

Act No. 504
Public Acts of 1996
Approved by the Governor
January 7, 1997
Filed with the Secretary of State
January 9, 1997

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996

Introduced by Reps. Cherry, DeMars, DeLange, Munsell, Murphy, LaForge, Byl, Hanley, Prusi, Perricone and Llewellyn

ENROLLED HOUSE BILL No. 6136

AN ACT to amend section 44 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," as amended by Act No. 162 of the Public Acts of 1994, being section 421.44 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 44 of Act No. 1 of the Public Acts of the Extra Session of 1936, as amended by Act No. 162 of the Public Acts of 1994, being section 421.44 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 44. (1) "Remuneration" means all compensation paid for personal services, including commissions and bonuses, and except for agricultural and domestic services, the cash value of all compensation payable in a medium other than cash. Any remuneration payable to an individual that has not been actually received by that individual within 21 days after the end of the pay period in which the remuneration was earned, shall, for the purposes of subsections (2) to (5) and section 46, be considered to have been paid on the twenty-first day after the end of that pay period. For benefit years beginning after the conversion date prescribed in section 75, if back pay is awarded to an individual and is allocated by an employer or legal authority to a period of weeks within 1 or more calendar quarters, the back pay shall be considered paid in that calendar quarter or those calendar quarters for purposes of section 46. The reasonable cash value of compensation payable in a medium other than cash, shall be estimated and determined in accordance with rules promulgated by the commission. Beginning January 1, 1986, remuneration shall include tips actually reported to an employer under section 6053(a) of the internal revenue code by an employee who receives tip income. Remuneration does not include either of the following:

(a) Money paid an individual by a unit of government for services rendered as a member of the national guard of this state, or for similar services to any state or the United States.

(b) Money paid by an employer to a worker under a supplemental unemployment benefit plan under section 501(c) of the internal revenue code, regardless of whether the benefits are paid from a trust or by the employer.

(2) "Wages", subject to subsections (3) to (5), means remuneration paid by employers for employment and, beginning January 1, 1986, includes tips actually reported to an employer under section 6053(a) of the internal revenue code by an employee who receives tip income. Notwithstanding the preceding sentence, for the period January 1, 1986 through December 31, 1986 for purposes of sections 50 and 51, wages shall include tips only to the extent that they are taken in account by the employer in determining the employee's compensation under the state minimum wage law or, where the employer adds a certain percent to the customer's bill as a tip for disbursement to the employees, the dollar amount of the percentage so added. If any provision of this subsection prevents the state from qualifying for any federal interest relief provisions provided under section 1202 of the social security act, 42 U.S.C. 1322, or prevents employers in this state from qualifying for the limitation on the reduction of federal unemployment tax act credits as provided under section 3302(f) of the federal unemployment tax act, 26 U.S.C. 3302, such provision shall be invalid to the extent necessary to maintain qualification for such interest relief provisions and federal unemployment tax credits.

(3) For the purpose of determining the amount of contributions due from an employer under this act, wages shall be limited by the taxable wage limit applicable under subsection (4). For this purpose wages shall exclude all remuneration paid within a calendar year to an individual by an employing unit after the individual was paid within that year by that employing unit remuneration equal to the taxable wage limit on which unemployment taxes were paid or were payable in this and any other states. If an employing unit, hereinafter referred to as successor, during any calendar year becomes a transferee in a transfer of business as defined in section 22 of another, hereinafter referred to as a predecessor, and immediately after the transfer employs in his or her trade or business an individual who immediately before the transfer was employed in the trade or business of the predecessor, then for the purpose of determining whether the successor has paid remuneration with respect to employment equal to the taxable wage limit to that individual during the calendar year, any remuneration with respect to employment paid to that individual by the predecessor during the calendar year and before the transfer shall be considered as having been paid by the successor.

(4) The taxable wage limit for each calendar year shall be \$8,000.00 in the 1983 calendar year, \$8,500.00 in the 1984 calendar year, \$9,000.00 in the 1985 calendar year, \$9,500.00 in the 1986 calendar year, and \$9,500.00 for calendar years after 1986, or the maximum amount of remuneration paid within a calendar year by an employer subject to the federal unemployment tax act, 26 U.S.C. 3301 to 3311, to an individual with respect to employment as defined in that act that is subject to tax under that act during that year for each calendar year, whichever is greater.

(5) For the purposes of this act, the term "wages" shall not include:

(a) The amount of a payment, including an amount paid by an employer for insurance or annuities or into a fund, to provide for such a payment, made to, or on behalf of, an employee or any of the employee's dependents under a plan or system established by an employer that makes provision for the employer's employees generally, or for the employer's employees generally and their dependents, or for a class or classes of the employer's employees, or for a class or classes of the employer's employees and their dependents, on account of retirement, sickness or accident disability, medical or hospitalization expenses in connection with sickness or accident disability, or death.

(b) A payment made to an employee, including an amount paid by an employer for insurance or annuities, or into a fund, to provide for such a payment, on account of retirement.

(c) A payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for the employer.

(d) A payment made to, or on behalf of, an employee or the employee's beneficiary from or to a trust described in section 401(a) of the internal revenue code that is exempt from tax under section 501(a) of the internal revenue code at the time of the payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust, or under or to an annuity plan which, at the time of the payment, is a plan described in section 403(a) of the internal revenue code, or under or to a bond purchase plan that at the time of the payment, is a qualified bond purchase plan described in section 405(a) of the internal revenue code.

(e) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the internal revenue code.

(f) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business.

(g) A payment, other than vacation or sick pay, made to an employee after the month in which the employee attains the age of 65, if the employee did not work for the employer in the period for which the payment is made.

(h) Remuneration paid to or on behalf of an employee as moving expenses if, and to the extent that, at the time of payment of the remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the internal revenue code.

(6) The amendments made to this section by Act No. 155 of the Public Acts of 1977 shall apply to all remuneration paid after December 31, 1977.

(7) The amendments made in subsection (1) by the amendatory act that added this subsection shall first apply to remuneration paid after December 31, 1977.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.