

HOUSE BILL No. 5941

April 8, 2008, Introduced by Reps. Young, Bieda and Condino and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 117 (MCL 208.1117).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 117. (1) "Tangible personal property" means that term as
2 defined in section 2 of the use tax act, 1937 PA 94, MCL 205.92.

3 (2) "Tax" means the tax imposed under this act, including
4 interest and penalties under this act, unless the term is given a
5 more limited meaning in the context of this act or a provision of
6 this act.

7 (3) "Tax-exempt person" means an organization that is exempt
8 from federal income tax under section 501(a) of the internal
9 revenue code, and a partnership, limited liability company, joint
10 venture, unincorporated association, or other group or combination

1 of organizations acting as a unit if all such organizations are
2 exempt from federal income tax under section 501(a) of the internal
3 revenue code and if all activities of the unit are exclusively
4 related to the charitable, educational, or other purposes or
5 functions that are the basis for the exemption of such
6 organizations from federal income tax, except the following:

7 (a) An organization exempt under section 501(c)(12) or (16) of
8 the internal revenue code.

9 (b) An organization exempt under section 501(c)(4) of the
10 internal revenue code that would be exempt under section 501(c)(12)
11 of the internal revenue code but for its failure to meet the
12 requirement in section 501(c)(12) that 85% or more of its income
13 must consist of amounts collected from members.

14 (4) "Tax year" means the calendar year, or the fiscal year
15 ending during the calendar year, upon the basis of which the tax
16 base of a taxpayer is computed under this act. If a return is made
17 for a fractional part of a year, tax year means the period for
18 which the return is made. Except for the first return required by
19 this act, a taxpayer's tax year is for the same period as is
20 covered by its federal income tax return. A taxpayer that has a 52-
21 or 53-week tax year beginning not more than 7 days before December
22 31 of any year is considered to have a tax year beginning after
23 December of that tax year. **IF THE TERM TAX YEAR IN THIS ACT IS USED**
24 **IN REFERENCE TO 1 OR MORE PREVIOUS OR PRECEDING TAX YEARS AND THOSE**
25 **REFERENCED TAX YEARS ARE BEFORE JANUARY 1, 2008, THEN THOSE**
26 **REFERENCED TAX YEARS ARE DEEMED THOSE SAME TAX YEARS DURING WHICH**
27 **FORMER 1975 PA 228 WAS IN EFFECT.**

1 (5) "Taxpayer" means a person or a unitary business group
2 liable for a tax, interest, or penalty under this act.

3 (6) "Unitary business group" means a group of United States
4 persons, other than a foreign operating entity, 1 of which owns or
5 controls, directly or indirectly, more than 50% of the ownership
6 interest with voting rights or ownership interests that confer
7 comparable rights to voting rights of the other United States
8 persons, and that has business activities or operations which
9 result in a flow of value between or among persons included in the
10 unitary business group or has business activities or operations
11 that are integrated with, are dependent upon, or contribute to each
12 other. For purposes of this subsection, flow of value is determined
13 by reviewing the totality of facts and circumstances of business
14 activities and operations.

15 (7) "United States person" means that term as defined in
16 section 7701(a)(30) of the internal revenue code.

17 (8) "Unrelated business activity" means, for a tax-exempt
18 person, business activity directly connected with an unrelated
19 trade or business as defined in section 513 of the internal revenue
20 code.