SINGLE BUSINESS TAX ACT (EXCERPT)
Act 228 of 1975

****** 208.46 THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007 *******

208.46 Property factor.

Sec. 46. (1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented in this state during the tax year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented during the tax year.

(2) For a foreign person, the property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented in this state during the tax year by the taxpayer and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented in the United States during the tax year.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1999, Act 115, Imd. Eff. July 14, 1999.

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."