

HOUSE BILL No. 5462

November 26, 2007, Introduced by Reps. Melton, Angerer and Bieda and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 113 (MCL 208.1113).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 113. (1) "Partner" means a partner or member of a
2 partnership.

3 (2) "Partnership" means a taxpayer that is required to or has
4 elected to file as a partnership for federal income tax purposes.

5 (3) "Person" means an individual, firm, bank, financial
6 institution, insurance company, limited partnership, limited
7 liability partnership, copartnership, partnership, joint venture,
8 association, corporation, subchapter S corporation, limited
9 liability company, receiver, estate, trust, or any other group or
10 combination of groups acting as a unit.

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

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

16 (5) Professional employer organization is not a staffing
17 company as that term is defined in subsection (6).

18 (6) "Purchases from other firms" means all of the following:

19 (a) Inventory acquired during the tax year, including freight,
20 shipping, delivery, or engineering charges included in the original
21 contract price for that inventory.

22 (b) Assets, including the costs of fabrication and
23 installation, acquired during the tax year of a type that are, or
24 under the internal revenue code will become, eligible for
25 depreciation, amortization, or accelerated capital cost recovery
26 for federal income tax purposes. **FOR A TAXPAYER WHOSE BUSINESS**
27 **ACTIVITIES ARE INCLUDED IN INDUSTRY GROUPS 272, 273, 483, 484, 737,**

1 782, 784, 792, OR 799 UNDER THE STANDARD INDUSTRIAL CLASSIFICATION
2 CODE AS COMPILED BY THE UNITED STATES DEPARTMENT OF LABOR, ASSETS
3 UNDER THIS SUBDIVISION INCLUDE ANY MEDIA PROPERTY FOR WHICH THE
4 TAXPAYER INCURRED COSTS TO ACQUIRE, PRODUCE, OR USE THAT MEDIA
5 PROPERTY INCLUDING, WITHOUT LIMITATION, COSTS INCURRED FOR THE
6 RIGHT TO BROADCAST LIVE OR DELAYED COVERAGE OF EVENTS SUCH AS
7 CONCERTS, PLAYS, SPORTING EVENTS, AND OTHER PERFORMANCES WITHOUT
8 REGARD TO THE METHOD OF DEPRECIATION, AMORTIZATION, OR OTHER FORM
9 OF COST RECOVERY APPLICABLE TO THAT MEDIA PROPERTY. FOR PURPOSES OF
10 THIS SUBDIVISION, "MEDIA PROPERTY" MEANS FILMS, SOUND RECORDINGS,
11 VIDEOTAPES, LIVE AND PRERECORDED TELEVISION, RADIO, AND INTERNET
12 PROGRAMS, BOOKS, VIDEO GAMES, INTERACTIVE GAMES, INTERACTIVE
13 WEBSITES, INTERACTIVE CONTENT, AND OTHER SIMILAR PROPERTY EMBODYING
14 WORDS, IDEAS, CONCEPTS, IMAGES, OR SOUND WITHOUT REGARD TO THE
15 MEANS OR METHODS OF DISTRIBUTION OR THE MEDIUM IN WHICH THE
16 PROPERTY IS EMBODIED.

17 (c) To the extent not included in inventory or depreciable
18 property, materials and supplies, including repair parts and fuel.

19 (d) For a staffing company, compensation of personnel supplied
20 to customers of staffing companies. As used in this subdivision:

21 (i) "Compensation" means that term as defined under section 107
22 plus all payroll tax and worker's compensation costs.

23 (ii) "Staffing company" means a taxpayer whose business
24 activities are included in industry group 736 under the standard
25 industrial classification code as compiled by the United States
26 department of labor.

27 (e) For a person included in major groups 15, 16, and 17 under

1 the standard industrial classification code as compiled by the
2 United States department of labor that does not qualify for a
3 credit under section 417, payments to subcontractors for a
4 construction project under a contract specific to that project.

5 (7) "Revenue mile" means the transportation for a
6 consideration of 1 net ton in weight or 1 passenger the distance of
7 1 mile.

8 Enacting section 1. This amendatory act takes effect January
9 1, 2008.

10 Enacting section 2. This amendatory act does not take effect
11 unless all of the following bills of the 94th Legislature are
12 enacted into law:

13 (a) Senate Bill No. _____ or House Bill No. 5460 (request no.
14 05553'07).

15 (b) Senate Bill No. _____ or House Bill No. 5461 (request no.
16 05554'07).