

SINGLE BUSINESS TAX ACT (EXCERPT)
Act 228 of 1975

***** 208.45 THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.45 Apportionment of tax base to state.

Sec. 45. (1) For tax years beginning before January 1, 1991, all of the tax base, other than the tax base derived principally from transportation, financial, or insurance carrier services or specifically allocated, shall be apportioned to this state by multiplying the tax base by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is 3.

(2) For tax years beginning after December 31, 1990 and before January 1, 1993, all of the tax base, other than the tax base derived principally from transportation, financial, or insurance carrier services or specifically allocated, shall be apportioned to this state by multiplying the tax base by a percentage, which is the sum of all of the following percentages:

- (a) The property factor multiplied by 30%.
- (b) The payroll factor multiplied by 30%.
- (c) The sales factor multiplied by 40%.

(3) Subsection (2) does not apply for a tax year in which a deduction is not allowed under section 23(c).

(4) For tax years beginning after December 31, 1992 and before January 1, 1997 and for tax years beginning after December 31, 1996 and before January 1, 1998 if section 23(e) is not in effect, all of the tax base, other than the tax base derived principally from transportation, financial, or insurance carrier services or specifically allocated, shall be apportioned to this state by multiplying the tax base by a percentage, which is the sum of all of the following percentages:

- (a) The property factor multiplied by 25%.
- (b) The payroll factor multiplied by 25%.
- (c) The sales factor multiplied by 50%.

(5) Except as provided in subsections (4) and (7) and for tax years beginning after December 31, 1996 and before January 1, 1999, all of the tax base, other than the tax base derived principally from transportation, financial, or insurance carrier services or specifically allocated, shall be apportioned to this state by multiplying the tax base by a percentage, which is the sum of all of the following percentages:

- (a) The property factor multiplied by 10%.
- (b) The payroll factor multiplied by 10%.
- (c) The sales factor multiplied by 80%.

(6) For tax years beginning after December 31, 1998, all of the tax base, other than the tax base derived principally from transportation, financial, or insurance carrier services or specifically allocated, shall be apportioned to this state as provided in section 45a.

(7) For tax years beginning after December 31, 1997 and before January 1, 1999 if section 23(e) is not in effect, all of the tax base, other than the tax base derived principally from transportation, financial, or insurance carrier services or specifically allocated, shall be apportioned to this state by multiplying the tax base by a percentage, which is the sum of all of the following percentages:

- (a) The property factor multiplied by 20%.
- (b) The payroll factor multiplied by 20%.
- (c) The sales factor multiplied by 60%.

(8) For purposes of this section, a taxpayer that has a 52- or 53-week tax year beginning not more than 7 days before December 31 of any year is considered to have a tax year beginning after December 31 of that year.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1991, Act 77, Imd. Eff. July 16, 1991;—Am. 1995, Act 283, Imd. Eff. Jan. 9, 1996.

Constitutionality: In *Trinova Corp. v. Michigan Department of Treasury*, 111 S.Ct. 818 (1991), the United States Supreme Court held that Michigan's single business tax is not violative of the Commerce Clause or Due Process Clause of the Fourteenth Amendment of the United States Constitution. The Court stated that the single business tax meets the Court's test for sustaining a Commerce Clause challenge, by being a tax that: (1) Is applied to an activity with a substantial nexus with the taxing state; (2) Is fairly apportioned; (3) Does not discriminate against interstate commerce; and (4) Is fairly related to the services provided by the state. Neither does the tax violate due process requirements because there is a "minimal connection between the interstate activities and the taxing State, and a rational relationship between the income attributed to the State and the intrastate values of the enterprise."