

**SB 1300, As Passed Senate, October 4, 2000**

**SUBSTITUTE FOR  
SENATE BILL NO. 1300**

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
by amending section 7 (MCL 208.7), as amended by 1982 PA 376.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 7. (1) AS USED IN THIS ACT:

2       (A) "Sale" or "sales" means the ~~gross receipts arising from~~  
3 ~~a transaction or transactions in which gross receipts constitute~~  
4 ~~consideration: (a) for the~~ AMOUNTS RECEIVED BY THE TAXPAYER AS  
5 CONSIDERATION FROM THE FOLLOWING:

6       (i) THE transfer of title to, or possession of, property  
7 that is stock in trade or other property of a kind which would  
8 properly be included in the inventory of the taxpayer if on hand  
9 at the close of the tax period or property held by the taxpayer  
10 primarily for sale to customers in the ordinary course of its  
11 trade or business. ~~, or (b) for the~~

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1       (ii) THE performance of services, which constitute business  
2 activities other than those included in SUBPARAGRAPH (i), or from  
3 any combination of ~~(a) or (b)~~ BUSINESS ACTIVITIES DESCRIBED IN  
4 THIS SUBPARAGRAPH 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 the ~~sum of sales, as defined in~~  
15 ~~subsection (1), and rental or lease receipts. Gross receipts~~  
16 ~~does not include the amounts received in an agency or other rep-~~  
17 ~~resentative capacity, solely on behalf of another or others but~~  
18 ~~not including amounts received by persons having the power or~~  
19 ~~authority to expend or otherwise appropriate such amounts in pay-~~  
20 ~~ment for or in consideration of sales or services made or~~  
21 ~~rendered by themselves or by others acting under their direction~~  
22 ~~and control or by such fiduciaries as guardians, executors,~~  
23 ~~administrators, receivers, conservators, or trustees other than~~  
24 ~~trustees of taxes received or collected from others under direc-~~  
25 ~~tion of the laws of the federal government or of any state or~~  
26 ~~local governments.~~ ENTIRE AMOUNT RECEIVED BY THE TAXPAYER FROM  
27 ANY ACTIVITY WHETHER IN INTRASTATE, INTERSTATE, OR FOREIGN

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1 COMMERCE CARRIED ON FOR DIRECT OR INDIRECT GAIN, BENEFIT, OR  
2 ADVANTAGE TO THE TAXPAYER OR TO OTHERS EXCEPT FOR THE FOLLOWING:

3 (A) PROCEEDS FROM SALES BY A PRINCIPAL THAT THE TAXPAYER  
4 COLLECTS IN AN AGENCY CAPACITY SOLELY ON BEHALF OF THE PRINCIPAL  
5 AND DELIVERS TO THE PRINCIPAL.

6 (B) AMOUNTS RECEIVED BY THE TAXPAYER AS AN AGENT SOLELY ON  
7 BEHALF OF THE PRINCIPAL THAT ARE EXPENDED BY THE TAXPAYER FOR ANY  
8 OF THE FOLLOWING:

9 (i) THE PERFORMANCE OF A SERVICE BY A THIRD PARTY FOR THE  
10 BENEFIT OF THE PRINCIPAL THAT IS REQUIRED BY LAW TO BE PERFORMED  
11 BY A LICENSED PERSON.

12 (ii) THE PERFORMANCE OF A SERVICE BY A THIRD PARTY FOR THE  
13 BENEFIT OF THE PRINCIPAL THAT THE TAXPAYER HAS NOT UNDERTAKEN A  
14 CONTRACTUAL DUTY TO PERFORM.

15 (iii) PRINCIPAL AND INTEREST UNDER A MORTGAGE LOAN OR LAND  
16 CONTRACT, LEASE OR RENTAL PAYMENTS, OR TAXES, UTILITIES, OR  
17 INSURANCE PREMIUMS RELATING TO REAL OR PERSONAL PROPERTY OWNED OR  
18 LEASED BY THE PRINCIPAL.

19 (iv) A CAPITAL ASSET OF A TYPE THAT IS, OR UNDER THE INTER-  
20 NAL REVENUE CODE WILL BECOME, ELIGIBLE FOR DEPRECIATION, AMORTI-  
21 ZATION, OR ACCELERATED COST RECOVERY BY THE PRINCIPAL FOR FEDERAL  
22 INCOME TAX PURPOSES, OR FOR REAL PROPERTY OWNED OR LEASED BY THE  
23 PRINCIPAL.

24 (v) PROPERTY NOT DESCRIBED UNDER SUBPARAGRAPH (iv) PURCHASED  
25 BY THE TAXPAYER ON BEHALF OF THE PRINCIPAL AND THAT THE TAXPAYER  
26 DOES NOT TAKE TITLE TO OR USE IN THE COURSE OF PERFORMING ITS  
27 CONTRACTUAL BUSINESS ACTIVITIES.

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1 (vi) FEES, TAXES, ASSESSMENTS, LEVIES, FINES, PENALTIES, OR  
2 OTHER PAYMENTS ESTABLISHED BY LAW THAT ARE PAID TO A GOVERNMENTAL  
3 ENTITY AND THAT ARE THE LEGAL OBLIGATION OF THE PRINCIPAL.

4 (C) AMOUNTS THAT ARE EXCLUDED FROM GROSS INCOME OF A FOREIGN  
5 CORPORATION ENGAGED IN THE INTERNATIONAL OPERATION OF AIRCRAFT  
6 UNDER SECTION 883(a) OF THE INTERNAL REVENUE CODE.

7 (D) AMOUNTS RECEIVED BY AN ADVERTISING AGENCY USED TO  
8 ACQUIRE ADVERTISING MEDIA TIME, SPACE, OR TALENT ON BEHALF OF  
9 ANOTHER PERSON.

10 Enacting section 1. Section 7(3)(d) of the single business  
11 tax act, 1975 PA 228, MCL 208.7, as amended by this amendatory  
12 act, is curative and intended to correct any misinterpretation by  
13 the department of treasury of legislative intent that an adver-  
14 tising agency's collection and remittance of amounts for adver-  
15 tising media time, space, and talent on behalf of another person  
16 are not a sale and should not be included in gross receipts under  
17 section 7 of the single business tax act, 1975 PA 228,  
18 MCL 208.7. Section 7(3)(d) of the single business tax act, 1975  
19 PA 228, MCL 208.7, as amended by this amendatory act, is retroac-  
20 tive and applies to all disputes pending in any court on the  
21 effective date of this amendatory act.