

HOUSE BILL No. 5735

February 14, 2008, Introduced by Reps. Wenke and Bieda and referred to the Committee on Tax Policy.

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.

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

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

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

8 (b) Has substantial operations outside the United States, the
9 District of Columbia, ~~the Commonwealth of Puerto Rico,~~ any
10 territory or possession of the United States **EXCEPT THE**
11 **COMMONWEALTH OF PUERTO RICO**, or a political subdivision of any of
12 the foregoing.

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