

STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018

Introduced by Senator Booher

ENROLLED SENATE BILL No. 362

AN ACT to amend 1967 PA 281, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement by lien and otherwise of taxes on or measured by net income and on certain commercial, business, and financial activities; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal acts and parts of acts,” by amending sections 653 and 657 (MCL 206.653 and 206.657), section 653 as amended by 2011 PA 183 and section 657 as added by 2011 PA 38.

The People of the State of Michigan enact:

Sec. 653. (1) Every financial institution with substantial nexus in this state is subject to a franchise tax. The franchise tax is imposed upon the tax base of the financial institution as determined under section 655 after allocation or apportionment to this state, at the rate of 0.29%.

(2) For purposes of this section, a financial institution has substantial nexus in this state if the financial institution satisfies any of the following:

- (a) Has a physical presence in this state for a period of more than 1 day during the tax year.
 - (b) Actively solicits sales in this state and has gross receipts of \$350,000.00 or more sourced to this state. As used in this subdivision, “actively solicits” means that term as defined under section 621.
 - (c) Has an ownership interest or a beneficial interest in a flow-through entity, directly or indirectly through 1 or more other flow-through entities, that has substantial nexus in this state as provided under this section or section 621.
- (3) The tax under this chapter is in lieu of the tax levied and imposed under chapters 11 and 12 of this part.

Sec. 657. (1) Except as otherwise provided under this chapter, the tax base of a financial institution whose business activities are confined solely to this state shall be allocated to this state. The tax base of a financial institution whose business activities are subject to tax both within and outside of this state shall be apportioned to this state by multiplying the tax base by the gross business factor.

(2) A financial institution whose business activities are subject to tax both within and outside of this state is subject to tax in another state in either of the following circumstances:

- (a) The financial institution is subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax or a tax of the type imposed under this part in that state.

(b) That state has jurisdiction to subject the financial institution to 1 or more of the taxes listed in subdivision (a) regardless of whether that state does or does not subject the financial institution to that tax.

(3) Except as otherwise provided in this subsection or subsection (4), the gross business factor is a fraction, the numerator of which is the total gross business of the financial institution in this state during the tax year and the denominator of which is the total gross business of the financial institution everywhere during the tax year. The denominator shall include any gross business attributable to the foreign business of a person that is a foreign operating entity or a foreign person or attributable to operations outside of the United States.

(4) Except as otherwise provided under this subsection, for a unitary business group of financial institutions, gross business includes gross business in this state of every financial institution included in the unitary business group without regard to whether the financial institution has nexus in this state. Gross business between financial institutions included in a unitary business group must be eliminated in calculating the gross business factor.

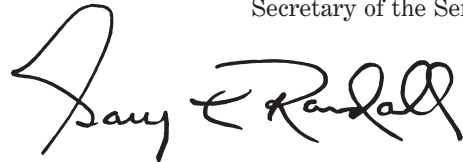
(5) For a unitary business group of financial institutions, the gross business factor shall include the gross business of all members of the unitary group during the tax year. For those members that were acquired or disposed of by the unitary business group during the tax year, the gross business factor shall include the gross business of the part-year member for that portion of the tax year during which the member met the control and relationship parameters under section 611(6), or for the portion of the tax year for which the member filed as a part of an affiliated group under section 691(2).

Enacting section 1. This amendatory act is effective for tax years beginning after December 31, 2018.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor