

HOUSE BILL No. 6217

September 22, 2004, Introduced by Rep. Ward and referred to the Committee on Employment Relations, Training and Safety.

A bill to amend 1936 (Ex Sess) PA 1, entitled
 "Michigan employment security act,"
 by amending section 44 (MCL 421.44), as amended by 2002 PA 192.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 44. (1) "Remuneration" means all compensation paid for
 2 personal services, including commissions and bonuses, and except
 3 for agricultural and domestic services, the cash value of all
 4 compensation payable in a medium other than cash. Any
 5 remuneration payable to an individual that has not been actually
 6 received by that individual within 21 days after the end of the
 7 pay period in which the remuneration was earned, shall, for the
 8 purposes of subsections (2) to (5) and section 46, be considered
 9 to have been paid on the twenty-first day after the end of that
 10 pay period. For benefit years beginning ~~after the conversion~~
 11 ~~date prescribed in section 75~~ **on or after October 1, 2000**, if

1 back pay is awarded to an individual and is allocated by an
2 employer or legal authority to a period of weeks within 1 or more
3 calendar quarters, the back pay shall be considered paid in that
4 calendar quarter or those calendar quarters for purposes of
5 section 46. The reasonable cash value of compensation payable in
6 a medium other than cash shall be estimated and determined in
7 accordance with rules promulgated by the unemployment agency.
8 Beginning January 1, 1986, remuneration shall include tips
9 actually reported to an employer under section 6053(a) of the
10 internal revenue code, **26 USC 6053**, by an employee who receives
11 tip income. Remuneration does not include either of the
12 following:

13 (a) Money paid an individual by a unit of government for
14 services rendered as a member of the national guard of this
15 state, or for similar services to another state or the United
16 States.

17 (b) Money paid by an employer to a worker under a
18 supplemental unemployment benefit plan under section 501(c) of
19 the internal revenue code, ~~of 1986~~ **26 USC 501**, regardless of
20 whether the benefits are paid from a trust or by the employer.

21 (2) "Wages", subject to subsections (3) to (5), means
22 remuneration paid by employers for employment and, beginning
23 January 1, 1986, includes tips actually reported to an employer
24 under section 6053(a) of the internal revenue code, **26 USC 6053**,
25 by an employee who receives tip income. If any provision of this
26 subsection prevents this state from qualifying for any federal
27 interest relief provisions provided under section 1202 of title

1 XII of the social security act, 42 ~~U.S.C.~~ **USC** 1322, or prevents
2 employers in this state from qualifying for the limitation on the
3 reduction of federal unemployment tax act credits as provided
4 under section 3302(f) of the federal unemployment tax act, 26
5 ~~U.S.C.~~ **USC** 3302, that provision is invalid to the extent
6 necessary to maintain qualification for the interest relief
7 provisions and federal unemployment tax credits.

8 (3) For the purpose of determining the amount of
9 contributions due from an employer under this act, wages shall be
10 limited by the taxable wage limit applicable under subsection
11 (4). For this purpose, wages shall exclude all remuneration paid
12 within a calendar year to an individual by an employing unit
13 after the individual was paid within that year by that employing
14 unit remuneration equal to the taxable wage limit on which
15 unemployment taxes were paid or were payable in this state and in
16 any other states. If an employing unit, hereinafter referred to
17 as successor, during any calendar year becomes a transferee in a
18 transfer of business as defined in section 22 of another,
19 hereinafter referred to as a predecessor, and immediately after
20 the transfer employs in his or her trade or business an
21 individual who immediately before the transfer was employed in
22 the trade or business of the predecessor, then for the purpose of
23 determining whether the successor has paid remuneration with
24 respect to employment equal to the taxable wage limit to that
25 individual during the calendar year, any remuneration with
26 respect to employment paid to that individual by the predecessor
27 during the calendar year and before the transfer shall be

1 considered as having been paid by the successor.

2 (4) The taxable wage limit for each calendar year shall be
3 \$8,000.00 in the 1983 calendar year, \$8,500.00 in the 1984
4 calendar year, \$9,000.00 in the 1985 calendar year, \$9,500.00 in
5 the 1986 calendar year, and \$9,500.00 for calendar years after
6 1986 through 2002, and \$9,000.00 for calendar years after 2002,
7 or the maximum amount of remuneration paid within a calendar year
8 by an employer subject to the federal unemployment tax act, 26
9 ~~U.S.C.~~ USC 3301 to 3311, to an individual with respect to
10 employment as defined in that act that is subject to tax under
11 that act during that year for each calendar year, whichever is
12 greater.

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

15 (a) The amount of a payment, including an amount paid by an
16 employer for insurance or annuities or into a fund, to provide
17 for such a payment, made to, or on behalf of, an employee or any
18 of the employee's dependents under a plan or system established
19 by an employer that makes provision for the employer's employees
20 generally, or for the employer's employees generally and their
21 dependents, or for a class or classes of the employer's
22 employees, or for a class or classes of the employer's employees
23 and their dependents, on account of retirement, sickness or
24 accident disability, medical or hospitalization expenses in
25 connection with sickness or accident disability, or death. **The**
26 **exclusion from wages under this subdivision includes the amount**
27 **of a contribution by an employer to an Archer medical savings**

1 account or a health savings account for the benefit of an
2 employee or the employee's dependents, as described and limited
3 in sections 220 and 223 of the internal revenue code, 26 USC 220
4 and 223.

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

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

14 (d) A payment made to, or on behalf of, an employee or the
15 employee's beneficiary from or to a trust described in section
16 401(a) of the internal revenue code, ~~of 1986~~ 26 USC 401, that
17 is exempt from tax under section 501(a) of the internal revenue
18 code, ~~of 1986~~ 26 USC 501, at the time of the payment, unless
19 the payment is made to an employee of the trust as remuneration
20 for services rendered as an employee and not as a beneficiary of
21 the trust, or under or to an annuity plan which, at the time of
22 the payment, is a plan described in section 403(a) of the
23 internal revenue code, ~~of 1986~~ 26 USC 403, or under or to a
24 bond purchase plan that at the time of the payment, is a
25 qualified bond purchase plan described in former section 405(a)
26 of the internal revenue code.

27 (e) The payment by an employer, without deduction from the

1 remuneration of the employee, of the tax imposed upon an employee
2 under section 3101 of the federal insurance contributions act, 26
3 ~~U.S.C.~~ **USC** 3101.

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

7 (g) A payment, other than vacation or sick pay, made to an
8 employee after the month in which the employee attains the age of
9 65, if the employee did not work for the employer in the period
10 for which the payment is made.

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

16 (6) The amendments made to this section by ~~amendatory act~~
17 1977 PA 155 shall apply to all remuneration paid after December
18 31, 1977.

19 (7) The amendments made in subsection (1) by ~~the amendatory~~
20 ~~act that added this subsection~~ **1977 PA 277** shall first apply to
21 remuneration paid after December 31, 1977.