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## NOTICE REGARDING 2018 PAs 113 AND 114 AGRICULTURAL PRODUCTION EXEMPTION

**Issued: April 27, 2018**

On April 25, 2018, 2018 Public Acts 113 and 114 (the Acts) were signed into law with immediate effect. The Acts are retroactive to all periods open under the statute of limitations (see MCL 205.27a); however, the Acts do not apply to refund claims filed before April 9, 2018. The Acts expand the agricultural production exemption from sales and use taxes in a number of ways, including expansion to certain property used to harvest aquatic vegetation.

**Agricultural production exemption.** The Acts expand the exemption to include tangible personal property that is used “directly or indirectly” for agricultural purposes. Prior to this expansion, the exemption was limited to property that was directly used to support specific enumerated agricultural activities.

Generally, the agricultural production exemption excludes property that is affixed to real estate. The Acts provide a limited exception to this exclusion for tangible personal property installed as a component part of a structure such as a barn or shop if “it is 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” an exempt agricultural purpose. This includes water supply systems, heating and cooling systems, lighting systems, milking systems, and other property that can be removed from the structure and reused elsewhere without affecting the structural functionality of the structure.

Likewise, prior to the passage of the Acts, greenhouses that were affixed to real estate were excluded from the exemption. However, the Acts now exempt a greenhouse used for an exempt agricultural purpose if it “is assembled and installed in a manner that it can be disassembled and reassembled without affecting the functionality of the greenhouse upon being reassembled.” The Acts specifically define a “greenhouse” as “a structure covered with transparent or translucent materials for the purpose of admitting natural light and controlling the atmosphere for growing horticultural products.” However, a greenhouse used to grow marihuana is not eligible for the exemption.

**Aquatic vegetation.** The Acts expand the exemption to tangible personal property “that is specifically designed for, and directly used in, the harvesting of aquatic vegetation from” ponds and lakes located in Michigan to the extent that the harvested aquatic vegetation is ultimately used in exempt agricultural production. This exemption excludes motor vehicles required to be licensed for use on public roads in Michigan.

To read the new laws in their entirety, please refer to 2018 PAs 113 and 114 at [www.legislature.mi.gov](http://www.legislature.mi.gov).