

**SUBSTITUTE FOR  
HOUSE BILL NO. 5863**

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
by amending section 113 (MCL 208.1113), as amended by 2007 PA 145.

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

1       Sec. 113. (1) "Partner" means a partner or member of a  
2 partnership.

3       (2) "Partnership" means a taxpayer that is required to or has  
4 elected to file as a partnership for federal income tax purposes.

5       (3) "Person" means an individual, firm, bank, financial  
6 institution, insurance company, limited partnership, limited  
7 liability partnership, copartnership, partnership, joint venture,  
8 association, corporation, subchapter S corporation, limited  
9 liability company, receiver, estate, trust, or any other group or  
10 combination of groups acting as a unit.

1           (4) "Professional employer organization" means an organization  
2 that provides the management and administration of the human  
3 resources of another entity by contractually assuming substantial  
4 employer rights and responsibilities through a professional  
5 employer agreement that establishes an employer relationship with  
6 the leased officers or employees assigned to the other entity by  
7 doing all of the following:

8           (a) Maintaining a right of direction and control of employees'  
9 work, although this responsibility may be shared with the other  
10 entity.

11           (b) Paying wages and employment taxes of the employees out of  
12 its own accounts.

13           (c) Reporting, collecting, and depositing state and federal  
14 employment taxes for the employees.

15           (d) Retaining a right to hire and fire employees.

16           (5) Professional employer organization is not a staffing  
17 company as that term is defined in subsection (6).

18           (6) "Purchases from other firms" means all of the following:

19           (a) Inventory acquired during the tax year, including freight,  
20 shipping, delivery, or engineering charges included in the original  
21 contract price for that inventory.

22           (b) Assets, including the costs of fabrication and  
23 installation, acquired during the tax year of a type that are, or  
24 under the internal revenue code will become, eligible for  
25 depreciation, amortization, or accelerated capital cost recovery  
26 for federal income tax purposes.

27           (c) To the extent not included in inventory or depreciable

1 property, materials and supplies, including repair parts and fuel.

2 (d) For a staffing company, compensation of personnel supplied  
3 to customers of staffing companies. As used in this subdivision:

4 (i) "Compensation" means that term as defined under section 107  
5 plus all payroll tax and worker's compensation costs.

6 (ii) "Staffing company" means a taxpayer whose business  
7 activities are included in industry group 736 under the standard  
8 industrial classification code as compiled by the United States  
9 department of labor.

10 (e) For a person included in major groups 15, 16, and 17 under  
11 the standard industrial classification code as compiled by the  
12 United States department of labor that does not qualify for a  
13 credit under section 417, payments to subcontractors for a  
14 construction project under a contract specific to that project.

15 ~~(f) For the 2009 tax year, 50% of film rental or royalty~~  
16 ~~payments paid by a theater owner to a film distributor, a film~~  
17 ~~producer, or a film distributor and producer. For the 2010 tax year~~  
18 ~~and each tax year after 2010, all ALL film rental or royalty~~  
19 ~~payments paid by a theater owner to a film distributor, a film~~  
20 ~~producer, or a film distributor and producer.~~

21 (7) "Revenue mile" means the transportation for a  
22 consideration of 1 net ton in weight or 1 passenger the distance of  
23 1 mile.

24 Enacting section 1. This amendatory act is retroactive and  
25 effective for taxes levied on and after January 1, 2008 and applies  
26 to all business activity occurring after December 31, 2007.