

# HOUSE BILL No. 4956

September 13, 2011, Introduced by Rep. Walsh and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 609 (MCL 206.609), as added by 2011 PA 38.

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

1           Sec. 609. (1) "Person" means an individual, ~~firm,~~ bank,  
2 financial institution, insurance company, ~~limited partnership,~~  
3 ~~limited liability partnership, copartnership, partnership, joint~~  
4 ~~venture,~~ association, corporation, ~~subchapter S corporation,~~  
5 ~~limited liability company,~~ **FLOW-THROUGH ENTITY**, receiver, estate,  
6 trust, or any other group or combination of groups acting as a  
7 unit.

8           (2) "Professional employer organization" means an  
9 organization, other than an organization whose business activities  
10 are included in industry group 736 under the standard industrial

1 classification code as compiled by the United States department of  
2 labor, 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 (3) "Revenue mile" means the transportation for a  
17 consideration of 1 net ton in weight or 1 passenger the distance of  
18 1 mile.

19 (4) "Sale" or "sales" means, except as provided in subdivision  
20 (e), the amounts received by the taxpayer as consideration from the  
21 following:

22 (a) The transfer of title to, or possession of, property that  
23 is stock in trade or other property of a kind that would properly  
24 be included in the inventory of the taxpayer if on hand at the  
25 close of the tax period or property held by the taxpayer primarily  
26 for sale to customers in the ordinary course of the taxpayer's  
27 trade or business. For intangible property, the amounts received

1 shall be limited to any gain received from the disposition of that  
2 property.

3 (b) The performance of services that constitute business  
4 activities.

5 (c) The rental, lease, licensing, or use of tangible or  
6 intangible property, including interest that constitutes business  
7 activity.

8 (d) Any combination of business activities described in  
9 subdivisions (a), (b), and (c).

10 (e) For taxpayers not engaged in any other business  
11 activities, sales include interest, dividends, and other income  
12 from investment assets and activities and from trading assets and  
13 activities.

14 (5) "Shareholder" means a person who owns outstanding stock in  
15 a corporation or is a member of a business entity that files as a  
16 corporation for federal income tax purposes. An individual is  
17 considered as the owner of the stock, **OR THE EQUITY INTEREST IN A**  
18 **BUSINESS ENTITY THAT FILES AS A CORPORATION FOR FEDERAL INCOME TAX**  
19 **PURPOSES**, owned, directly or indirectly, by or for family members  
20 as defined by section 318(a)(1) of the internal revenue code.

21 (6) "State" means any state of the United States, the District  
22 of Columbia, the Commonwealth of Puerto Rico, any territory or  
23 possession of the United States, and any foreign country, or a  
24 political subdivision of any of the foregoing.

25 Enacting section 1. This amendatory act takes effect January  
26 1, 2012.