

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Jansen, Meekhof and Pappageorge

ENROLLED SENATE BILL No. 1006

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," by amending section 113 (MCL 208.1113), as amended by 2011 PA 77.

The People of the State of Michigan enact:

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

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

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

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

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

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

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

(d) Retaining a right to hire and fire employees.

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

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

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

(b) Assets, including the costs of fabrication and installation, acquired during the tax year of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes.

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

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

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

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

(e) For a person included in major group 15, 16, or 17 under the standard industrial classification code as compiled by the United States department of labor that does not claim a credit under section 417 for the same tax year, both of the following:

(i) Payments to subcontractors for a construction project under a contract specific to that project.

(ii) To the extent not deducted under subdivisions (a) and (c), payments for materials deducted as purchases in determining the cost of goods sold for the purpose of calculating total income on the taxpayer's federal income tax return.

(f) For the 2008 tax year and each tax year after 2008, all film rental or royalty payments paid by a theater owner to a film distributor, a film producer, or a film distributor and producer.

(g) For a taxpayer licensed under article 25 or 26 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637, payments to an independent contractor licensed under article 25 or 26 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637.

(h) For the 2011 tax year and each tax year after 2011, a person classified under the 2002 North American industrial classification system number 484 as compiled by the United States office of management and budget that does not qualify for a credit under section 417, payments to subcontractors to transport freight by motor vehicle under a contract specific to that freight to be transported by motor vehicle.

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

Enacting section 1. It is the intent of the legislature that this amendatory act clarify that a person described under section 113(6)(e) of the Michigan business tax act, 2007 PA 36, MCL 208.1113, is only prohibited from deducting those purchases from other firms if that person actually claimed a credit under section 417 of the Michigan business tax act, 2007 PA 36, MCL 208.1417. This amendatory act shall be retroactively applied and effective for taxes levied after December 31, 2007.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor