

MICHIGAN BUSINESS TAX ACT (EXCERPT)
Act 36 of 2007

***** 208.1309 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT
BEGIN AFTER DECEMBER 31, 2031 *****

208.1309 Apportionment; petition; alternate method; rebuttable presumption that apportionment provisions fairly represent business activity; return or amended return not considered as petition.

Sec. 309.

(1) If the apportionment provisions of this act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the treasurer may require the following, with respect to all or a portion of the taxpayer's business activity, if reasonable:

- (a) Separate accounting.
- (b) The inclusion of 1 or more additional or alternative factors that will fairly represent the taxpayer's business activity in this state.
- (c) The use of any other method to effectuate an equitable allocation and apportionment of the taxpayer's tax base.

(2) An alternate method may be used only if it is approved by the department.

(3) The apportionment provisions of this act shall be rebuttably presumed to fairly represent the business activity attributed to the taxpayer in this state, taken as a whole and without a separate examination of the specific elements of either tax base unless it can be demonstrated that the business activity attributed to the taxpayer in this state is out of all appropriate proportion to the actual business activity transacted in this state and leads to a grossly distorted result or would operate unconstitutionally to tax the extraterritorial activity of the taxpayer.

(4) The filing of a return or an amended return is not considered a petition for the purposes of subsection (1).

History: 2007, Act 36, Eff. Jan. 1, 2008

Compiler's Notes: 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."

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