

SENATE BILL No. 1440

June 27, 2008, Introduced by Senator CASSIS and referred to the Committee on Finance.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 109 (MCL 208.1109).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 109. (1) "Employee" means an employee as defined in
2 section 3401(c) of the internal revenue code. A person from whom an
3 employer is required to withhold for federal income tax purposes is
4 prima facie considered an employee.

5 (2) "Employer" means an employer as defined in section 3401(d)
6 of the internal revenue code. A person required to withhold for
7 federal income tax purposes is prima facie considered an employer.

8 (3) "Federal taxable income" means taxable income as defined
9 in section 63 of the internal revenue code **EXCEPT THAT DEPRECIATION**
10 **DEDUCTIONS AND THE ADJUSTED BASIS OF PROPERTY SHALL BE DETERMINED**
11 **AS PROVIDED UNDER THE INTERNAL REVENUE CODE WITHOUT CONSIDERING THE**

1 **ADDITIONAL ALLOWANCE UNDER SECTION 168(K) OF THE INTERNAL REVENUE**
2 **CODE.**

3 (4) "Financial institution" means that term as defined under
4 chapter 2B.

5 (5) "Foreign operating entity" means a United States person
6 that satisfies each of the following:

7 (a) Would otherwise be a part of a unitary business group that
8 has at least 1 person included in the unitary business group that
9 is taxable in this state.

10 (b) Has substantial operations outside the United States, the
11 District of Columbia, the Commonwealth of Puerto Rico, any
12 territory or possession of the United States, or a political
13 subdivision of any of the foregoing.

14 (c) At least 80% of its income is active foreign business
15 income as defined in section 861(c)(1)(B) of the internal revenue
16 code.

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. 1038 of the 94th Legislature is enacted into
19 law.