

**SUBSTITUTE FOR
SENATE BILL NO. 1422**

(As amended by the Senate, December 6, 2002)

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 7 (MCL 208.7), as amended by 2001 PA 229.

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.

10 (ii) The performance of services, which constitute business
11 activities other than those included in subparagraph (i), or from

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1 any combination of business activities described in this
2 subparagraph and subparagraph (i).

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

5 (b) "Sale" or "sales" does not include dividends, interest,
6 and royalties received by the taxpayer to the extent deducted
7 from the taxpayer's tax base under section 9(7) but does include
8 royalties, fees, or other payments or consideration not deducted
9 from tax base under section 9(7) except those royalties paid to a
10 franchisor as consideration for the use outside of this state of
11 trade names, trademarks, and similar intangible property.

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

16 (3) "Gross receipts" means the entire amount received by the
17 taxpayer from any activity whether in intrastate, interstate, or
18 foreign commerce carried on for direct or indirect gain, benefit,
19 or advantage to the taxpayer or to others except for the
20 following:

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

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

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

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

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

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

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

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

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

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

4 (e) Notwithstanding any other provision of this section,
5 amounts received by a taxpayer that manages real property owned
6 by the taxpayer's client that are deposited into a separate
7 account kept in the name of the taxpayer's client and that are
8 not reimbursements to the taxpayer and are not indirect payments
9 for management services that the taxpayer provides to that
10 client.

11 (F) RECEIVABLES SOLD TO A PERSON EXCEPT FOR A PERSON
12 THAT BOTH BUYS AND SELLS RECEIVABLES.

13 (G) PROCEEDS FROM ANY OF THE FOLLOWING:

14 [REDACTED]
15 (i) THE ORIGINAL ISSUE OF STOCK OR EQUITY INSTRUMENTS.

16 (ii) THE ORIGINAL ISSUE OF DEBT INSTRUMENTS.

17 (H) REFUNDS FROM RETURNED MERCHANDISE.

18 (I) CASH AND IN-KIND DISCOUNTS.

19 (J) TRADE DISCOUNTS.

20 (K) FEDERAL OR STATE OR LOCAL TAX REFUNDS.

21 (L) INSURANCE PROCEEDS TO COMPENSATE FOR PROPERTY LOSS BUT
22 NOT FOR LOSS OF INCOME.

23 (M) SECURITY DEPOSITS.

24 (N) PAYMENT OF THE PRINCIPAL PORTION OF LOANS.

25 (O) VALUE OF PROPERTY RECEIVED IN A LIKE-KIND EXCHANGE.

(P) PROCEEDS FROM A SALE, TRANSACTION, EXCHANGE, INVOLUNTARY
CONVERSION, OR OTHER DISPOSITION OF TANGIBLE, INTANGIBLE, OR REAL
PROPERTY THAT IS A CAPITAL ASSET UNDER THE INTERNAL REVENUE CODE, EXCEPT
FOR THE NET GAIN FROM SUCH TRANSACTIONS THAT IS INCLUDED IN FEDERAL
TAXABLE INCOME. NET LOSSES FROM SUCH TRANSACTION SHALL NOT BE USED TO
REDUCE GROSS RECEIPTS THAT ARISE FROM SALES OR OTHER TRANSACTIONS NOT
DESCRIBED IN THIS SUBDIVISION.

(Q) THE PROCEEDS FROM A POLICY OF INSURANCE, A SETTLEMENT OF A
CLAIM, OR A JUDGMENT IN A CIVIL ACTION EXCEPT TO THE EXTENT THE PROCEEDS
ARE INCLUDED IN FEDERAL TAXABLE INCOME.

26 [REDACTED]
27 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]