

HOUSE BILL No. 4709

March 26, 2009, Introduced by Rep. Melton and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 117 (MCL 208.1117).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 117. (1) "Tangible personal property" means that term as
2 defined in section 2 of the use tax act, 1937 PA 94, MCL 205.92.

3 (2) "Tax" means the tax imposed under this act, including
4 interest and penalties under this act, unless the term is given a
5 more limited meaning in the context of this act or a provision of
6 this act.

7 (3) "Tax-exempt person" means an organization that is exempt
8 from federal income tax under section 501(a) of the internal
9 revenue code, and a partnership, limited liability company, joint
10 venture, unincorporated association, or other group or combination
11 of organizations acting as a unit if all such organizations are

1 exempt from federal income tax under section 501(a) of the internal
2 revenue code and if all activities of the unit are exclusively
3 related to the charitable, educational, or other purposes or
4 functions that are the basis for the exemption of such
5 organizations from federal income tax, except the following:

6 (a) An organization exempt under section 501(c)(12) or (16) of
7 the internal revenue code.

8 (b) An organization exempt under section 501(c)(4) of the
9 internal revenue code that would be exempt under section 501(c)(12)
10 of the internal revenue code but for its failure to meet the
11 requirement in section 501(c)(12) that 85% or more of its income
12 must consist of amounts collected from members.

13 (4) "Tax year" means the calendar year, or the fiscal year
14 ending during the calendar year, upon the basis of which the tax
15 base of a taxpayer is computed under this act. If a return is made
16 for a fractional part of a year, tax year means the period for
17 which the return is made. Except for the first return required by
18 this act, a taxpayer's tax year is for the same period as is
19 covered by its federal income tax return. A taxpayer that has a 52-
20 or 53-week tax year beginning not more than 7 days before December
21 31 of any year is considered to have a tax year beginning after
22 December of that tax year. **IF THE TERM TAX YEAR IN THIS ACT IS USED**
23 **IN REFERENCE TO 1 OR MORE PREVIOUS OR PRECEDING TAX YEARS AND THOSE**
24 **REFERENCED TAX YEARS ARE BEFORE JANUARY 1, 2008, THEN THOSE**
25 **REFERENCED TAX YEARS ARE DEEMED THOSE SAME TAX YEARS DURING WHICH**
26 **FORMER 1975 PA 228 WAS IN EFFECT.**

27 (5) "Taxpayer" means a person or a unitary business group

1 liable for a tax, interest, or penalty under this act.

2 (6) "Unitary business group" means a group of United States
3 persons, other than a foreign operating entity, 1 of which owns or
4 controls, directly or indirectly, more than 50% of the ownership
5 interest with voting rights or ownership interests that confer
6 comparable rights to voting rights of the other United States
7 persons, and that has business activities or operations which
8 result in a flow of value between or among persons included in the
9 unitary business group or has business activities or operations
10 that are integrated with, are dependent upon, or contribute to each
11 other. For purposes of this subsection, flow of value is determined
12 by reviewing the totality of facts and circumstances of business
13 activities and operations.

14 (7) "United States person" means that term as defined in
15 section 7701(a)(30) of the internal revenue code.

16 (8) "Unrelated business activity" means, for a tax-exempt
17 person, business activity directly connected with an unrelated
18 trade or business as defined in section 513 of the internal revenue
19 code.