

MICHIGAN BUSINESS TAX ACT (EXCERPT)
Act 36 of 2007

***** 208.1105 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT
BEGIN AFTER DECEMBER 31, 2031 *****

208.1105 Definitions; "B".

Sec. 105. (1) "Business activity" means a transfer of legal or equitable title to or rental of property, whether real, personal, or mixed, tangible or intangible, or the performance of services, or a combination thereof, made or engaged in, or caused to be made or engaged in, whether in intrastate, interstate, or foreign commerce, with the object of gain, benefit, or advantage, whether direct or indirect, to the taxpayer or to others, but does not include the services rendered by an employee to his or her employer or services as a director of a corporation. Although an activity of a taxpayer may be incidental to another or to other of his or her business activities, each activity shall be considered to be business engaged in within the meaning of this act.

(2) "Business income" means that part of federal taxable income derived from business activity. For a partnership or S corporation, business income includes payments and items of income and expense that are attributable to business activity of the partnership or S corporation and separately reported to the partners or shareholders. For an organization that is a mutual or cooperative electric company exempt under section 501(c)(12) of the internal revenue code, business income equals the organization's excess or deficiency of revenues over expenses as reported to the federal government by those organizations exempt from the federal income tax under the internal revenue code, less capital credits paid to members of that organization, less income attributed to equity in another organization's net income, and less income resulting from a charge approved by a state or federal regulatory agency that is restricted for a specified purpose and refundable if it is not used for the specified purpose. For a tax-exempt person, business income means only that part of federal taxable income derived from unrelated business activity. For a person that is organized exclusively to conduct investment activity and that does not conduct investment activity for any person other than an individual or a person related to that individual and for a common trust fund established under the collective investments funds act, 1941 PA 174, MCL 555.101 to 555.113, business income excludes income derived from investment activity unless the activity is in the regular course of the person's trade or business. For purposes of this subsection, a person is related to an individual if that person is a spouse, brother or sister, whether of the whole or half blood or by adoption, ancestor, lineal descendant of that individual or related person, or a trust benefiting that individual or 1 more persons related to that individual. For an individual, estate, or person organized for estate or gift planning purposes, business income is that part of federal taxable income derived from transactions, activities, and sources in the regular course of the person's trade or business, including the following:

(a) All income from tangible and intangible property if the acquisition, rental, lease, management, or disposition of the property constitutes integral parts of the person's regular trade or business operations.

(b) Gains or losses incurred in the person's trade or business from stock and securities of any foreign or domestic corporation and dividend and interest income.

(c) Income derived from isolated sales, leases, assignments, licenses, divisions, or other infrequently occurring dispositions, transfers, or transactions involving tangible, intangible, or real property if the property is or was used in the person's trade or business operation.

(d) Income derived from the sale of an interest in a business that constitutes an integral part of the person's regular trade or business.

(e) Income derived from the lease or rental of real property.

(f) Income not included in business income for an individual, estate, or person organized for estate or gift planning purposes includes, but is not limited to, the following:

(i) Income from investment activity, including interest, dividends, royalties, and gains from an investment portfolio or retirement account, if the investment activity is not part of the person's trade or business.

(ii) Income from the disposition of tangible, intangible, or real property held for personal use and enjoyment, such as a personal residence or personal assets.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 145, Eff. Jan. 1, 2008;—Am. 2011, Act 305, Imd. Eff. Dec. 27, 2011.

Compiler's note: Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

Enacting section 3 of Act 145 of 2007 provides:

"Enacting section 3. Sections 281 and 451 of the Michigan business tax act, 2007 PA 36, MCL 208.1281 and 208.1451, as added by this amendatory act, and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1415, 208.1417, 208.1419, 208.1421, 208.1423, 208.1425, 208.1427, 208.1429, 208.1431, 208.1433, 208.1435, 208.1437, 208.1439, 208.1441, 208.1443, 208.1445, 208.1447, 208.1449, 208.1451, 208.1453, 208.1455, 208.1457, 208.1459, 208.1461, 208.1463, 208.1465, 208.1467, 208.1469, 208.1471, 208.1473, 208.1475, 208.1477, 208.1479, 208.1481, 208.1483, 208.1485, 208.1487, 208.1489, 208.1491, 208.1493, 208.1495, 208.1497, 208.1499, 208.1501, 208.1503, 208.1505, 208.1507, 208.1509, 208.1511, 208.1513, 208.1515, 208.1517, 208.1519, 208.1521, 208.1523, 208.1525, 208.1527, 208.1529, 208.1531, 208.1533, 208.1535, 208.1537, 208.1539, 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208.1445, 208.1447, 208.1515, and 208.1601, as amended by this amendatory act, take effect January 1, 2008 and apply to all business activity occurring after December 31, 2007."

Enacting section 1 of Act 39 of 2011 provides:

"Enacting section 1. The Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, is repealed effective on the date that the secretary of state receives a written notice from the department of treasury that the last certificated credit or any carryforward from that certificated credit has been claimed."

Enacting section 1 of Act 305 of 2011 provides:

"Enacting section 1. This amendatory act is curative and intended to clarify the original intent of 2007 PA 36. This amendatory act is retroactive and effective for taxes levied on and after January 1, 2008."

In subsection (2), the references to "S corporation" evidently should read "subchapter S corporation".

Popular name: MBT