)(l)
- 1979 AC R 205.117 (Rule 67), *Repairers and Servicers*
- 1979 AC R 205.113 (Rule 63), *Printers, Lithographers, Photostaters, Typographers, and Blueprinters*
- RAB 1988-33 *Newspaper Supplements*
- LR 72-1, *Newspapers, Magazines and Other Publications*
- LR 76-11, *Newspapers and Periodicals*
- LR 80-6, *Newspapers, Magazines and Other Publications*

- LR 87-24, *Sale of Books*



### **Chapter 31 – Nonprofit Organizations:**

- MCL 205.54a(1)(a) & (i)
- MCL 205.94(1)
- MCL 205.54q
- RAB 1995-3, *Nonprofit Entities*
- RAB 2002-15, *Exemptions and Requirements*
- LR 78-5, *Sales to Nonprofit Organizations*

### **Chapter 32 – Pollution Control Facilities, Component Parts:**

- MCL 205.54a(1)(l)
- MCL 205.94(1)(s)
- 1979 AC R 205.137 (Rule 87), *Air and Water Pollution*
- RAB 1990-2, *Storage Facilities*
- RAB 1999-2, *Sales and Use Taxation in the Construction Industry, including Nonprofit Hospital, Nonprofit Housing, and Sanctuary Exemptions*

### **Chapter 33 – Prescription Drugs:**

- MCL 205.54d(k) & (l)
- MCL 205.54g(1)(a)
- MCL 205.94a(f) & (g)
- MCL 205.94d(1)(a)
- RAB 1993-3, *Taxation of Prescription Drugs*
- IPD 2016-1, *Sales and Use Taxes – Taxability of Over-The-Counter Medications Dispensed by Prescription and Paid For By Medicaid Arrangements*

### **Chapter 34 – Promotional Products:**

- MCL 205.94 (1)(c)
- MCL 205.103a (1)(a) & (b)

### **Chapter 35 – Purchase of Business:**

- MCL 205.94g

### **Chapter 36 – Railroads:**

- MCL 205.54m
- MCL 205.54o
- MCL 205.54q
- MCL 205.94l

### **Chapter 37 – Schools, Hospitals and Certain Nonprofit Institutions:**

- MCL 205.54a(1)(a)
- MCL 205.54o
- MCL 205.54q
- MCL 205.94(h)
- 1979 AC R 205.74 (Rule 24), *Educational Institutions*.
- 1979 AC R 205.87 (Rule 37), *Hospitals*
- 1979 AC R 205.104 (Rule 54), *Optometrists, Ophthalmologists, Opticians, and Optical Supply Houses*
- 1979 AC R 205.140 (Rule 90)
- RAB 1995-3, *Non-Profit Entities, IRC 501(3) & (4)*
- RAB 2002-15, *Sales and Use Tax Exemptions and Requirements*
- LR 73-4, *Schools (Ohio State University, Aviation Fuel)*

### **Chapter 38 – Transfers Between Related Entities and within the Same Legal Entity:**

- MCL 205.51(g)
- MCL 205.93(3)(c)
- MCL 205.93(2)
- MCL 205.94g

### **Chapter 39 – Vehicles:**

- MCL 205.51(1)(d)(xi)-(xii))
- MCL 205.51(1)(d)(xiii)
- MCL 205.51(1)(d)(xiv)
- MCL 205.52a
- MCL 205.54a
- MCL 205.54d(b)-(c) & (e)
- MCL 205.54e
- MCL 205.54r
- MCL 205.61
- MCL 205.92
- MCL 205.93
- MCL 205.94
- MCL 205.94bb
- 1979 AC R 205.54 (Rule 4), *Automobile and Other Vehicle Dealers*
- 1979 AC R 205.135 (Rule 85), *Isolated Vehicle, Aircraft, Watercraft, and Snowmobile Transfers*
- RAB 1991-1, *Use Tax Exemption on Transfer of Vehicle, ORV, Mobile Home, Aircraft, Snowmobile, or Watercraft to or from a Business*

- RAB 2015-13, *Exemption for Foreign Diplomatic Personnel*
- RAB 2018-5, *Use Tax Exemption on Transfer of Motor Vehicles, ORV, Manufactured Homes, Aircraft, Snowmobiles, or Watercraft Between Relatives and Others*
- LR 2015-1, Tax on Difference

#### Chapter 40– Vessels:

- MCL 205.54a(1)(d)
- MCL 205.94(1)(j)
- 1979 AC R 205.131 (Rule 81), *Vessels and Watercraft*