

# SENATE BILL No. 44

January 22, 2003, Introduced by Senators CASSIS, GILBERT, SANBORN, GARCIA, BIRKHOLZ, KUIPERS, VAN WOERKOM, GOSCHKA, BARCIA, THOMAS, HARDIMAN, ALLEN, SCHAUER, BERNERO, CROSEY, BISHOP and CLARKE and referred to the Committee on Finance.

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 4 (MCL 208.4), as amended by 2002 PA 603.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 4. (1) "Casual transaction" means a transaction made  
2 or 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 state commissioner of revenue.

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  
11 of or for the benefit of employees, officers, or directors of the

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

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

22 (b) Payments to an independent contractor.

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

25 (d) For tax years beginning after December 31, 1994, the  
26 employer's portion of payments under the federal insurance  
27 contributions act, chapter 21 of subtitle C of the internal

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

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

9 (f) For tax years beginning after December 31, 2002, the  
10 following payments under health and welfare and noninsured  
11 benefit plans and payments of fees for the administration of  
12 health and welfare and noninsured benefit plans for the specified  
13 years:

14 (i) For tax years that begin after December 31, 2002 and  
15 before January 1, 2004, 50%.

16 (ii) For tax years that begin after December 31, 2003, 100%.

17 (4) For tax years that begin after December 31, 2003, for  
18 purposes of determining compensation of a professional employer  
19 organization, compensation includes payments by the professional  
20 employer organization to the officers and employees of an entity  
21 whose employment operations are managed by the professional  
22 employer organization. Compensation of the entity whose  
23 employment operations are managed by a professional employer  
24 organization does not include compensation paid by the  
25 professional employer organization to the officers and employees  
26 of the entity whose employment operations are managed by the  
27 professional employer organization. As used in this subsection,

1 "professional employer organization" means an organization that  
2 provides the management and administration of the human resources  
3 and employer risk of another entity by contractually assuming  
4 substantial employer rights, responsibilities, and risk through a  
5 professional employer agreement that establishes an employer  
6 relationship with the leased officers or employees assigned to  
7 the other entity by doing all of the following:

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

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

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

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

16 (5) "Department" means the ~~revenue bureau of the~~ department  
17 of treasury.