

SENATE BILL No. 123

January 28, 2009, Introduced by Senator GILBERT and referred to the Committee on Finance.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 113 (MCL 208.1113), as amended by 2008 PA 472.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 113. (1) "Partner" means a partner or member of a
2 partnership.

3 (2) "Partnership" means a taxpayer that is required to or has
4 elected to file as a partnership for federal income tax purposes.

5 (3) "Person" means an individual, firm, bank, financial
6 institution, insurance company, limited partnership, limited
7 liability partnership, copartnership, partnership, joint venture,
8 association, corporation, subchapter S corporation, limited
9 liability company, receiver, estate, trust, or any other group or
10 combination of groups acting as a unit.

1 (4) "Professional employer organization" means an organization
2 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 (5) Professional employer organization is not a staffing
17 company as that term is defined in subsection (6).

18 (6) "Purchases from other firms" means all of the following:

19 (a) Inventory acquired during the tax year, including freight,
20 shipping, delivery, or engineering charges included in the original
21 contract price for that inventory.

22 (b) Assets, including the costs of fabrication and
23 installation, acquired during the tax year of a type that are, or
24 under the internal revenue code will become, eligible for
25 depreciation, amortization, or accelerated capital cost recovery
26 for federal income tax purposes.

27 (c) To the extent not included in inventory or depreciable

1 property, materials and supplies, including repair parts and fuel.

2 (d) For a staffing company, compensation of personnel supplied
3 to customers of staffing companies. As used in this subdivision:

4 (i) "Compensation" means that term as defined under section 107
5 plus all payroll tax and worker's compensation costs.

6 (ii) "Staffing company" means a taxpayer whose business
7 activities are included in industry group 736 under the standard
8 industrial classification code as compiled by the United States
9 department of labor.

10 (e) For a person included in major group 15, 16, or 17 under
11 the standard industrial classification code as compiled by the
12 United States department of labor that does not qualify for a
13 credit under section 417, both of the following:

14 (i) Payments to subcontractors for a construction project under
15 a contract specific to that project.

16 (ii) To the extent not deducted under subdivisions (a) and (c),
17 payments for materials deducted as purchases in determining the
18 cost of goods sold for the purpose of calculating total income on
19 the taxpayer's federal income tax return.

20 (f) For the 2008 tax year and each tax year after 2008, all
21 film rental or royalty payments paid by a theater owner to a film
22 distributor, a film producer, or a film distributor and producer.

23 (g) For a taxpayer licensed under article 25 or 26 of the
24 occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and
25 339.2601 to 339.2637, payments to an independent contractor
26 licensed under article 25 or 26 of the occupational code, 1980 PA
27 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637.

1 (H) SERVICES PURCHASED DURING THE TAX YEAR THAT ARE DIRECTLY
2 RELATED TO BUSINESS ACTIVITY, EXCLUDING SERVICES PERFORMED BY AN
3 EMPLOYEE FOR AN EMPLOYER AND SERVICES PERFORMED BY A SUBCONTRACTOR
4 THAT ARE INCLUDED IN A CONSTRUCTION PROJECT FOR WHICH THOSE
5 PAYMENTS HAVE BEEN EXCLUDED FROM GROSS RECEIPTS UNDER SUBDIVISION
6 (E) .

7 (7) "Revenue mile" means the transportation for a
8 consideration of 1 net ton in weight or 1 passenger the distance of
9 1 mile.