

Act No. 240
Public Acts of 2015
Approved by the Governor
December 22, 2015
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015**

Introduced by Senator Horn

ENROLLED SENATE BILL No. 500

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to levy and provide for obligation assessments; to provide for the collection of those contributions and assessments; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of this act; and to repeal all acts and parts of acts inconsistent with this act," by amending section 44 (MCL 421.44), as amended by 2011 PA 269.

The People of the State of Michigan enact:

Sec. 44. (1) "Remuneration" means all compensation paid for personal services, including commissions and bonuses, and except for agricultural and domestic services, the cash value of all compensation payable in a medium other than cash. Any remuneration payable to an individual that has not been actually received by that individual within 21 days after the end of the pay period in which the remuneration was earned, shall, for the purposes of subsections (2) to (5) and section 46, be considered to have been paid on the twenty-first day after the end of that pay period. If back pay is awarded to an individual and is allocated by an employer or legal authority to a period of weeks within 1 or more calendar quarters, the back pay shall be considered paid in that calendar quarter or those calendar quarters for purposes of section 46. The reasonable cash value of compensation payable in a medium other than cash shall be estimated and determined in accordance with rules promulgated by the unemployment agency. Remuneration includes tips actually reported to an employer under section 6053(a) of the internal revenue code, 26 USC 6053(a), by an employee who receives tip income. Remuneration does not include either of the following:

(a) Money paid an individual by a unit of government for services rendered as a member of the National Guard of this state, or for similar services to another state or the United States.

(b) Money paid by an employer to a worker under a supplemental unemployment benefit plan consistent with the criteria for a supplemental unemployment benefit plan as described in Internal Revenue Service publication 15-A, employer's supplemental tax guide, regardless of whether the benefits are paid from a trust or by the employer.

(2) "Wages", subject to subsections (3) to (5), means remuneration paid by employers for employment and includes tips actually reported to an employer under section 6053(a) of the internal revenue code, 26 USC 6053(a), by an employee who receives tip income. If any provision of this subsection prevents this state from qualifying for any federal interest relief provisions provided under section 1202 of title XII of the social security act, 42 USC 1322, or prevents employers in this state from qualifying for the limitation on the reduction of federal unemployment tax act credits as provided under section 3302(f) of the federal unemployment tax act, 26 USC 3302, that provision is invalid to the extent necessary to maintain qualification for the interest relief provisions and federal unemployment tax credits.

(3) For the purpose of determining the amount of contributions due from an employer under this act, wages are limited by the taxable wage limit applicable under subsection (4). For this purpose, wages exclude all remuneration an employing unit pays to an individual that exceeds the taxable wage limit on which unemployment taxes were paid or were payable in this state and in any other states for that employee by the employing unit within that year. If a successor employing unit becomes a transferee during a calendar year in a transfer of business, as defined in section 22, of a predecessor employing unit and immediately after the transfer employs in his or her trade or business an individual who immediately before the transfer was employed in the trade or business of the predecessor, then for the purpose of determining whether the successor has paid remuneration with respect to employment equal to the taxable wage limit to that individual during the calendar year, any remuneration with respect to employment paid to that individual by the predecessor during the calendar year and before the transfer shall be considered as having been paid by the successor.

(4) The taxable wage limit for each calendar year is \$9,500.00 in the calendar years 1986 through 2002, and \$9,000.00 for calendar years after 2002 and before 2012, or the maximum amount of remuneration paid within a calendar year by an employer subject to the federal unemployment tax act, 26 USC 3301 to 3311, to an individual with respect to employment as defined in that act that is subject to tax under that act during that year for each calendar year, whichever is greater. For calendar years beginning 2012, the taxable wage limit is \$9,500.00, but if at the beginning of a calendar quarter the balance in the unemployment compensation fund equals or exceeds \$2,500,000,000.00 and the agency projects that the balance will remain at or above \$2,500,000,000.00 for the remainder of the calendar quarter and for the entire succeeding calendar quarter, the taxable wage limit for that calendar quarter and the succeeding calendar quarter is \$9,000.00 for an employer that is not delinquent in the payment of unemployment contributions, penalties, or interest. For calendar years beginning 2016, if on June 30 of the preceding year the balance in the unemployment compensation fund equals or exceeds \$2,500,000,000.00 and the agency projects that the balance will remain at or above \$2,500,000,000.00 for the succeeding calendar quarter, the taxable wage limit for the calendar year is reduced to \$9,000.00 for an employer that is not delinquent in the payment of unemployment contributions, penalties, or interest. If the unemployment compensation fund balance on June 30 or the agency projection does not meet these conditions, the \$9,500.00 taxable wage limit applies to all employers in the next calendar year. For purposes of this subsection, an employer is delinquent in the payment of unemployment contribution, penalties, or interest if the employer has a quarterly unpaid balance of \$25.00 or more, unless 1 or more of the following apply:

(a) The employer has filed a timely protest or appeal of the notice of assessment and the assessment has not become final.

(b) Within 45 days after the beginning of the first calendar quarter in which the reduced taxable wage base limit takes effect for nondelinquent employers, all outstanding balances owed to the unemployment agency are paid in full.

(c) If the employer is a domestic employer, all applicable contributions, interest, and penalties are paid on or before the date specified by the agency under section 13(1).

(5) For the purposes of this act, the term "wages" does not include any of the following:

(a) The amount of a payment, including an amount paid by an employer for insurance or annuities or into a fund, to provide for such a payment, made to, or on behalf of, an employee or any of the employee's dependents under a plan or system established by an employer that makes provision for the employer's employees generally, or for the employer's employees generally and their dependents, or for a class or classes of the employer's employees, or for a class or classes of the employer's employees and their dependents, on account of retirement, sickness or accident disability, medical or hospitalization expenses in connection with sickness or accident disability, or death.

(b) A payment made to an employee, including an amount paid by an employer for insurance or annuities, or into a fund, to provide for such a payment, on account of retirement.

(c) A payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for the employer.

(d) A payment made to, or on behalf of, an employee or the employee's beneficiary from or to a trust described in section 401(a) of the internal revenue code of 1986, 26 USC 401(a), that is exempt from tax under section 501(a) of the internal revenue code of 1986, 26 USC 501(a), at the time of the payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust, or under or to an annuity plan which, at the time of the payment, is a plan described in section 403(a) of the internal revenue code of 1986, 26 USC 403(a), or under or to a bond purchase plan that at the time of the payment, is a qualified bond purchase plan described in former section 405(a) of the internal revenue code.

(e) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the federal insurance contributions act, 26 USC 3101.

(f) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business.

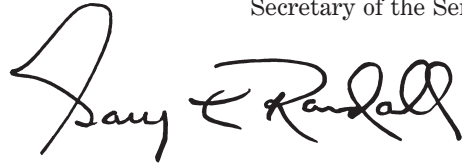
(g) A payment, other than vacation or sick pay, made to an employee after the month in which the employee attains the age of 65, if the employee did not work for the employer in the period for which the payment is made.

(h) Remuneration paid to or on behalf of an employee as moving expenses if, and to the extent that, at the time of payment of the remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the internal revenue code of 1986, 26 USC 217.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor