

Act No. 157
Public Acts of 2009
Approved by the Governor
December 10, 2009
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December 10, 2009
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**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009**

Introduced by Senators Cassis, Bishop and Pappageorge

ENROLLED SENATE BILL No. 671

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," by amending section 267 (MCL 208.1267).

The People of the State of Michigan enact:

Sec. 267. (1) Except as otherwise provided under this chapter, the tax base of a financial institution whose business activities are confined solely to this state shall be allocated to this state. Except as otherwise provided under subsection (5), the tax base of a financial institution whose business activities are subject to tax both within and outside this state shall be apportioned to this state by multiplying the tax base by the gross business factor.

(2) A financial institution whose business activities are subject to tax both within and outside of this state is subject to tax in another state in either of the following circumstances:

(a) The financial institution is subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax or a tax of the type imposed under this act in that state.

(b) That state has jurisdiction to subject the financial institution to 1 or more of the taxes listed in subdivision (a) regardless of whether that state does or does not subject the financial institution to that tax.

(3) Except as otherwise provided in subsection (4), the gross business factor is a fraction, the numerator of which is the total gross business of the financial institution in this state during the tax year and the denominator of which is the total gross business of the financial institution everywhere during the tax year.

(4) Except as otherwise provided under this subsection, for a financial institution that is included in a unitary business group, gross business includes gross business in this state of every financial institution included in the unitary business group without regard to whether the financial institution has nexus in this state. Gross business between financial institutions included in a unitary business group must be eliminated in calculating the gross business factor.

(5) Notwithstanding subsection (1), a taxpayer that restructures as a financial institution on or after January 1, 2008 and that prior to that restructuring qualified to apportion its tax base based on its sales factor calculated under section 307 may elect to continue to have the tax base from its business activities that are subject to tax both within and outside this state apportioned to this state by multiplying its tax base by its sales factor calculated in accordance with section 307.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor