



**House
Legislative
Analysis
Section**

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**SBT TAX BASE: PROFESSIONAL
EMPLOYER ORGANIZATIONS**

**House Bill 5403 (Substitute H-1)
Sponsor: Rep. Gary A. Newell
Committee: Tax Policy**

Complete to 5-2-02

**A SUMMARY OF HOUSE BILL 5403 (SUBSTITUTE H-1) AS REPORTED BY THE
HOUSE COMMITTEE ON TAX POLICY ON 5-1-02**

One component of the tax base on which a firm determines its single business tax liability is the compensation it pays to officers and employees. The bill would amend the Single Business Tax Act to specify that, for tax years after December 31, 2001, compensation paid by a professional employer organization to the officers and employees of an entity whose employment operations are managed by the professional employer organization would be considered to be compensation in the tax base of the professional employer organization. Such compensation would not be included as compensation in the tax base of the entity whose employment operations were managed by a professional employer organization.

(This is understood to reverse a recent Court of Claims decision, which upheld the Department of Treasury's interpretation that the compensation of officers -- referred to as "leased officers" -- should be included in the tax base of the client entity for single business tax purposes and not in the tax base of the professional employer organization.)

The term "professional employer organization" would be defined to mean an organization that provides the management and administration of the human resources and employer risk of another entity by contractually assuming substantial employer rights, responsibilities, and risk through a professional employer agreement that establishes an employer relationship with the leased officers or employees assigned to the other entity by 1) maintaining the right of direction and control of employees' work, although this responsibility may be shared with the other entity; 2) paying wages and employment taxes of the employees out of its own accounts; 3) reporting, collecting, and depositing state and federal employment taxes for the employees; and 4) retaining the right to hire and fire employees.

MCL 208.4

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