

# HOUSE BILL No. 4251

February 10, 2005, Introduced by Rep. Jones 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),  
9 "compensation" means all wages, salaries, fees, bonuses,

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

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

24 (b) Payments to an independent contractor.

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

27 (d) For tax years beginning after December 31, 1994, the

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

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

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

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

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

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

22 (iv) For tax years that begin after December 31, 2006 **AND**  
23 **BEFORE JANUARY 1, 2008**, ~~the percentage of payments as provided~~  
24 ~~under section 4a~~ 50%.

25 (v) **FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2007 AND**  
26 **BEFORE JANUARY 1, 2009, 75%.**

27 (vi) **FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2008, 100%.**

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

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

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

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

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

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

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