

# SENATE BILL No. 672

September 16, 2003, Introduced by Senators CASSIS, JOHNSON, SANBORN, TOY, GOSCHKA, GILBERT, ALLEN, BROWN, GARCIA, GEORGE, BISHOP, CROSEY, HAMMERSTROM, SIKKEMA, KUIPERS, STAMAS, HARDIMAN, BIRKHOLZ, JELINEK, McMANUS, VAN WOERKOM and PATTERSON 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:**

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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 **department.**

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

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

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

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

15 (i) For tax years that begin after December 31, 2003 and  
16 before January 1, 2005, 20%.

17 (ii) For tax years that begin after December 31, 2004, the  
18 percentage of payments as provided under sections 4a to 4d.

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

1 of the entity whose employment operations are managed by the  
2 professional employer organization. As used in this subsection,  
3 "professional employer organization" means an organization that  
4 provides the management and administration of the human resources  
5 and employer risk of another entity by contractually assuming  
6 substantial employer rights, responsibilities, and risk through a  
7 professional employer agreement that establishes an employer  
8 relationship with the leased officers or employees assigned to  
9 the other entity by doing all of the following:

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

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

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

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

18 (5) "Department" means the ~~revenue bureau of the~~ department  
19 of treasury.

20 Enacting section 1. This amendatory act does not take  
21 effect unless all of the following bills of the 92nd Legislature  
22 are enacted into law:

23 (a) Senate Bill No. 673.

24

25 (b) House Bill No. 5041.

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27 (c) House Bill No. 5042.

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2 (d) Senate Bill No. 674.

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