

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4342**

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 4 (MCL 208.4), as amended by 2003 PA 240; and
to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 4. (1) "Casual transaction" means a transaction made or
2 engaged in other than in the ordinary course of repeated and
3 successive transactions of a like character, except that a
4 transaction made or engaged in by a person that is incidental to
5 that person's regular business activity is a business activity
6 within the meaning of this act.
- 7 (2) "Commissioner" means the department.
- 8 (3) Except as otherwise provided in subsection (4),
9 "compensation" means all wages, salaries, fees, bonuses,
10 commissions, or other payments made in the taxable year on behalf

1 of or for the benefit of employees, officers, or directors of the
2 taxpayers. Compensation includes, but is not limited to, payments
3 that are subject to or specifically exempt or excepted from
4 withholding under sections 3401 to 3406 of the internal revenue
5 code. Compensation also includes, on a cash or accrual basis
6 consistent with the taxpayer's method of accounting for federal
7 income tax purposes, payments to state and federal unemployment
8 compensation funds, payments under the federal insurance
9 contribution act and similar social insurance programs, payments,
10 including self-insurance, for worker's compensation insurance,
11 payments to individuals not currently working, payments to
12 dependents and heirs of individuals because of current or former
13 labor services rendered by those individuals, payments to a
14 pension, retirement, or profit sharing plan, and payments for
15 insurance for which employees are the beneficiaries, including
16 payments under health and welfare and noninsured benefit plans and
17 payments of fees for the administration of health and welfare and
18 noninsured benefit plans. Compensation does not include any of the
19 following:

20 (a) Discounts on the price of the taxpayer's merchandise or
21 services sold to the taxpayer's employees, officers, or directors
22 that are not available to other customers.

23 (b) Payments to an independent contractor.

24 (c) For tax years beginning after December 31, 1994, payments
25 to state and federal unemployment compensation funds.

26 (d) For tax years beginning after December 31, 1994, the
27 employer's portion of payments under the federal insurance

House Bill No. 4342 as amended November 10, 2005

1 contributions act, chapter 21 of subtitle C of the internal revenue
2 code, 26 USC 3101 to 3128, the railroad retirement tax act, chapter
3 22 of subtitle C of the internal revenue code, 26 USC 3201 to 3233,
4 and similar social insurance programs.

5 (e) For tax years beginning after December 31, 1994, payments,
6 including self-insurance payments, for worker's compensation
7 insurance or federal employers' liability act insurance pursuant to
8 chapter 149, 35 Stat. 65, 45 USC 51 to 60.

9 (f) For tax years beginning after December 31, 2003, the
10 following payments under health and welfare and noninsured benefit
11 plans for the benefit of persons who are residents of this state
12 and payments of fees for the administration of health and welfare
13 and noninsured benefit plans for the benefit of persons who are
14 residents of this state for the specified years:

15 (i) For tax years that begin after December 31, 2003 and before
16 January 1, 2005, 5%.

17 (ii) For tax years that begin after December 31, 2004 and
18 before January 1, 2006, 20%.

19 (iii) For tax years that begin after December 31, 2005 and
20 before January 1, 2007, 40%.

21 (iv) For tax years that begin after December 31, 2006 ~~—, the~~
22 ~~percentage of payments as provided under section 4a~~ **AND BEFORE**
JANUARY 1, <<2009>>, 50%.

23 (v) **FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2008 AND**
24 **BEFORE JANUARY 1, 2010, 60%.**

25 (vi) **FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2009 AND**
26 **BEFORE JANUARY 1, 2011, 70%.**

1 (vii) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2010 AND
2 BEFORE JANUARY 1, 2012, 80%.

3 (viii) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2011 AND
4 BEFORE JANUARY 1, 2013, 90%.

5 (ix) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2012, 100%.

6 (4) For tax years that begin after December 31, 2003, for
7 purposes of determining compensation of a professional employer
8 organization, compensation includes payments by the professional
9 employer organization to the officers and employees of an entity
10 whose employment operations are managed by the professional
11 employer organization. Compensation of the entity whose employment
12 operations are managed by a professional employer organization does
13 not include compensation paid by the professional employer
14 organization to the officers and employees of the entity whose
15 employment operations are managed by the professional employer
16 organization. As used in this subsection, "professional employer
17 organization" means an organization that provides the management
18 and administration of the human resources and employer risk of
19 another entity by contractually assuming substantial employer
20 rights, responsibilities, and risk through a professional employer
21 agreement that establishes an employer relationship with the leased
22 officers or employees assigned to the other entity by doing all of
23 the following:

24 (a) Maintaining the right of direction and control of
25 employees' work, although this responsibility may be shared with
26 the other entity.

27 (b) Paying wages and employment taxes of the employees out of

1 its own accounts.

2 (c) Reporting, collecting, and depositing state and federal
3 employment taxes for the employees.

4 (d) Retaining the right to hire and fire employees.

5 (5) "Department" means the department of treasury.

6 Enacting section 1. Section 4a of the single business tax act,
7 1975 PA 228, MCL 208.4a, is repealed.

8 Enacting section 2. This amendatory act does not take effect
9 unless all of the following bills of the 93rd Legislature are
10 enacted into law:

11 (a) House Bill No. 4972.

12 (b) House Bill No. 4973.

13 (c) House Bill No. 4980.

14 (d) House Bill No. 5095.

15 (e) House Bill No. 5096.

16 (f) House Bill No. 5097.

17 (g) House Bill No. 5098.

18 (h) House Bill No. 5106.

19 (i) House Bill No. 5107.

20 (j) House Bill No. 5108.

21 (k) Senate Bill No. 633.