

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



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**Contractor Manual**

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**February 2024**

# **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 and Use Tax Act.

Any references in this manual to Rules, Revenue Administrative Bulletins (RABs), Internal Policy Directives (IPDs), and Letter Rulings 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.

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## Chapter 1 – Types of Contractors

Contractors are persons directly engaged in the business of constructing, altering, repairing, or improving real estate for others. Contractors include prime contractors, general contractors, and subcontractors. Special rules apply to contractors who manufacture, fabricate, or assemble property prior to affixing it to realty. Categorization as a contractor is not dependent on governmental licensing requirements.

A contractor incurs use tax liability on the storage, use, or consumption of property a contractor purchases or acquires for the constructing, altering, repairing, or improving of real estate of others in Michigan as a “consumer” of that property unless a specific exemption applies.

A contractor incurs sales tax liability when it sells tangible personal property at retail (even if the property was originally purchased with a claim of exemption). A contractor also makes a sale at retail when the contractor sells tangible personal property in the course of performing a construction contract, and the property is not consumed, affixed to, or made a structural part of the real estate upon installation, but remains tangible personal property.

Except where otherwise exempt by law, a contractor is required to pay sales or use tax on all items used by the contractor to perform its service, including equipment, supplies, materials, and any other non-exempt tangible personal property it uses or consumes. Likewise, unless otherwise exempt by law, sales and rentals of tools, machinery, and equipment to contractors are taxable.

**Consumer** means a person who, for consideration, has acquired tangible personal property for storage, use, or other consumption in this state, whether acquired in person, through the mail or catalog, over the Internet, or by other means.

Consumer includes, but is not limited to, one or more of the following:

- A person acquiring tangible personal property if engaged in the business of constructing, altering, repairing, or improving the real estate of others
- A person who has converted tangible personal property or services that were exempt from sales or use tax to a use that is not exempt from tax

Acquisition of tangible personal property does not automatically subject a contractor to use tax liability. **Acquisition** is not equivalent to ownership. The word **acquire** is defined in Black’s Law Dictionary (8<sup>th</sup> ed) to mean “to gain possession or control of; to get or obtain.” Furthermore, a contractor making retail sales or engaging in manufacturing may

also be subject to use tax when it removes goods from inventory for personal use or consumption, or for use or consumption in the conduct of its business. However, a use tax exemption exists for property purchased or manufactured by a person engaged in the business of constructing, altering, repairing, or improving real estate for others to the extent that the property is affixed to and made a structural part of real estate located in another state regardless of whether sales or use tax was due and paid in the state in which the property is affixed to real estate.

If the contractor acquires tangible personal property from another person (e.g., client/customer) that will be stored, used, or consumed by the contractor, the contractor will not be liable for use tax on that property if all the following conditions are met:

- property was purchased by that other person
- that other person is not exempt from sales or use tax (i.e., not an exempt entity)
- property was acquired by the contractor for the sole purpose of affixing that property to real estate on behalf of that other person

**Examples:**

- Michigan Nonprofit School purchases building materials in a tax-exempt retail transaction and provides the materials to Contractor for use or consumption in performing a contract upon the school's real property. Contractor is liable for use tax on the purchase price of tangible personal property used or consumed in performing the contract, including the tangible personal property provided by the school. The Michigan Nonprofit School is an exempt entity and therefore the acquisition of the materials by the Contractor did not meet the three criteria listed above; therefore, the contractor is liable for use tax.
- Retailer (a home improvement store) purchases tangible personal property (e.g., shelves) and hires a contractor to affix that tangible personal property to the real estate in Michigan upon which the store is located. Contractor acquires the tangible personal property from Retailer for the sole purpose of affixing that property to this real estate. Contractor is not liable for use tax, but Retailer is liable for use tax on the purchase price of the tangible personal property used and consumed by the contractor unless Michigan sales tax was paid on that tangible personal property.

There are four categories of contractors, that is, different rules apply to the determination of taxability, amount taxable, etc. depending on the contractor's activities in conjunction

with the tangible personal property. A contractor may fit into more than one of the categories.

### ***Real Property Contractors***

This category refers to contractors who do not make retail sales of tangible personal property, who do not manufacture, and who do not treat themselves as retailers. Real property contractors are persons engaged in the business of constructing, altering, repairing, or improving real estate for others to the extent that tangible personal property is affixed to real estate.

As a consumer, a real property contractor incurs use tax responsibilities. Its use tax obligation is generally 6% of the cost of materials used in the job.

In most cases, the tax liability is satisfied by:

- the contractor paying sales tax to its vendor, OR
- the contractor paying use tax on the property consumed

### **Examples:**

- A contractor builds decks but does not make retail sales. Homeowner hires the contractor to build a deck. The contractor purchased the materials used to fulfill the contract at the local lumber retailer and paid sales tax on all the materials. The contractor has no use tax obligation and no obligation to register for payment of sales tax. However, the contractor must document that the lumber retailer charged it sales tax on the materials it purchased. Because the contractor is not making retail sales it may not claim a resale exemption with the lumber retailer.
- The contractor in the example above purchases railing for the deck from a Washington State vendor to install on the deck. Everything is done over the phone, and the Washington State vendor charges no Michigan sales tax. The contractor must report use tax based on the purchase price of the railings.
- A retailer sells a product and installation to its customer and hires a subcontractor to handle the installation of the product (e.g., countertop). Retailer is responsible for collecting and remitting sales tax

regardless of whether the installation of the property is subcontracted to a contractor.

The contractor will be relieved of paying use tax for that property if the retailer collects sales tax from its customer. The contractor must be able to demonstrate that the sales tax was collected by the retailer. A sales invoice from the retailer to the customer that separately states the sales tax is sufficient evidence to establish that sales tax was collected on the retail sale and will satisfy the contractor's burden of proving its entitlement to the exemption provided for in the statute.

- A contractor obtains materials for installation contracts it has with the retailer from a source that is not the retailer (e.g., a third-party vendor). If the contractor paid sales tax to that vendor, that property would then be exempt from use tax upon installation.

Where a contractor is exclusively engaged in the contracting business and makes no sales at retail, the contractor does not need a sales tax license. Non-licensed contractors are required to maintain a use tax registration.

### ***Contractor and Retailer***

Contractors that fall into this category make repeated retail sales of tangible personal property in addition to affixing to real property. They often have a showroom or retail space. Such contractors:

- Purchase inventory tax exempt for resale
- Are required to obtain a sales tax license
- Must charge sales tax on the selling price of all retail sales of tangible personal property unless an exemption applies
- Report use tax on the purchase price for tangible personal property taken out of retail inventory and affixed to real property in Michigan

When making retail sales, this type of contractor is allowed the same exemptions as a retailer who does not affix tangible personal property to real property.



### **Example:**

A contractor is an installer of flooring for residential homes and also has a showroom where people can come in and purchase flooring materials. The contractor does not manufacture any of the flooring it installs. If the contractor removes materials from its inventory to perform a contract job, it must accrue use tax on the cost of those materials. If the contractor sells materials from its showroom, it must charge sales tax to its customers on the retail selling price.

### ***Contractors Acting as Retailers***

Contractors acting as retailers are real property contractors that consistently hold themselves out to the public as retailers, and who consistently collect and remit sales tax in a manner consistent with the General Sales Tax Act.

Contractors who *consistently* hold themselves out as retailers (by charging sales tax to their customers on the materials they affix to realty) may separately itemize labor and materials and remit sales tax on the retail selling price of the materials. A lump sum billing that does not separately itemize installation labor and materials is subject to sales tax on the total charge.

Contractors who consistently hold themselves out as retailers may purchase job materials tax exempt “for resale at retail” and then collect and remit sales tax when billing their customers. Contractors may elect to use this treatment as long as the total sales tax remitted is not less than the sales/use tax that would have been paid on the cost of the materials.

A contractor may choose this type of treatment in lieu of remitting use tax as statutorily required ***but then must consistently adhere to this tax treatment.*** If the contractor engages in more than one distinct business activity, (e.g., repair of property and installation of property), each distinct activity may be treated differently as long as the treatment is consistently applied.

Where a contractor is not exclusively engaged in the contracting business but makes retail sales of tangible personal property, the contractor must obtain a sales tax license and report and remit sales tax. Use tax due on untaxed purchases consumed in this state in contractor operations is reported on the combined sales and use tax returns.

For contractors acting as retailers, the Department will allow those contractors to accept an exemption claim (generally made on Form 3372 – Michigan Sales and

Use Tax Certificate of Exemption) from their customers for jobs that would otherwise not be exempt for contractors.

**Example:**

- A contract to replace a furnace in a building owned by the United States government would not normally qualify as an exempt real property contract and the contractor would be required to pay sales or use tax on the cost of materials used. However, if the contractor acting as a retailer consistently applies sales tax treatment to its transactions, the Department will generally allow the transaction to be treated as tax exempt, as though it were an actual sales tax transaction.

***Manufacturer/Contractors***

A manufacturer/contractor is a person who both:

- Manufactures, fabricates, and/or assembles tangible personal property
- Affixes that property to real estate for others (i.e., is a real property contractor)

Retail sales by manufacturer/contractors are subject to sales tax on the full sales price. The use tax obligation of a manufacturer/contractor depends on whether it maintains an inventory of its products for sale to others or makes its product available for sale to others through a publication or price list. These requirements are described later in this manual.

**Note:** If a company bills “time and material” but has a subcontractor do the actual affixation to realty, the company still qualifies as a manufacturer/contractor. The subcontractor is never billed for the material; therefore, the manufacturer/contractor remains liable for any use tax due. However, if materials are billed to the subcontractor, the manufacturer is making a retail sale and does not qualify as a manufacturer/contractor. The manufacturer of those materials may still be eligible for the industrial processing exemption.

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

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## **Chapter 2 - Real vs. Personal Property**

**Real property** is defined in Black's Law Dictionary (8<sup>th</sup> ed) as "land, and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land." Realty and real estate have the same meaning as real property.

**Fixture** implies something having a possible existence apart from the realty which by annexation may be assimilated into realty.

### ***Tangible Personal Property or Fixture to Real Estate***

**Tangible personal property** means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses and includes electricity, water, gas, steam, and prewritten computer software.

Property can lose its character as tangible personal property by transformation into a fixture when affixed to real estate. The relevant facts should be viewed on a case-by-case basis to determine whether personal property has become sufficiently affixed to real property that it should be treated as part of the real property.

- Agricultural exemption with limited enumerated exceptions does not apply to tangible personal property permanently affixed and becoming a structural part of real estate.
- Industrial processing exemption does not apply to tangible personal property affixed to and becoming a structural part of real estate in Michigan.

To determine whether property remains tangible personal property or becomes a part of realty (i.e., becomes a "fixture"), we look to three general factors:

### ***Annexation to realty, either actual or constructive***

This factor has to do with the manner in which an item is attached to the real property. There are innumerable ways that a person can affix personal property to real estate; some items may be physically attached to the real estate (e.g., bolted to the floor or wall) whereas other items may be put in place with the intent that the property will become part of the real estate through size and character. Therefore, even if an object is not physically affixed to the realty, it may acquire the status of a fixture by constructive annexation.

Constructive annexation has frequently been applied in the case of property which is not itself actually or directly annexed to the realty, but is part of, or accessory to, property which is annexed. The property, if removed, would leave the property to which it is annexed unfit for use and the part or accessory is not capable of general use elsewhere.

There is no universal test whereby the character of what is claimed to be a fixture can be determined in the abstract and neither the mode of annexation nor the manner of use is conclusive in all cases. Normally whatever is affixed to a building by an owner to complement, to facilitate its use and occupation in general, becomes a part of the realty, though capable of removal without injury to the building.

Certain equipment remains personal property even though it may appear to be part of real property. Since some items can have the appearance of being real property, it is important to ascertain all the facts before making a final decision.

If the object is not attached to the land or to some structure or appliance which is attached to the land, it will retain its character as personal property even though intended for permanent use on the premises.

Generally, if property depends on the building utilities for operation and use and is connected to the building utilities (e.g., gas, electric, plumbing), it is deemed to be affixed to realty.

### ***Adaptation or application to the use or purpose of the real estate***

This factor suggests that if an item functions as part of the particular building or if it carries out part of the function of the real property, that item is probably real property. An object introduced onto the realty may become a fixture if it is a necessary or at least a useful adjunct to the realty, considering the purpose to which the latter is devoted.

#### **Examples:**

- Screens which are built to fit the windows of a particular building
- Theater seats bolted to the theater floor and an essential part of the function of the building

Another indicator of real property exists when the object cannot be used unless affixed to the building or land.

**Examples:**

- Night depository equipment
- Drive-up window equipment
- Vault doors

In simple terms, if the tangible personal property serves a function of realty or the building and if it is attached to realty and permanently affixed to realty, it would usually be considered real property.

***Intention to make the property a permanent accession to the real estate.***

Whether property attached to real estate becomes a fixture depends largely upon the intention of the parties. Objective visible facts of the party making the annexation determines the intent.

The permanence required is not equated with perpetuity. It is sufficient if the item is intended to remain where affixed until worn out, until the purpose to which the realty is devoted is accomplished, or until the item is superseded by another item more suitable for the purpose. Permanency of the attachment, and its character in law, do not depend so much on the degree of physical force with which the thing is attached, or the manner and means of attachment, as upon the motives and intention of the party in attaching it. If the intention is that the articles attached will not by annexation become a fixture, as a general rule they will not.

Intent may be inferred from the nature of the article affixed, the purpose for which it was affixed, and the manner of annexation. Whatever is affixed to a building by an owner to complement, to facilitate its use and occupation in general, becomes a part of realty, though capable of removal without injury to the building.

## Real vs Personal Property Chart

No.	Description	Most likely categorization (dependent on facts and circumstances)
1	Acoustical ceilings: <ul style="list-style-type: none"> <li>• Building ceiling construction</li> <li>• Portable</li> </ul>	Real Personal
2	Air compressors: <ul style="list-style-type: none"> <li>• Portable</li> <li>• Part of central system</li> </ul>	Personal Real
3	Air conditioning systems for general building	Real
4	Air conditioning units: <ul style="list-style-type: none"> <li>• Window type units</li> <li>• Floor or cabinet type - no ductwork</li> <li>• Process – central system</li> <li>• Evaporators</li> </ul>	Personal Personal Real Real
5	Air makeup unit: <ul style="list-style-type: none"> <li>• For general building</li> <li>• For specific IP function</li> </ul>	Real Personal
6	Alarm/security systems: <ul style="list-style-type: none"> <li>• Built-in components</li> <li>• Freestanding or wall-mounted components</li> </ul>	Real Personal
7	Appliances: <ul style="list-style-type: none"> <li>• Built-in</li> <li>• Freestanding</li> </ul>	Real Personal
8	Awnings – canopies/marquees	Real
9	Berms	Real
10	Bins: <ul style="list-style-type: none"> <li>• Portable</li> <li>• Built-in</li> </ul>	Personal Real
11	Boilers: <ul style="list-style-type: none"> <li>• One boiler</li> <li>• Multiple boilers</li> </ul>	Real R or P depending on use
12	Booths: <ul style="list-style-type: none"> <li>• Equipment type</li> <li>• Building type -- room like</li> </ul>	Personal Real

<b>No.</b>	<b>Description</b>	<b>Most likely categorization (dependent on facts and circumstances)</b>
13	Bridges: <ul style="list-style-type: none"> <li>• Specific to equipment</li> <li>• Specific to building</li> </ul>	Personal Real
14	Building/home cabinet	Real
15	Bunkers and silos	Real
16	Bus ducts: <ul style="list-style-type: none"> <li>• For general electrical distribution</li> <li>• For specific equipment</li> </ul>	Real Personal
17	Cabinets	Real
18	Carpeting	Real
19	Catwalks: <ul style="list-style-type: none"> <li>• Attached to equipment</li> <li>• Attached to building</li> </ul>	Personal Real
20	Central control systems: <ul style="list-style-type: none"> <li>• Direct control specific for equipment</li> <li>• General control power wiring</li> <li>• Control building</li> </ul>	Personal Real Real
21	Clocks- payroll and watchman clocks	Personal
22	Combustion turbines for producing electricity at a power plant for retail sale	Personal
23	Communications systems -- permanent: <ul style="list-style-type: none"> <li>• Phone</li> <li>• Pneumatic tubes</li> <li>• Wiring/cabling for internet communications</li> </ul>	Personal Personal Real
24	Compressor for general building air conditioners	Real
25	Conveyors or carrier enclosures	Personal
26	Cooling towers	Real
27	Counters and countertops	Real
28	Crane tracking or rails (crane ways)	Personal
29	Cranes	Personal
30	Dehumidifiers: <ul style="list-style-type: none"> <li>• Portable</li> <li>• Part of heating/air conditioning</li> </ul>	Personal Real

<b>No.</b>	<b>Description</b>	<b>Most likely categorization (dependent on facts and circumstances)</b>
31	Dikes or levees: <ul style="list-style-type: none"> <li>• Surrounding storage tanks</li> <li>• River or lake control</li> </ul>	Real Real
32	Dock, loading <ul style="list-style-type: none"> <li>• Bumpers and seals</li> <li>• Levelers</li> <li>• Ramps (built-in)</li> </ul>	Real Real Real Real
33	Door operators	Real
34	Doors (garage and pass doors)	Real
35	Dryers, processing	Personal
36	Ductwork: <ul style="list-style-type: none"> <li>• Building</li> <li>• For equipment</li> </ul>	Real Personal
37	Dumbwaiters	Real
38	Dust or spray collection equipment for specific machines	Personal
39	Dynamometer testing cells	Real
40	Electrical distribution materials & equipment: <ul style="list-style-type: none"> <li>• Up to last transformer and up to the secondary substation</li> <li>• Installed after usable power is provided to be used for machinery and equipment</li> </ul>	Real Personal
41	Electrical substation enclosures	Real
42	Elevators	Real
43	Emergency lights	Real
44	Enclosures: <ul style="list-style-type: none"> <li>• Building</li> <li>• Freestanding</li> </ul>	Real Personal
45	Energy monitors: <ul style="list-style-type: none"> <li>• General building</li> <li>• For specific equipment</li> </ul>	Real Personal
46	Escalators – building	Real
47	Exhaust systems/air makeup units: <ul style="list-style-type: none"> <li>• Ducted from equipment</li> <li>• Building ventilation</li> </ul>	Personal Real



<b>No.</b>	<b>Description</b>	<b>Most likely categorization (dependent on facts and circumstances)</b>
48	Fans: <ul style="list-style-type: none"> <li>• Building ventilation, built-in</li> <li>• Portable</li> </ul>	Real Personal
49	Fencing	Real
50	Fireplace inserts	Personal
51	Fire protection systems: <ul style="list-style-type: none"> <li>• Building sprinklers</li> <li>• Building CO<sub>2</sub>, halon, hi-ex foam systems</li> <li>• CO<sub>2</sub>, halon, hi-ex foam system for equipment only</li> <li>• Supplemental water system to assist building</li> <li>• Supplemental water system for equipment only</li> <li>• Fire extinguisher cabinets, reels, valves</li> <li>• Fire extinguishers (canister or tanks)</li> <li>• Fire escapes</li> </ul>	Real Real Personal  Real  Personal  Real Personal Real
52	Flag poles, in ground or on building	Real
53	Floor finishes: <ul style="list-style-type: none"> <li>• Special coverings (wood block, steel tile)</li> <li>• Standard coverings (carpet, linoleum, tile)</li> </ul>	Real Real
54	Floor grates: <ul style="list-style-type: none"> <li>• Not adjacent to machinery</li> <li>• Adjacent to machinery</li> </ul>	Real Real
55	Flooring, raised or computer room	Personal
56	Foundations for specific industrial processing equipment	Personal
57	Freezers: <ul style="list-style-type: none"> <li>• Walk-in</li> <li>• Portable – freestanding</li> </ul>	Real Personal
58	Furnaces: <ul style="list-style-type: none"> <li>• One – building function</li> <li>• Multiple</li> </ul>	Real R or P depending on use
59	Garage door openers	Real

<b>No.</b>	<b>Description</b>	<b>Most likely categorization (dependent on facts and circumstances)</b>
60	Gas distributions systems: <ul style="list-style-type: none"> <li>• Gas lines to process system</li> <li>• Gas lines to building systems</li> </ul>	Personal Real
61	Gate operators: <ul style="list-style-type: none"> <li>• Part of fence -- land improvements</li> </ul>	Real
62	Generator: <ul style="list-style-type: none"> <li>• One which services the facility</li> <li>• Used for specific machine</li> </ul>	Real Personal
63	Grain storage bins	Real
64	Greenhouses: <ul style="list-style-type: none"> <li>• Permanently affixed</li> <li>• Not permanently affixed (can be disassembled/reassembled)</li> </ul>	Real Personal
65	Guard rails and posts: <ul style="list-style-type: none"> <li>• Protect equipment – attached to building</li> <li>• Protect equipment – attached to equipment</li> <li>• Protect inventory</li> <li>• Roads, parking, building</li> </ul>	Real Personal  Real Real
66	Heaters - unit heaters, hanging	Real
67	Heating & venting systems-general building type	Real
68	Hoists- built-in	Real
69	Hot water heaters	Real
70	Humidifiers- built-in	Real
71	Incinerators	Real
72	Insulation & piping in wall for refrigerated rooms	Real
73	Kilns- ceramic and lumber, built-in	Real
74	Landfill cells-layers of waste separated from land by an impermeable barrier: <ul style="list-style-type: none"> <li>• Piping/horizontal wells (in landfill cells)</li> <li>• Tire chips (over piping in landfill cells)</li> </ul>	Personal Personal
75	Landfill cells- methane producing	Personal
76	Landscaping materials-installed	Real

<b>No.</b>	<b>Description</b>	<b>Most likely categorization (dependent on facts and circumstances)</b>
77	Lighting, electrical: <ul style="list-style-type: none"> <li>• General building</li> <li>• Land improvements</li> <li>• Supplemental – building system (fixtures extended down from general building)</li> <li>• Supplemental – equipment (fixtures hard-wired and extended down to a specific machine)</li> </ul>	Real Real Real  Personal
78	Lightning arresters	Real
79	Locker room facilities: <ul style="list-style-type: none"> <li>• Plumbing fixtures, showers</li> <li>• Permanent partitions</li> <li>• Toilet partitions</li> <li>• Lockers, freestanding</li> <li>• Lockers, recessed into wall</li> </ul>	Real Real Real Personal Real
80	Modular housing units: <ul style="list-style-type: none"> <li>• Sold to Michigan builders</li> </ul>	Personal
81	Office – portable	Personal
82	Parking control systems	Real
83	Partitions: <ul style="list-style-type: none"> <li>• Portable cubicles/workstations</li> <li>• Permanently attached</li> </ul>	Personal Real
84	Pipe rack supports	Real
85	Piping: <ul style="list-style-type: none"> <li>• From wall to specific machinery</li> <li>• Utility piping, gas, water, etc.</li> </ul>	Personal Real
86	Plastic door strips (air guard strips) to separate areas	Real
87	Plumbing: <ul style="list-style-type: none"> <li>• General building</li> <li>• Plumbing, to specific equipment</li> </ul>	Real Personal
88	Pools: <ul style="list-style-type: none"> <li>• Inground</li> <li>• Above ground</li> </ul>	Real Personal
89	Press pit	Personal

<b>No.</b>	<b>Description</b>	<b>Most likely categorization (dependent on facts and circumstances)</b>
<b>90</b>	Pump houses	Real
<b>91</b>	Ramps: <ul style="list-style-type: none"> <li>• Portable</li> <li>• Built-in</li> </ul>	Personal Real
<b>92</b>	Rooms within a plant, not a structural part of realty	Personal
<b>93</b>	Scale houses	Real
<b>94</b>	Scales- built-in	Real
<b>95</b>	Shed <ul style="list-style-type: none"> <li>• Bolted to concrete slab</li> <li>• Portable for storage</li> </ul>	Real Personal
<b>96</b>	Siding	Real
<b>97</b>	Signs: <ul style="list-style-type: none"> <li>• Affixed to building</li> <li>• Integral part of equipment</li> </ul>	Real Personal
<b>98</b>	Silo – raw material storage	Real
<b>99</b>	Solar panels	Real
<b>100</b>	Spray booths- permanently attached	Real
<b>101</b>	Stainless steel wall panels for food industry	Real
<b>102</b>	Tanks – built-in (attached to a building or foundation)	Real
<b>103</b>	Telephone wiring in wall	Real
<b>104</b>	Theatre seats bolted to the floor	Real
<b>105</b>	Toilet facilities: <ul style="list-style-type: none"> <li>• Plumbing fixtures, showers</li> <li>• Partitions</li> </ul>	Real Real
<b>106</b>	Underground cables	Real
<b>107</b>	Vats for mixing (manufacturing process)	Personal
<b>108</b>	Wash fountains	Real
<b>109</b>	Water fountains	Real
<b>110</b>	Water meters (owned by city/county)	Personal
<b>111</b>	Water softeners	Real
<b>112</b>	Welding booth, portable	Personal
<b>113</b>	Wind turbines: <ul style="list-style-type: none"> <li>• Foundation</li> <li>• Tower and turbine (nacelle and rotor)</li> </ul>	Real Personal

<b>No.</b>	<b>Description</b>	<b>Most likely categorization (dependent on facts and circumstances)</b>
<b>114</b>	Windows: <ul style="list-style-type: none"> <li>• Operators</li> <li>• Shutters – decorative</li> <li>• Treatments</li> </ul>	Real Real Personal
<b>115</b>	Wood blocking for floor	Real
<b>116</b>	Wood burning stoves, built-in and/or vented	Real
<b>117</b>	Wooden Pole-Mounted Outdoor Warning Sirens	Real

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

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## **Chapter 3 - Statutory Exemptions**

Tangible personal property purchased or acquired for affixation to, and/or made a structural part of, certain types of real property will be exempt from tax if all requirements are met. Contractors claiming an exemption when purchasing materials used in an exempt construction contract should obtain a written statement from the entity and any applicable supporting documentation. These exemptions apply to all types of contractors that affix tangible personal property to realty.

### **Exemption Forms**

Contractors should obtain a completed Form 3520 – Michigan Sales and Use Tax Contractor Eligibility Statement from its customer. A contractor should use this form to obtain a statement from the property owner that materials to be affixed to and made a structural part of certain real property qualify for exemption. (Contractors claiming an exemption under a transformational brownfield plan must obtain Form 5555 - Michigan Certificate of Exemption for Transformational Brownfield Plan). The property owner should complete Form 3520 and return it to the contractor. The contractor will then submit this form to their supplier, along with Form 3372 - Michigan's Sales and Use Tax Certificate of Exemption (or other acceptable format as outlined in RAB 2016-14) at the time of purchase.

If it is determined that the property does not qualify for exemption, the contractor will **not** be relieved from tax liability simply because they have obtained the completed Form 3520. A Contractor Eligibility Statement signed by the property owner does not absolve a contractor of sales or use tax liability. If it is determined that some or all of the property does not qualify for exemption, the contractor is liable for use tax as the consumer of that property.

A contractor in the business of constructing, altering, repairing, or improving real estate for others is afforded an exemption for property affixed to and/or made a structural part of real estate that qualifies under one of the following:

### **Nonprofit Hospitals**

The General Sales Tax Act and Use Tax Act states that tangible personal property sold to a person directly engaged in the business of constructing, altering, repairing, or improving real estate for others is exempt to the extent that the property is “affixed to and made a structural part of” a nonprofit hospital. The statute requires that a hospital comply with the following two tests to be met in order for this exemption to apply:

- Meet the statutory definition of a “nonprofit hospital,” and
- Pass the inurement test

**Nonprofit hospital** means one of the following:

1. That portion of a building to which one of the following applies:
  - Is owned or operated by an entity exempt under Internal Revenue Code (IRC) § 501(c)(3), that is licensed as a hospital under Part 215 of the Michigan Health Code
  - Is owned or operated by a governmental unit in which medical attention is provided
  - Is owned or operated by an exempt entity or entities exempt under IRC § 501(c)(2) or (3) in which medical attention is provided
2. That portion of real property necessary and related to a building described in 1 above, in which medical attention is provided. “Medical attention” means “that level of medical care in which a physician provides acute care or active treatment of medical, surgical, obstetrical, psychiatric, chronic, or rehabilitative conditions, that require the observation, diagnosis, and daily treatment by a physician.”
3. A county long-term medical care facility (CLTMCF), including any “addition” to an existing county long-term medical care facility, if the addition is owned and operated by the CLTMCF and offers health services provided by the CLTMCF.

A **CLTMCF** is a nursing care facility, other than a hospital long-term care unit, that provides organized nursing care and medical treatment to 7 or more unrelated individuals who are suffering or recovering from illness, injury, or infirmity and that is owned by a county or counties.” Operations not requiring licensure, such as “assisted living facilities, do not qualify as a hospital for the construction exemption.

In the case of a CLTMCF, **affixed to and made a structural part of** means any physical connection to an existing CLTMCF. Therefore, the exemption for a CLTMCF is limited to tangible personal property that ultimately has any physical connection to any addition to or renovation of an *existing* building of a CLTMCF. The exemption is only available for newly constructed buildings if the building has a physical connection to an *existing* CLTMCF

building (e.g., by breezeway). If no such physical connection exists, the exemption may not be claimed.

**Addition** includes a freestanding building as long as that freestanding building is operated under the same license held by the county long-term medical care facility and continues to offer the same health services as the county long-term medical care facility in that freestanding building.

**Medical attention** means that level of medical care in which a physician provides acute care or active treatment of medical, surgical, obstetrical, psychiatric, chronic, or rehabilitative conditions, that require the observation, diagnosis, and daily treatment by a physician.

Nonprofit hospital **does not include** the following:

- A freestanding building (unless a qualifying addition to a CLTMCF) or other real property of a nursing home or skilled nursing facility
- A licensed hospice
- A licensed home for the aged

The **Inurement of Benefit Test** refers to any portion of property that otherwise qualifies as a nonprofit hospital must also pass the inurement of benefit test. That is, no income or benefit may inure directly or indirectly to an individual, private stockholder, or other private person from the independent or nonessential operation of that portion of the property. This exemption may be calculated on a pro rata basis.

A nonprofit hospital passing the inurement of benefit test would qualify for exemption. However, where a single building is being constructed that will have multiple uses, some of which will not pass the inurement of benefit test, that portion not meeting the test will be taxable. For example, in the nonprofit hospital context, portions of the hospital building not meeting the test include, but are not limited to, those which would be rented or provided to persons to conduct commercial activities such as:

- Physicians (for private practice)
- Pharmacy
- Gift shop
- Coffee shop



- News stand
- Medical apparatus outlet
- Cafeteria

**Examples:**

- A portion of a nonprofit hospital is constructed to house a retail gift shop that will be operated by an unrelated for-profit entity. Profits made by this entity inure to its private owner. The portion of the nonprofit hospital that is constructed to house the retail gift shop is not eligible for the exemption.
- A county long-term medical care facility hires a contractor to construct a freestanding building on its existing campus. The new building will be used as an office and not operated under the CLTMCF's license or otherwise offer the same medical services as the CLTMCF. The exemption does not apply to this transaction because the freestanding building will not be operated under the same license or continue to offer the same medical services.
- A county long-term medical care facility hires a contractor to construct a freestanding building on its existing campus that will be operated under XYZ's license and will offer the same health services as XYZ. This project is eligible for the exemption.
- Contractor is hired by developer to construct a new campus of freestanding buildings with each building licensed and operated as a county long-term medical care facility. No existing county long-term medical care facility operates on the proposed campus. This project is not eligible for the exemption because the exemption only applies to an existing county long-term medical care facility.

Generally, the exemption only includes property that is affixed to and made a structural part of the nonprofit hospital. The exemption does not include tools and equipment, or supplies used and consumed in the construction which do not become a structural part of the hospital, e.g., sandpaper, hammers, saws.

***Qualified Nonprofit Housing***

The General Sales Tax Act and Use Tax Acts state that property used in certain improvements to real estate is exempt, including property purchased by a person directly engaged in the business of constructing, altering, repairing, or improving real estate for others to the extent that the property is affixed to and made a structural part of the real

estate of a nonprofit housing entity qualified as exempt pursuant to the State Housing Development Authority Act, or SHDAA.

A nonprofit housing entity must be qualified as exempt pursuant to the SHDAA. Government housing projects are generally not in compliance with SHDAA, thus tangible personal property affixed to them is taxable. If a benefit from any portion of the real estate inures directly or indirectly to an individual, private stockholder, or other private person, that portion of the property would be taxed. Additionally, no direct or indirect benefit can inure to any person other than the intended qualified tenants.

Only private qualified nonprofit housing that has received an exemption certificate from the Michigan State Housing Development Authority (MSHDA) qualifies for this exemption. Public nonprofit housing is not covered by MSHDA and therefore does not qualify for exemption.

The exemption only includes property that is affixed to and made a structural part of the nonprofit housing. The exemption does not include tools and equipment, or supplies used and consumed in the construction which do not become a structural part of the non-profit housing, e.g., sandpaper, hammers, saws.

### ***Church Sanctuaries***

The General Sales Tax Act and Use Tax Act state that tangible personal property purchased or acquired by a contractor to be affixed to or made a structural part of a sanctuary of a regularly organized church or house of religious worship is exempt from sales and use tax. Therefore, the exemption does not include tools and equipment, or supplies used and consumed in the construction which do not become a structural part of the sanctuary, e.g., sandpaper, hammers, saws. The sanctuary must be owned, occupied, and used by a religious organization qualified under IRC § 501(c)(3). Sanctuary includes a sanctuary to be constructed that will be owned, occupied, and used by a religious organization qualified under IRC § 501(c)(3). The exemption is limited to building portions predominately and regularly used for public worship service.

**Predominant use** means that public worship occurs more than 50% of the time that the building portion is in use, including passive uses such as storage. **Regular use** means normal or usual periodic use or uniform use of that portion of the building.

As used in this section, a sanctuary is limited to:

1. Portions of a building where the acts of worship take place, including areas where the public participates in worship, areas dedicated to individual worship (such as

chapels), and those portions of the building whose sole use and function is directly related to the act of public worship.

These areas may also include:

- Sacristy or similar area adjacent to room where public worship services are conducted
- Areas where consumables are prepared for use in worship service
- Vestry or similar area adjacent to room where public worship is conducted or where clergy or other religious leaders prepare for public worship service

A sanctuary does not include any area in which an activity that does not constitute public worship occurs. These may include:

- Social functions
- Schooling
- Day care
- Religious Education

**2. Portions of a building structurally necessary (directly connected) to the portion of the building where worship takes place.**

These areas may include:

- Foundations, including basement walls which support the interior worship area
- Exterior walls and finishing materials directly adjacent to worship area
- Interior walls, floors and ceilings facing the interior worship area
- Roofs directly over the interior worship area

These areas would not include:

- That portion of exterior walls, foundations and roofs that extend beyond the interior worship area

The following areas may be apportioned using a fraction, the numerator of which is the square footage of the sanctuary and the denominator of which is the total square footage of the entire building, including all areas such as basements. Other reasonable methods of apportioning a sanctuary's taxable and exempt use may be applied if they are approved by Treasury:

- Roofs not directly over interior worship area (i.e., roof over second story office above interior worship area)
- Structural necessities supplying heat, ventilation and air conditioning to qualified sanctuary and non-exempt areas
- Material purchases for multiple use areas in lieu of accounting for actual cubic yards of concrete or squares of roof shingles directly under or over the sanctuary

In general, building areas not provided exemption include gymnasiums, offices, vestibules, hallways, restrooms, basements, and classrooms. Outdoor areas such as parking lots, sidewalks and steps leading into a building are not exempt. Also, not exempt are finishing materials affixed to basement foundation walls or attached to walls common to the sanctuary but constituting the interior walls of space dedicated to any activity other than public worship. Basement floors and second story flooring are not exempt.

### ***Qualified Water or Air Pollution Control Facilities***

The General Sales Tax Act and Use Tax Act allows an 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.

For purposes of the Water Pollution Control Facility exemption, **facility** means any disposal system, including disposal wells or any treatment works, appliance, equipment, machinery, or installation constructed, used, or placed in operation primarily for the purpose of reducing, controlling, or eliminating water pollution caused by industrial waste. The following are types of facilities that would normally qualify for real and personal property, sales and use tax exemption status under PA 451 of 1994, Part 37, as amended providing they are found to be functioning adequately:

- Industrial wastewater treatment or pretreatment installations and ancillary equipment such as wastewater storage and chemical treatment storage tanks, pumps, piping, electrical, instrumentation and sludge dewatering equipment
- Waste disposal wells and monitoring wells

- Purge wells and treatment systems for industrially contaminated groundwater
- Incinerators or other technologies that effectively destroy hazardous industrial wastes that are potential water contaminants
- Landfill components that serve primarily for the purpose of reducing water pollution such as Leachate Collection Systems
- Containment dikes, impervious flooring or other containment structures to retain spillage or leakage from chemical storage tanks or hazardous waste containers
- Industrial cooling water regeneration systems and wastewater recycle systems. Pumps and piping to the system would qualify, but not return pumps and piping back to the process
- Laboratories and lab equipment used in connection with industrial wastewater pollution control
- Agricultural facilities that have a primary purpose of water pollution control, such as animal waste storage facilities, pesticide and fertilizer storage facilities and certain land use changes such as green belts and filter strips that are installed and maintained to prevent water pollution
- Well casings and other measures that prevent losses to drinking water aquifers from production wells

For purposes of the Air Pollution Control Facility exemption, **facility** means machinery, equipment, structures, or any part or accessories of machinery, equipment, or structures installed or acquired for the primary purpose of controlling or disposing of air pollution that if released would render the air harmful or inimical to the public health or to property within this State. Facility includes an incinerator equipped with a pollution abatement device in effective operation. Facility does not include an air conditioner, dust collector, fan, or other similar facility for the benefit of personnel or of a business. Facility also means the following, if the installation was completed on or after July 23, 1995:

- Conversion or modification of a fuel burning system to effect air pollution control. Only the fuel burner portion of the system is eligible for tax exemption.
- Installation of a new fuel burning system to effect air pollution control. Only the fuel burner portion of the system is eligible for tax exemption.

- A process change involving production equipment made to satisfy the requirements of PA 451 of 1994, Part 59, as amended, and rules promulgated under that part. The maximum cost allowed shall be 25% of the cost of the new process unit but shall not exceed the cost of the conventional control equipment applied on the basis of the new process production rate on the preexisting process.

The exemption is dependent on a tax exemption certificate issued by the State Tax Commission (STC). Issuance of a certificate is contingent upon satisfying the conditions found in the Natural Resources and Environmental Protection Act 1994 PA 451.

In the General Sales Tax Act and Use Tax Act, the pollution control exemptions are interpreted as follows:

1. Tangible personal property purchased for installation as a component part of an air or water pollution control facility for which the STC issues a tax exemption certificate is exempt from tax.

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. An industrial processor may apply to the State Tax Commission for tax exemption for the construction of a storage facility when purchased and installed as a component part of a water or air pollution control facility. If granted, the industrial processor may purchase materials tax-exempt or provide the exemption certificate to the contractor for their purchases of tangible personal property.

2. 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 STC, a refund may be requested by the purchaser upon submission of both of the following documents to Treasury:

- 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 the seller, identification of the purchaser, identification of the items purchased, date of purchase, and amount of tax paid to the seller

The customer, who provides a copy of the Pollution Control Exemption Certificate and asks for their tax to be refunded from the seller, prompts the request. The entity that paid the tax to Treasury requests the refund. To facilitate the refund process, the owner of the

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

### ***Pollution Control Exemption Certificates and Limitations***

An entity must apply for and be granted a pollution control exemption certificate by the STC in order for any of its purchases to qualify for this exemption. The effective date of the certificate is the date of issue and the certificate continues in force until it is revoked, or the facility is no longer used for its primary purpose. The certificate will state the total cost of the property entitled to exemption. If the final cost of material in the pollution control facility exceeds this amount, amounts exceeding the limitation are subject to tax. Furthermore, replacement equipment and repair parts acquired in subsequent years may be taxable items if the additional costs would cause the project to exceed the stated exempt value in the original exemption certificate.

After review by the Property Services Division, a recommendation is made to the STC regarding the qualifications of the application. The STC is responsible for final approval and issuance of certificates. Exemptions are not effective until approved by the STC. However, even if a certificate is granted for the pollution control facility, the pollution control facility exemption is limited in scope to property purchased/sold and installed as a component part of such a facility. Thus, not all property which may be associated with the construction, installation, etc. of a pollution control facility qualifies for the exemption. Equipment benefiting the business or personnel will be taxable. Examples include, but are not limited to, heat recovery equipment, air make-up units, equipment used to prepare and return contaminants to the process, etc. The utility costs associated with the operation of these facilities also do not qualify for the exemption.

A list of Pollution Control Exemption Certificates:

- Form 3828 – Application for Air Pollution Control Tax Exemption Certificate
- Form 891 - Application for Water Pollution Control Tax Exemption Certificate
- Copies of previously issued Pollution Control Tax Exemption Certificates acted upon by the STC after January 1, 2013, are available on Treasury's website at: [www.michigan.gov/propertytaxexemptions](http://www.michigan.gov/propertytaxexemptions). Choose the exemption program under which the certificate was issued. Within the "Certificate Activity" link, the certificates are listed according to the date they were acted on.

## ***Qualified Convention Facilities***

Before January 1, 2016, the sale of tangible personal property for use in construction or renovation of a qualified convention facility under the Regional Convention Facility Authority Act is exempt from sales tax. Likewise, tangible personal property acquired by a contractor before January 1, 2016 is exempt from use tax if affixed to and made a structural part of a qualified convention facility under the Regional Convention Facility Authority Act.

This exemption does not apply to tangible personal property sold or acquired on or after January 1, 2016, even if used in the construction or renovation of a qualified convention facility.

**Convention facility** means all or any part of, or any combination of, a convention hall, auditorium, arena, meeting rooms, exhibition area, and related adjacent public areas that are generally available to the public for lease on a short-term basis for holding conventions, meetings, exhibits, and similar events, together with real or personal property, and easements above, on, or under the surface of real or personal property, used or intended to be used for holding conventions, meetings, exhibits, and similar events, together with appurtenant property, including walkways, parking lots, bicycle paths, plazas, green space, or structures and roads, necessary or convenient for use in connection with the convention facility. Convention facility includes an attached arena with a seating capacity not exceeding 13,000. Convention facility does not include any arena with a seating capacity exceeding 13,000..

A **qualified convention facility** is a publicly owned convention facility with not less than 600,000 square feet of usable exhibition area that is located in a qualified city.

A **qualified city** means a city with a population of more than 700,000 according to the most recent decennial census that contains a qualified convention facility.

## ***Transformational Brownfields***

The sale of tangible personal property for use in (or acquired by a contractor for) eligible activities described in section 2 of the Brownfield Redevelopment Financing Act on eligible property that is included in a transformational brownfield plan, to the extent that the tangible personal property will be affixed to and/ made a structural part of the real property or infrastructure improvements included within the transformational brownfield plan. “Eligible property”, “infrastructure improvements”, and “transformational brownfield plan” mean those terms as defined in section 2 of the Brownfield Redevelopment Financing Act.



**Note:** 2017 PA 48 requires the tangible personal property to be affixed to “and” made a structural part of the “real property or infrastructure improvements” included within the transformational brownfield plan the real estate. 2017 PA 49 requires the tangible personal property to be affixed to “or” made a structural part of the “improvements to real property” included within a transformational brownfield plan ....”

Contractors seeking to purchase tangible personal property exempt from sales or use tax under this provision must contact the transformational brownfield plan developer to obtain Form 5555 (Michigan Certificate of Exemption for Transformational Brownfield Plan). Form 5555 is the document to be given to retailers (suppliers) from whom the contractor purchases its materials in order to claim an exemption from sales or use tax under this provision. Contractors may not use Form 3372 to claim an exemption from sales or use tax related to a transformational brownfield.

### ***Qualified Data Centers***

Beginning January 1, 2016, through December 31, 2035, data center equipment that is affixed to or made a structural part of a qualified data center is exempt from sales and use tax.

For purposes of this exemption, **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 co-located 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.

#### **Qualified data center means:**

- a facility composed of 1 or more buildings located in this state
- which is 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 1 or more colocated businesses to

centralize, the storage, processing, management, or dissemination of data of 1 or more other persons who is not an affiliate of the owner or operator of a qualified data center or of a co-located business

- the entity that owns or operates the facility receives 75% or more of its revenue from co-located businesses that are not an affiliate of the owner or operator of the qualified data center

As of February 13, 2020, all taxpayers claiming sales or use tax exemptions regarding the sale or purchase of data center equipment must annually report the sales or purchase price of the data center equipment sold to, or purchased by, them each calendar year for which the exemptions were claimed. Taxpayers must also provide any other information required by Treasury to determine the amount of revenue lost to the School Aid Fund from claiming these exemptions. Treasury has issued Form 2726 (Report for Qualified Data Center Exemptions) for the purpose of reporting the required information.

### ***State/Tribal Tax Agreements***

Certain tax exemptions may apply to contractors that enter into contracts involving federally recognized Indian Tribes (and their qualifying members) that have an effective tax agreement with the State of Michigan.

Materials that are purchased, used, or acquired in the performance of a contract entered into by a Resident Tribal Member, Tribe, or Tribal Entity for construction, renovation or improvement of real property owned by the Tribe or the federal government in trust for the Tribe may be exempt from both sales and use taxes depending on the circumstances.

Materials that are purchased, used, or acquired in the performance of a contract for construction, renovation, or improvement to the principal residence of a Resident Tribal Member are exempt from both sales and use tax. A Resident Tribal Member is a Tribal Member whose principal place of residence is located within his or her Tribe's Tax Agreement Area. If the Resident Tribal Member owns the property jointly with a non-Resident Tribal Member, the Resident Tribal Member is entitled to a 50% exemption.

If a Resident Tribal Member sells his or her principal residence within two years of purchasing exempt materials that were affixed to the principal residence, the Resident Tribal Member must remit use tax to Treasury based on the purchase price of the property that was purchased exempt and affixed to the principal residence.

Where the Tribe, Resident Tribal Member, or Tribal Entity requesting exemption has opted for the certificate method, the contractor must secure a Form 3998-Tribal Certificate of

Exemption (TCE), and a copy of the Letter of Authorization issued by Treasury to the Tribe. The contractor presents this information to the vendor to purchase materials tax-free. Where the contractor is a subcontractor not identified on the TCE, a Michigan Sales and Use Tax Exemption Certificate (Form 3372) must be completed by the subcontractor and provided to the vendor in addition to the TCE and Letter of Authorization.

Tribes with State/Tribal Tax Agreements are listed on the Michigan Treasury Website. These agreements dictate the terms of the exemptions for the Tribes and their qualifying members for those taxes covered under the Tax Agreement(s). State law applies to those taxes where not otherwise altered by the Tax Agreement(s). For Tribes without a tax agreement, transactions must be assessed on a case-by-case basis to determine whether federal law preempts the State's sales and use tax.

### ***Qualified Business Activities (Enterprise Zones)***

The General Sales Tax Act and Use Tax Act state that a sale of tangible personal property to be used in a qualified business activity of the purchaser is exempt from sales tax. Tangible real or personal property is also exempt from use tax to the extent that the property is used in a qualified business activity of the purchaser. As used in this section, **qualified business activity** means business activity in an enterprise zone established before 1994 of a qualified existing business attributable to a new facility or the business activity in an enterprise zone established before 1994. A contractor claiming this exemption must be qualified to operate within the Enterprise Zone and directly engaged in the business of affixing to realty. In addition, the affixation to realty must occur within the Enterprise Zone. Currently there are no active state enterprise zones in Michigan, and new zones are not being designated.

The City of Benton Harbor is a Federal Enterprise Zone, but this classification does not provide any exemption from sales or use tax. Future developments related to state enterprise zones should be confirmed with the Michigan Economic Development Corporation (MEDC).

### ***Foundations for Certain Machinery or Equipment Used in Industrial Processing***

The General Sales Tax Act and Use Tax Act exempt "foundations for machinery or equipment...used in an industrial processing activity...". **Industrial processing** is the activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property for ultimate sale at retail or for use in the manufacturing of a product to be ultimately sold at retail or affixed to and made a structural part of real estate located in another state.

### Example:

Contractor constructs a foundation for a machine press for use in industrial processing by Manufacturer. The foundation is exempt from sales and use tax.

### ***Property to be Affixed to and Becoming a Structural Part of Real Estate Located Outside Michigan (Use Tax Only)***

Property that is purchased or manufactured by a contractor for the purpose of constructing, altering, repairing, or improving real estate for others and that is affixed to and made a structural part of real estate located in another state is exempt from use tax. However, there is no corresponding sales tax exemption. Therefore, when a contractor purchases property for affixation in another state from a Michigan retailer, absent another reason to claim exemption, the contractor has no basis to claim a sales tax exemption and the retailer will be liable for sales tax.

### ***Agricultural Land Tile***

The sale of agricultural land tile to a contractor is exempt from sales and use tax under the agricultural production exemption to the extent it is affixed to and made a structural part of real estate for others and is used for agricultural production.

**Agricultural land tile** means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land used in the production of agricultural products as a business enterprise.

Only the agricultural land tile itself is exempt; any other property used or consumed in the tiling process, such as metal outlet pipes or culverts, is subject to sales and use tax. The exemption applies only to land tile in land used for agricultural production. Tile used in areas or for purposes other than agricultural production is subject to sales and use tax. For example, tile used in a residential area or in the yard around a farmhouse is subject to sales and use tax.

### ***Extractive Operations***

**Extractive operations** means the activity of taking or extracting for resale ore, oil, gas, coal, timber, stone, gravel, clay, minerals, or other natural resource material. An extractive operation begins when contact is made with the actual type of natural raw product being recovered. Extractive operation includes all necessary processing operations before shipment from the place of extraction. Extractive operations include 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. 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.

An **extractive operator** is a person who, either directly or by contract, performs extractive operations.

A sale of tangible personal property to an extractive operator for use or consumption in extractive operations is exempt from the tax under the GSTA and the UTA.

The property is exempt only to the extent that the property is used for exempt purposes. The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by Treasury.

Extractive operations include the actual production of oil, gas, brine, or other natural resources. Property eligible for the exemption includes the following:

- Casing pipe or drive pipe.
- Tubing.
- Well-pumping equipment.
- Chemicals.
- Explosives or acids used in fracturing, acidizing, or shooting wells.
- Christmas trees, derricks, or other wellhead equipment.
- Treatment tanks.
- Piping, valves, or pumps used before movement or transportation of the natural resource from the production area.
- Chemicals or acids used in the treatment of crude oil, gas, brine, or other natural resources.
- Tangible personal property used or consumed in depositing tailings from hard rock mining processing.
- Tangible personal property used or consumed in extracting the lithologic units necessary to process iron ore.

The extractive operation exemption does not include the following:

- Tangible personal property consumed or used in the construction, alteration, improvement, or repair of buildings, storage tanks, and storage and housing facilities.
- Tangible personal property 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.
- Tangible personal property that is a product the extractive operator produces and that is 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 this state based upon the product's fair market value.
- Equipment, materials, and supplies used in exploring, prospecting, or drilling for oil, gas, brine, or other natural resources.
- Equipment, materials, and supplies used in the storing, withdrawing, or distribution of oil, gas, or brine from a storage facility.
- Vehicles, including special bodies or attachments, required to display a vehicle permit or license plate to operate on public highways.

**Examples:**

- The use tax base for a contractor who withdraws gravel from its own pit for use in a paving contract and not for resale would be zero. The labor to extract would not be included. This taxpayer would be considered a contractor, not an extractive operator, since the gravel extracted is not for resale.
- If gravel is withdrawn from the pit of another for use in a contract, the cost for use tax purposes would be the amount paid to the pit owner for the material. The labor to extract would not be included. In this case, the taxpayer would be considered a contractor, not an extractive operator.
- If a taxpayer bought a sand hill and used the sand to make glass to install in a building, the use tax base would be the cost of the material and direct labor. This taxpayer is a manufacturer/contractor, not an extractive operator. If the taxpayer also sold sand at retail, it would also be an extractive operator.
- If an extractive operator/manufacturer/contractor maintained a standard inventory of aggregate for sale to others, the use tax base when using aggregate in performance of a contract would be the finished goods inventory value – whether

extracted from the extractive operator/manufacturer/contractor's own pit or the pit of another.

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

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## Chapter 4 - Manufacturer/Contractors

A manufacturer/contractor is a person who manufactures, fabricates, or assembles tangible personal property and subsequently affixes its product to the real estate of others.

### **Use Tax Treatment**

If a manufacturer/contractor

- maintains an inventory of its product(s) available for sale to others, OR
- makes its product available for sale to others by publication or price list,

the use tax base for products withdrawn from inventory and affixed to realty in Michigan is finished goods inventory value. The manufacturer/contractor's equipment and supplies will not qualify for the industrial processing exemption unless the property is sold at retail or affixed to and made a structural part of real estate located in another state. Tools used at the construction site do not qualify for exemption unless used to mix, blend, etc.

If a manufacturer/contractor

- does not maintain an inventory of its product available for sale to others, AND
- does not make its product available for sale to others by publication or price list,

the use tax base for products withdrawn from inventory and affixed to realty in Michigan is the sum of the cost of direct materials and direct labor to manufacture, fabricate, or assemble the property. The components of direct materials and direct labor are discussed in 26 CFR 1.471-11 and the related statutes. The manufacturer/contractor's equipment and supplies do not qualify for the industrial processing exemption unless the property is sold at retail or affixed to and made a structural part of real estate located in another state.

The words **fabricate**, **manufacture**, and **manufacturer** are defined by statute. **Fabricate** means to modify or prepare tangible personal property for affixation or assembly. **Manufacture** means to convert or condition tangible personal property by changing the form, composition, quality, combination, or character of the property. **Manufacturer** means a



person who manufactures, fabricates, or assembles tangible personal property. Treasury defines **assemble** as to gather into a group or collect or fit or put together parts.

A manufacturer/contractor **maintains an inventory** of its product that is available for sale to others when it has on hand a stock of its self-manufactured product that customers can purchase.

### ***Direct Labor***

Direct labor pertains to staff directly engaged in production, including manufacturing or fabricating (including mixing, combining, or blending) at the job site prior to affixation, operating fabricating machines, and in-process material handling. Costs of direct labor include but are not limited to:

- Wages (basic, overtime, vacation and holiday, sick leave, and shift differential)
- Fringe benefits including but not limited to severance pay, accident and health insurance, voluntary membership dues and payments (e.g., union dues), clothing and laundry reimbursements, long-term disability insurance, meals and meal allowances, and voluntary employee benefits association (VEBA).
- Accident, health, long-term disability, and life insurance plans
- Bonuses, commissions, stock bonuses, profit sharing
- Workers' compensation (severance pay, supplemental unemployment benefit plan payments)
- Pension and retirement
- Payroll taxes
- Any other payment incurred on behalf of employees directly engaged in production

Direct labor does not include staff performing shipping and receiving, shop supervision, or maintenance and repair functions. In addition, direct labor to cut, bend, assemble or attach at the job site in Michigan is specifically exempted from the use tax base by statute. However, these costs would be part of the cost of labor to manufacture if performed at the taxpayer's location or other non-job site location. In general, the cost of

labor to “cut, bend, or assemble ... property at the site for affixation” relates to the cost of labor at the job site to make minor adjustments, alignments, alterations, and other changes which are necessary to affix the property to real estate in Michigan.

Incidental mixing such as the mixing of mortar and tinting of paint at the job site is not included in the use tax base. Costs of labor incurred at the job site in Michigan (other than to cut, bend, assemble or attach) which fall within the definition(s) of manufacture and/or fabricate are included in the use tax base such as costs of labor at the job site for mixing, combining or blending prior to affixation of property will be included in the use tax base.

### ***Direct Materials***

Direct materials include raw materials, supplies entering into or consumed in connection with the product, and costs incurred to move the material to the point of manufacturing.

The cost of a sub-processing activity by an outside party is also included in the cost of material for determining the use tax base. It does not matter if the sub-processing occurs before or after the transfer of ownership to or possession by the manufacturer/contractor.

### ***Finished Goods Inventory Value***

Finished goods inventory value is calculated according to the full absorption method of inventory valuation for manufacturers as described in 26 CFR 1.471-11. In general, this valuation method includes all direct production costs, defined as components of either direct material or direct labor. Indirect production costs and miscellaneous indirect costs are included only to the extent that such costs are incident to and necessary for production or manufacturing operations or processes.

Indirect production costs include but are not limited to:

- repairs and maintenance
- utilities
- rent and taxes on buildings and machinery necessary for production
- indirect materials and supplies

- tools and equipment that are not capitalized
- costs of quality control and inspection
- indirect labor and production supervisory wages
- other employee benefits

Miscellaneous indirect costs include but are not limited to:

- indirect materials and supplies
- tools and equipment expensed and not capitalized
- costs of quality control and inspection
- depreciation and depletion incident to and necessary for production or manufacturing operations or processes (including buildings, machinery, and equipment)
- other employee benefits (including workers compensation expenses)
- costs attributable to strikes incident to production or manufacturing operations or processes
- rework labor incident to and necessary for production or manufacturing operations or processes
- scrap and spoilage incident to and necessary for production or manufacturing operations or processes
- administrative costs of production incident to and necessary for production or manufacturing operations or processes
- officers' salaries incident to and necessary for production or manufacturing operations or processes
- insurance costs incident to and necessary for production or manufacturing operations or processes

Finished goods inventory value generally does not include:

- marketing, advertising, or selling expenses
- other distribution expenses
- interest
- research and development expenses, including engineering and product development expenses
- general and administrative expenses that are incident to and necessary for the taxpayer's activities taken as a whole rather than incident to and necessary for production or manufacturing operations or processes
- officer salaries that are incident to and necessary for the taxpayer's activities taken as a whole rather than incident to and necessary for production or manufacturing operations or processes
- costs of labor to cut, bend, assemble or attach tangible personal property at the job site

### ***Inventory***

The following criteria are used to determine if a taxpayer maintains an inventory of its product(s) available for sale to others:

- The inventory must be similar to the product that the manufacturer/contractor affixes to realty. For example, a countertop manufacturer/contractor might have a retail inventory of shelving that it sells to walk-in customers, even though it custom makes countertops to order. This fact would not require the contractor to pay use tax on the finished goods inventory value of the installed countertops.

The inventory does not have to be a completely finished product to meet the definition of a product that is available for sale to others. For example, a contractor that fabricates and erects structural steel could have bar steel inventory in stock that it will bore out for retail sale at a customer's request. The product sold is similar to the product erected, even though not in a finished state.

- The retail sale of related products should be more than *de minimis*.

- A book or tax accounting inventory is not a requirement, only the existence of an actual physical inventory.

### ***Price List***

A **price list** is a numerical and/or alphabetical enumeration of products, goods, wares, merchandise items or services, quoting wholesale and/or retail prices, and presented, maintained or otherwise displayed in any written or electronic form and which represents the final cost (price) of the finished product. A price list includes, but is not limited to, printed cards or sheets, or pricing available within a database or through an internet website. A price list does not include a preliminary price quote or general advertisement that is (or presents) merely an estimate of the approximate purchase price or cost of the product or which is not made available to the public or potential customers.

For example, an advertisement, brochure, or pamphlet that contains general (base) floor plan layouts that a purchaser can choose from which a customized product can be built does not constitute a price list.

### ***Publication***

A **publication** includes, but is not limited to, a catalog, sales pamphlet and sales handbill or pricing on an internet website.

A **catalog** is a bound, stitched, sewed, or stapled book or pamphlet, or document maintained in electronic format (e.g., hard drive or Internet), containing a list and description of goods, wares, merchandise, or services with specific information, with or without a price.

A **sales pamphlet** is a printed work concerning goods, wares, merchandise, or services, consisting of two or more sheets, stapled, sewed, or stitched, with or without a price.

A **sales handbill** is a printed single sheet (sometimes called a circular or dodger) intended to be circulated and concerning goods, wares, merchandise, or services.

A publication or price list must reflect the amount charged for tangible personal property and not an installed total. It also must reflect a finished goods price (not cost of raw material).

Although a price list is an indicator of the existence of a finished goods inventory, Treasury will not treat the existence of a price list as the *sole* determinative factor as to the existence of a finished goods inventory. Treasury will take into consideration, for purposes of determining whether a document, display, or other media conveying pricing information is a “price list”, whether the prices reflect current or otherwise up-to-date sales prices or (through the passage of time) have become stale and do not adequately reflect finished goods inventory value.

**Example 1:**

A manufacturer/contractor enters into a contract to build a house. In its workshop, the manufacturer/contractor cuts and assembles roof trusses. The trusses are later transported to the job site and used to construct the house. The use tax base of the trusses is the cost of materials plus the cost of labor to cut and assemble them in the workshop (to the extent that the cutting falls within the definition of manufacture and/or fabricate and/or the assembly of the trusses falls within the definition of assemble.) However, the cost of labor incurred at the job site to cut, bend, assemble, or attach the trusses to the real estate is not included in the use tax base.

**Example 2:**

A custom cabinetmaker enters into a contract to build and install cabinets in an office building. The cabinet doors are constructed at the cabinetmaker’s off-site workshop. The completed cabinet doors and other materials are brought by the cabinetmaker to the job site where the cabinetmaker completes the construction and assembly of the cabinets. The use tax base of the cabinets is equal to (i) the cost of the materials; (ii) all off-site direct costs of labor to construct the cabinet doors; and (iii) all on-site direct costs of labor to construct and complete the cabinets (to the extent that construction and completion of the cabinets at the job site falls with the definition(s) of manufacture and/or fabricate. Any direct costs of labor incurred at the job site to cut, bend, assemble, or attach the cabinets to the real estate are not included in the use tax base.

**Example 3:**

An asphalt company manufactures asphalt that is sold at retail and consumed in contracts. When the company consumes this asphalt, use tax is due on the finished goods inventory value. No distinction is made between special blends not sold at retail and regular blends. Use tax is due on the finished goods inventory value of both.

**Example 4:**

An asphalt manufacturer/contractor uses the asphalt removed from the current roadbed in the production of the new asphalt. The cost of transporting this recycled asphalt product to the asphalt plant should be included in direct material costs as freight-in.

This computation would also include depreciation, oil, gas, and maintenance of the roto mill, as well as the labor costs of the roto mill operator. These costs would be included under both tax-treatment options. The labor cost of the truck driver transporting the product to the plant would be a part of finished goods inventory value but would not be a direct labor cost.

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

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## Chapter 5 - Industrial Processing by Manufacturer/Contractors

Tangible personal property that becomes:

1. an ingredient or component part of the finished product to be ultimately sold at retail

**OR**

2. an ingredient or component part of tangible personal property that is permanently affixed to and made a structural part of real estate located in another state,

is eligible for an **industrial processing** exemption. If the product is available for ultimate sale at retail to others, the industrial processing exemption applies even if the manufacturer/contractor removes the product from inventory and affixes it to (and makes it a structural part of) the real estate of another so long as the real estate is located outside of Michigan. The industrial processing exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by Treasury. The formula or method used does not have to be pre- approved by Treasury, but it must reasonably reflect the percentage of exempt use to total use. For example, the manufacturer/contractor may prorate exempt use based on industrial processing relating to tangible personal property affixed to (and becoming a structural part of) real estate located in another state versus real estate located in Michigan.

**Industrial processing** is the activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property: (i) for ultimate sale at retail, or; (ii) for use in the manufacturing of a product to be sold ultimately at retail, or; (iii) affixed to and made a structural part of real estate located in another state, or; (iv) for use in certain activities related to aggregates discussed below.

An **industrial processor** means a person who performs the activity of converting or conditioning tangible personal property: (i) for ultimate sale at retail, or; (ii) use in the manufacturing of a product to be ultimately sold at retail, or; (iii) use in the manufacturing of a product affixed and made a structural part of real estate located in another state, or; (iv) for use in certain activities related to aggregates discussed below.

Except for foundations for machinery or equipment, tangible personal property permanently affixed and becoming a structural part of real estate **in this state** is not eligible for the industrial processing exemption. If the manufacturer/contractor sells its



products in retail transactions, the manufacturer/contractor is eligible for the industrial processing exemption and sales tax on the sales prices of the products must be collected and remitted to the state unless the purchaser has a valid exemption.

### ***Aggregates***

Effective May 8, 2023, the sales and use tax acts provide an industrial processing exemption for property used for production, manufacturing, or recycling of aggregate if the aggregate is used as an ingredient or component part for construction, maintenance, repair, or reconstruction of real property in Michigan. Property is eligible for an industrial processing exemption if it performs an industrial processing activity upon an aggregate product or material that will be used as an ingredient or component part for the construction, maintenance, repair, or reconstruction of real property in Michigan if that aggregate product or material is subject to the use tax. This property is not disqualified from eligibility for the exemption simply for being used in construction or maintenance of real property or because there is no retail sale of the aggregate; instead, the aggregate must have been subject to use tax.

**Aggregate** means common variety building materials like sand, gravel, crushed stone, slag, recycled concrete, recycled asphalt, and geosynthetic aggregates.

### ***Other Activities of Manufacturer/Contractors***

A manufacturer/contractor can be engaged in more than one distinct business activity. In these situations, the use tax base would depend on the circumstances for that particular part of the business. The availability of the industrial processing exemption for equipment and utilities would vary as well.

### **Examples:**

- The manufacturer/contractor manufactures a custom cabinet for the bathroom and maintains an inventory of its manufactured cabinets. If it needs additional cabinets, it purchases a standard cabinet for installation from an outside source. Its cost, when acting as a contractor, is the finished goods inventory value on the cabinets that it manufactured and material cost (at the purchased price which includes freight) on the cabinets that it purchased. The manufacturer/contractor is entitled to the industrial processing exemption on the cabinets manufactured for retail sale or used in contracts where the property is affixed outside Michigan. The industrial processing exemption does not apply if the property is affixed to real property in Michigan.

- By word of mouth, some customers have discovered that a manufacturer/contractor has the equipment to manufacture hardwood flooring. This specialty flooring is not available for sale through a publication or price list. Each floor is custom made to the customer's specifications. The use tax base when the manufacturer/contractor affixes the flooring to realty in Michigan is the direct cost of material and the direct cost of labor to manufacture. The inventory of the wood products, including the standard cabinets that it either manufactured or purchased, does not constitute inventory for the flooring when determining the use tax base for the company when it affixes the flooring to realty in Michigan. Furthermore, the manufacturer/contractor is not entitled to the industrial processing exemption if it affixes all the custom hardwood flooring that it manufactures to real estate in Michigan. However, if it makes retail sales of the custom flooring, it is entitled to the exemption based on a percentage determined by comparing the retail sales to the contract sales. It would also be entitled to the industrial processing exemption for the hardwood flooring if installed to real estate located in another state.

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

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## ***Index of References***

### **Chapter 1 – Types of Contractors:**

- Mich Admin Code R 205.71, *Contractors*
- MCL 205.92(g)
- MCL 205.94(1)(z)
- MCL 205.94(1)(a)
- LR 2014-1, *Sales and use tax treatment of subcontractors for retailers*
- MCL 205.93(1)
- MCL 205.93a(1)(f) and (g)
- MCL 205.94ee
- RAB 2016-24, *Use Tax Base of Tangible Personal Property Affixed to Real Estate By a Manufacturer/Contractor or Other Contractor*
- RAB 2019-15, *Sales and Use Taxation of the Construction Industry (Excluding Manufacturer/Contractors)*
- RAB 2016-4, *Determination of Property as Tangible Personal Property or Real Property for Purposes of Sales and Use Tax*
- *Brunt Assoc, Inc v Dep't of Treasury (on Reconsideration)*, 318 Mich App 449 (2017)

### **Chapter 2 – Real vs. Personal Property:**

- MCL 205.92(k)
- MCL 205.51a(r)
- MCL 205.54t(5)(a)
- MCL 205.94o(5)(a)
- RAB 2016-4, *Determination of Property as Tangible Personal Property or Real Property for Purposes of Sales and Use Tax*
- RAB 2019-15, *Sales and Use Taxation of the Construction Industry (Excluding Manufacturer/Contractors)*
- *Sequist v Fabiano*, 274 Mich 643 (1936)
- *Granger Land Dev Co v Dep't of Treasury*, 286 Mich App 601 (2009)
- *Brunt Assoc, Inc v Dep't of Treasury (on Reconsideration)*, 318 Mich App 449 (2017)

### **Chapter 3 – Statutory Exemptions:**

- RAB 2019-15, *Sales and Use Taxation of the Construction Industry (Excluding Manufacturer/Contractors)*
- MCL125.2103
- MCL 205.54u
- MCL 205.54w

- MCL 205.94(1)(z)
- MCL 205.94p
- MCL 205.94s
- MCL 333.21501-333.21571
- IRC § 501(c)(2) or (3)
- Part 217 of the Public Health Code
- Part 214 of the Public Health Code
- Part 213 of the Public Health Code
- Section 15a of 1966 PA 346
- MCL 205.54p
- MCL 205.94m
- MCL 205.54j
- MCL 205.94h
- RAB 1993-10, *Enterprise Zone Act - Sales and Use Tax Exemptions and Single Business Tax Credit*
- MCL 205.54a(1)(o)
- MCL 205.94(1)(s)
- MCL 324.3701-324.3708
- MCL 324.5901-324.5908
- Mich Admin Code R 205.137, *Air and Water Pollution*
- Air Pollution Control Tax Exemption Frequently Asked Questions (Michigan State Tax Commission Publication)
- Water Pollution Control Reports Tax Exemption Frequently Asked Questions (Michigan State Tax Commission Publication)
- RAB 1990-2, *Sales and Use Taxes-Storage Facilities*
- MCL 205.30c(12)
- State/Tribal Tax Agreements and Amendments
- Notice Regarding Sales to Federally Recognized Indian Tribes or Their Qualifying Members
- MCL 205.54d(m)
- MCL 205.94z
- MCL 205.54d(n)
- MCL 205.94dd
- Regional Convention Facility Authority Act, 2008 PA 554
- MCL 141.1355
- MCL 205.54ee
- MCL 205.94(1)(cc)
- MCL 205.94a(1)(g)
- MCL 205.54t(4)(b)
- MCL 205.94o(4)(b).
- MCL 125.2652
- MCL 125.2103

- MCL 205.94p
- MCL 205.54u
- MCL 205.54dd
- MCL 205.94aa
- MCL 211.782
- MCL 211.784
- 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 4 – Manufacturer/Contractors:**

- 26 CFR 1.471-11
- MCL 205.93a(f), (g)
- MCL 205.93a(5)(g), (l), and (m)
- RAB 2016-24, *Use Tax Base of Tangible Personal Property Affixed to Real Estate by a Manufacturer/Contractor or Other Contractor*
- *Brunt Assoc, Inc v Dep't of Treasury (on Reconsideration)*, 318 Mich App 449 (2017)

#### **Chapter 5 – Industrial Processing by Manufacturer/Contractors:**

- MCL 205.94o(4)(a) and (8)(a)
- MCL 205.94o(2)
- MCL 205.94o(5)(a)
- RAB 2016-24, *Use Tax Base of Tangible Personal Property Affixed to Real Estate by a Manufacturer/Contractor or Other Contractor*
- *Brunt Assoc, Inc v Dep't of Treasury (on Reconsideration)*, 318 Mich App 449 (2017)

#### **Other Related Citations:**

- Mich Admin Code R 205.71, *Contractors*
- Mich Admin Code R 205.80, *Florists & Nurserymen*
- RAB 1988-35, *Carpeting*
- IPD 2004-7, *What is a "County Long-Term Medical Care Facility"*
- IPD 2005-3, *Real Property Contractors Acting as Retailers*
- LR 70-5, *Contractors/Furniture and Equipment*
- LR 74-5, *Contractors/Railroads*
- LR 80-3, *Medical Equipment and Appliances*

- LR 88-13, *Contractor - Subcontractor Relationships*
- LR 88-53, *Security Monitoring System*
- LR 89-63, *Contractor as Retailer*
- LR 89-71, *Construction Contractor*
- LR 90-24, *State Government Contracts*
- LR 2014-1, *Sales and Use Tax Treatment of Subcontractors for Retailers*
- LR 2017-3, *Use Tax and Fabrication of Countertops*
- LR 2019-4, *Sales and Use Tax Liability of Countertop Manufacturer that Subcontracts out the Installation of the Countertops*