

HOUSE BILL No. 4342

February 17, 2005, Introduced by Reps. Moore, Nofs, Ward, Pastor, Baxter, Moolenaar, Vander Veen, Robertson, Palsrok, Hoogendyk, Acciavatti, Drolet, Shaffer, Hansen, Caswell, Steil, Sheen, Green, Taub, Kooiman, LaJoy, Elsenheimer, Proos, Schuitmaker, Wenke, Nitz, Hummel, Jones, Mortimer, Pavlov, Garfield, Pearce, Ball, Caul, Booher, Marleau, Hune, Newell, Huizenga, Emmons, Hildenbrand, Stahl, David Law, Gosselin, Rocca, Van Regenmorter, Kahn, Stewart and Farhat and referred to the Committee on Tax Policy.

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),

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

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

25 (b) Payments to an independent contractor.

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

1 (d) For tax years beginning after December 31, 1994, the
2 employer's portion of payments under the federal insurance
3 contributions act, chapter 21 of subtitle C of the internal revenue
4 code, 26 USC 3101 to 3128, the railroad retirement tax act, chapter
5 22 of subtitle C of the internal revenue code, 26 USC 3201 to 3233,
6 and similar social insurance programs.

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

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

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

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

21 (iii) For tax years that begin after December 31, 2005, ~~and~~
22 ~~before January 1, 2007, 40% 100%.~~

23 ~~— (iv) For tax years that begin after December 31, 2006, the~~
24 ~~percentage of payments as provided under section 4a.~~

25 (4) For tax years that begin after December 31, 2003, for
26 purposes of determining compensation of a professional employer
27 organization, compensation includes payments by the professional

1 employer organization to the officers and employees of an entity
2 whose employment operations are managed by the professional
3 employer organization. Compensation of the entity whose employment
4 operations are managed by a professional employer organization does
5 not include compensation paid by the professional employer
6 organization to the officers and employees of the entity whose
7 employment operations are managed by the professional employer
8 organization. As used in this subsection, "professional employer
9 organization" means an organization that provides the management
10 and administration of the human resources and employer risk of
11 another entity by contractually assuming substantial employer
12 rights, responsibilities, and risk through a professional employer
13 agreement that establishes an employer relationship with the leased
14 officers or employees assigned to the other entity by doing all of
15 the following:

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

19 (b) Paying wages and employment taxes of the employees out of
20 its own accounts.

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

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

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

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