

SENATE BILL No. 1054

January 23, 2008, Introduced by Senators PAPPAGEORGE, CASSIS and JANSEN and referred to the Committee on Finance.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 105 (MCL 208.1105), as amended by 2007 PA 145.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 105. (1) "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 made
5 or engaged in, whether in intrastate, interstate, or foreign
6 commerce, with the object of gain, benefit, or advantage, whether
7 direct or indirect, to the taxpayer or to others, but does not
8 include the services rendered by an employee to his or her
9 employer, ~~or~~ services as a director of a corporation, **OR SERVICES**

1 **RENDERED BY AN INDIVIDUAL TO A PARTNERSHIP IN WHICH HE OR SHE IS A**
2 **PARTNER.** Although an activity of a taxpayer may be incidental to
3 another or to other of his or her business activities, each
4 activity shall be considered to be business engaged in within the
5 meaning of this act.

6 (2) "Business income" means that part of federal taxable
7 income derived from business activity ~~—AND AS FURTHER DESCRIBED~~
8 **FOR THE FOLLOWING:**

9 (A) For a partnership or S corporation, business income
10 includes payments and items of income, ~~and expense~~ **LESS EXPENSES,**
11 that are attributable to business activity of the partnership or S
12 corporation and separately reported to the partners or
13 shareholders.

14 (B) For an organization that is a mutual or cooperative
15 electric company exempt under section 501(c)(12) of the internal
16 revenue code, business income equals the organization's excess or
17 deficiency of revenues over expenses as reported to the federal
18 government by those organizations exempt from the federal income
19 tax under the internal revenue code, less capital credits paid to
20 members of that organization, less income attributed to equity in
21 another organization's net income, and less income resulting from a
22 charge approved by a state or federal regulatory agency that is
23 restricted for a specified purpose and refundable if it is not used
24 for the specified purpose.

25 (C) For a tax-exempt person, business income means only that
26 part of federal taxable income derived from unrelated business
27 activity.

1 (D) For an individual, estate, ~~partnership organized~~
2 ~~exclusively for estate or gift planning purposes, or trust~~
3 organized ~~exclusively for estate or gift planning purposes, OTHER~~
4 **PERSON ORGANIZED FOR ESTATE OR GIFT PLANNING PURPOSES, OR PERSON**
5 **ORGANIZED TO CONDUCT INVESTMENT ACTIVITY WHICH DOES NOT CONDUCT A**
6 **TRADE OR BUSINESS OR CONDUCTS INVESTMENT ACTIVITY FOR A TRADE OR**
7 **BUSINESS**, business income is that part of federal taxable income
8 derived from transactions, activities, and sources in the regular
9 course of the taxpayer's trade or business, including the
10 following:

11 (i) ~~(a)~~ All income from tangible and intangible property if the
12 acquisition, rental, management, or disposition of the property
13 constitutes integral parts of the taxpayer's regular trade or
14 business operations.

15 (ii) ~~(b)~~ Gains or losses incurred in the taxpayer's trade or
16 business from stock and securities of any foreign or domestic
17 corporation and dividend and interest income.

18 (iii) ~~(c)~~ Income derived from isolated sales, leases,
19 assignment, licenses, divisions, or other infrequently occurring
20 dispositions, transfers, or transactions involving property if the
21 property is or was used in the taxpayer's trade or business
22 operation.

23 (iv) ~~(d)~~ Income derived from the sale of a business.

24 (v) ~~(e)~~ Income not included in business income for an
25 individual, estate, partnership organized exclusively for estate or
26 gift planning purposes, or trust organized exclusively for estate
27 or gift planning purposes includes, but is not limited to, the

1 following:

2 **(A)** ~~(i)~~—Personal investment activity, including interest,
3 dividends, and gains from a personal investment portfolio or
4 retirement account.

5 **(B)** ~~(ii)~~—Disposition of tangible, intangible, or real property
6 held for personal use and enjoyment, such as a personal residence
7 or personal assets.