

# HOUSE BILL No. 4274

February 15, 2001, Introduced by Reps. Koetje, Kuipers, Patterson, LaSata, Kowall, Bishop, Lipsey, Ruth Johnson, Vear, Kooiman, Meyer, Newell and Birkholz and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
by amending sections 7 and 31 (MCL 208.7 and 208.31), section 7  
as amended by 2000 PA 477 and section 31 as amended by 1999 PA  
115.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 7. (1) As used in this act:
- 2       (a) "Sale" or "sales" means the amounts received by the tax-
- 3 payer as consideration from the following:
- 4       (i) The transfer of title to, or possession of, property
- 5 that is stock in trade or other property of a kind which would
- 6 properly be included in the inventory of the taxpayer if on hand
- 7 at the close of the tax period or property held by the taxpayer
- 8 primarily for sale to customers in the ordinary course of its
- 9 trade or business.

1       (ii) The performance of services, which constitute business  
2 activities other than those included in subparagraph (i), or from  
3 any combination of business activities described in this subpara-  
4 graph and subparagraph (i).

5       (iii) The rental, lease, licensing, or use of tangible or  
6 intangible property which constitutes business activity.

7       (b) "Sale" or "sales" does not include dividends, interest,  
8 and royalties received by the taxpayer to the extent deducted  
9 from the taxpayer's tax base under section 9(7).

10       (2) "State" means any state of the United States, the  
11 District of Columbia, the Commonwealth of Puerto Rico, any terri-  
12 tory or possession of the United States, and any foreign country,  
13 or political subdivision of any of the foregoing.

14       (3) "Gross receipts" means, EXCEPT AS OTHERWISE PROVIDED IN  
15 SECTION 31, the entire amount received by the taxpayer from any  
16 activity whether in intrastate, interstate, or foreign commerce  
17 carried on for direct or indirect gain, benefit, or advantage to  
18 the taxpayer or to others except for the following:

19       (a) Proceeds from sales by a principal that the taxpayer  
20 collects in an agency capacity solely on behalf of the principal  
21 and delivers to the principal.

22       (b) Amounts received by the taxpayer as an agent solely on  
23 behalf of the principal that are expended by the taxpayer for any  
24 of the following:

25       (i) The performance of a service by a third party for the  
26 benefit of the principal that is required by law to be performed  
27 by a licensed person.

1       (ii) The performance of a service by a third party for the  
2 benefit of the principal that the taxpayer has not undertaken a  
3 contractual duty to perform.

4       (iii) Principal and interest under a mortgage loan or land  
5 contract, lease or rental payments, or taxes, utilities, or  
6 insurance premiums relating to real or personal property owned or  
7 leased by the principal.

8       (iv) A capital asset of a type that is, or under the inter-  
9 nal revenue code will become, eligible for depreciation, amorti-  
10 zation, or accelerated cost recovery by the principal for federal  
11 income tax purposes, or for real property owned or leased by the  
12 principal.

13       (v) Property not described under subparagraph (iv) purchased  
14 by the taxpayer on behalf of the principal and that the taxpayer  
15 does not take title to or use in the course of performing its  
16 contractual business activities.

17       (vi) Fees, taxes, assessments, levies, fines, penalties, or  
18 other payments established by law that are paid to a governmental  
19 entity and that are the legal obligation of the principal.

20       (c) Amounts that are excluded from gross income of a foreign  
21 corporation engaged in the international operation of aircraft  
22 under section 883(a) of the internal revenue code.

23       (d) Amounts received by an advertising agency used to  
24 acquire advertising media time, space, production, or talent on  
25 behalf of another person.

26       (e) Notwithstanding any other provision of this section,  
27 amounts received by a taxpayer that manages real property owned

1 by the taxpayer's client that are deposited into a separate  
2 account kept in the name of the taxpayer's client and that are  
3 not reimbursements to the taxpayer and are not indirect payments  
4 for management services that the taxpayer provides to that  
5 client.

6       Sec. 31. (1) Except as provided in subsections (5), ~~and~~  
7 (6), AND (7), there is levied and imposed a specific tax upon the  
8 adjusted tax base of every person with business activity in this  
9 state that is allocated or apportioned to this state at the fol-  
10 lowing rates for the specified periods:

11       (a) Before October 1, 1994, 2.35%.

12       (b) After September 30, 1994 and before January 1, 1999,  
13 2.30%.

14       (c) Beginning January 1, 1999 and each January 1 after 1999,  
15 the rate under this subsection shall be reduced as provided in  
16 subsection (5).

17       (2) As used in this section, "adjusted tax base" means the  
18 tax base allocated or apportioned to this state pursuant to chap-  
19 ter 3 with the adjustments prescribed by sections 23 and 23b and  
20 the exemptions prescribed by section 35. If the adjusted tax  
21 base exceeds 50% of the sum of gross receipts plus the adjust-  
22 ments provided in section 23b(a) to (g), apportioned or allocated  
23 to Michigan with the apportionment fraction calculated pursuant  
24 to chapter 3, the adjusted tax base may, at the option of the  
25 taxpayer, be reduced by that excess. If a taxpayer reduces the  
26 adjusted tax base under this subsection, the taxpayer is not  
27 entitled to the adjustment provided in subsection (4) for the

1 same taxable year. This subsection does not apply to an adjusted  
2 tax base under section 22a.

3 (3) The tax levied under this section and imposed is upon  
4 the privilege of doing business and not upon income.

5 (4) In lieu of the reduction provided in subsection (2), a  
6 person may elect to reduce the adjusted tax base by the percen-  
7 tage that the compensation divided by the tax base exceeds 63%.  
8 The deduction shall not exceed 37% of the adjusted tax base. For  
9 purposes of computing the deduction allowed by this subsection,  
10 as effective for the respective tax year, compensation does not  
11 include amounts of compensation exempt from tax under section  
12 35(1)(e). This subsection does not apply to an adjusted tax base  
13 under section 22a.

14 (5) If the comprehensive annual financial report of this  
15 state for a state fiscal year, published pursuant to section 494  
16 of the management and budget act, 1984 PA 431, MCL 18.1494,  
17 reports an ending balance of more than \$250,000,000.00 in the  
18 countercyclical budget and economic stabilization fund created  
19 under section 351 of the management and budget act, 1984 PA 431,  
20 MCL 18.1351, for that state fiscal year, the tax rate under this  
21 section shall be reduced by 0.1 percentage point on the January 1  
22 following the end of the state fiscal year for which the report  
23 was issued.

24 (6) FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2001,  
25 TAXPAYERS SHALL CALCULATE GROSS RECEIPTS FOR PURPOSES OF SUBSEC-  
26 TION (2) BY ADDING THE TAXPAYER'S GROSS RECEIPTS FOR THE TAX YEAR

1 AND FOR THE 2 IMMEDIATELY PRECEDING TAX YEARS AND DIVIDING THAT  
2 SUM BY 3.

3 (7) ~~—(6)—~~ The department shall annualize the rate under this  
4 section as necessary, and the applicable annualized rate shall be  
5 imposed.