



# HOUSE BILL No. 5543

May 11 1994 Introduced by Rep Munsell and referred to the Committee on Taxation

A bill to amend sections 3 45 and 52 of Act No 228 of the Public Acts of 1975, entitled

Single business tax act,  
section 45 as amended by Act No 77 of the Public Acts of 1991  
being sections 208 3, 208 45, and 208 52 of the Michigan Compiled  
Laws

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 3, 45, and 52 of Act No 228 of the  
2 Public Acts of 1975 section 45 as amended by Act No 77 of the  
3 Public Acts of 1991 being sections 208 3, 208 45 and 208 52 of  
4 the Michigan Compiled Laws, are amended to read as follows

5 Sec 3 (1) Affiliated group" means 2 or more corpora-  
6 tions, 1 of which owns or controls, directly or indirectly, 80%  
7 or more of the capital stock with voting rights of the other  
8 corporation or corporations

1       (2) Business activity means a transfer of legal or  
 2 equitable title to or rental of property, whether real, personal,  
 3 or mixed, tangible or intangible, or the performance of services,  
 4 or a combination thereof made or engaged in or caused to be  
 5 made or engaged in within this state, whether in intrastate,  
 6 interstate, or foreign commerce, with the object of gain, bene-  
 7 fit, or advantage, whether direct or indirect, to the taxpayer or  
 8 to others  ~~, but shall~~ BUSINESS ACTIVITY INCLUDES ALL ACTIVI-  
 9 TIES OF THE TAXPAYER SUFFICIENT TO SUBJECT THE TAXPAYER TO THE  
 10 TAX IMPOSED BY THIS ACT THAT THIS STATE IS NOT PROHIBITED FROM  
 11 TAXING PURSUANT TO THE COMMERCE CLAUSE OF SECTION 8 OF ARTICLE I  
 12 OF THE CONSTITUTION OF THE UNITED STATES THE DUE PROCESS CLAUSE  
 13 OF SECTION 1 OF THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF  
 14 THE UNITED STATES OR FEDERAL LAW BUSINESS ACTIVITY DOES not  
 15 include the services rendered by an employee to his OR HER  
 16 employer, services as a director of a corporation, or a casual  
 17 transaction Although an activity of a taxpayer may be inciden-  
 18 tal to another or other of his OR HER business activities, each  
 19 activity  ~~shall be~~ IS considered to be business engaged in  
 20 within the meaning of this act

21       (3) 'Business income means federal taxable income except  
 22 that for a person other than a corporation it means that part of  
 23 federal taxable income derived from business activity For a  
 24 partnership, business income includes payments and items of  
 25 income and expense  ~~which~~ THAT are attributable to business  
 26 activity of the partnership and separately reported to the  
 27 partners

1       Sec 45   (1) Except as OTHERWISE provided in ~~subsection~~  
2 ~~(2)~~ THIS SECTION all of the tax base, other than the tax base  
3 derived principally from transportation, financial, or insurance  
4 carrier services or specifically allocated, shall be apportioned  
5 to this state by multiplying the tax base by a fraction, the  
6 numerator of which is the property factor plus the payroll factor  
7 plus the sales factor, and the denominator of which is 3

8       (2) For tax years beginning after December 31, 1990 and  
9 before January 1, 1993, all of the tax base other than the tax  
10 base derived principally from transportation, financial, or  
11 insurance carrier services or specifically allocated shall be  
12 apportioned to this state by multiplying the tax base by a per-  
13 centage which is the sum of all of the following percentages

14       (a) The property factor multiplied by 30%

15       (b) The payroll factor multiplied by 30%

16       (c) The sales factor multiplied by 40%

17       (3) Subsection (2) does not apply for a tax year in which a  
18 deduction is not allowed under section 23(c)

19       (4) For tax years beginning after December 31 1992 AND  
20 BEFORE JANUARY 1, 1994, all of the tax base, other than the tax  
21 base derived principally from transportation financial or  
22 insurance carrier services or specifically allocated shall be  
23 apportioned to this state by multiplying the tax base by a per-  
24 centage which is the sum of all of the following percentages

25       (a) The property factor multiplied by 25-

26       (b) The payroll factor multiplied by 25%

(c) The sales factor multiplied by 50%

(5) FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1993 ALL OF THE TAX BASE, OTHER THAN THE TAX BASE DERIVED PRINCIPALLY FROM TRANSPORTATION, FINANCIAL, OR INSURANCE CARRIER SERVICES OR SPECIFICALLY ALLOCATED SHALL BE APPORTIONED TO THIS STATE BY MULTIPLYING THE TAX BASE BY A PERCENTAGE WHICH IS THE SUM OF ALL OF THE FOLLOWING PERCENTAGES

(A) THE PROPERTY FACTOR MULTIPLIED BY 15%

(B) THE PAYROLL FACTOR MULTIPLIED BY 15%

(C) THE SALES FACTOR MULTIPLIED BY 70%

Sec 52 Sales of tangible personal property are in this state if EITHER OF THE FOLLOWING CRITERIA IS MET

(a) The property is shipped or delivered to a purchaser, other than the United States government within this state regardless of the free on board point or other conditions of the sales

(b) The property is shipped from an office store warehouse factory or other place of storage in this state and the purchaser is the United States government ~~, or the taxpayer is not taxable in the state of the purchaser For the purposes of this subdivision only, "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico any territory or possession of the United States or political subdivision thereof~~