

SUBSTITUTE FOR
SENATE BILL NO. 673

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 663 (MCL 206.663), as added by 2011 PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 663. (1) Except as otherwise provided in subsection (2)
2 and section 669, the sales factor is a fraction, the numerator of
3 which is the total sales of the taxpayer in this state during the
4 tax year and the denominator of which is the total sales of the
5 taxpayer everywhere during the tax year. **THE NUMERATOR OF A**
6 **TAXPAYER SHALL INCLUDE ITS PROPORTIONATE SHARE OF THE TOTAL SALES**
7 **IN THIS STATE OF A FLOW-THROUGH ENTITY THAT IS UNITARY WITH THE**
8 **TAXPAYER. THE DENOMINATOR OF A TAXPAYER SHALL INCLUDE ITS**
9 **PROPORTIONATE SHARE OF THE TOTAL SALES EVERYWHERE OF A FLOW-THROUGH**
10 **ENTITY THAT IS UNITARY WITH THE TAXPAYER. A FLOW-THROUGH ENTITY IS**
11 **UNITARY WITH A TAXPAYER WHEN THAT TAXPAYER OWNS OR CONTROLS,**

1 DIRECTLY OR INDIRECTLY, MORE THAN 50% OF THE OWNERSHIP INTERESTS
2 WITH VOTING RIGHTS OR OWNERSHIP INTERESTS THAT CONFER COMPARABLE
3 RIGHTS TO VOTING RIGHTS OF THE FLOW-THROUGH ENTITY, AND THAT HAS
4 BUSINESS ACTIVITIES OR OPERATIONS WHICH RESULT IN A FLOW OF VALUE
5 BETWEEN THE TAXPAYER AND THE FLOW-THROUGH ENTITY, OR BETWEEN THE
6 FLOW-THROUGH ENTITY AND ANOTHER FLOW-THROUGH ENTITY UNITARY WITH
7 THE TAXPAYER, OR HAS BUSINESS ACTIVITIES OR OPERATIONS THAT ARE
8 INTEGRATED WITH, ARE DEPENDENT UPON, OR CONTRIBUTE TO EACH OTHER.

9 (2) Except as otherwise provided under this subsection, for a
10 taxpayer that is a unitary business group, sales include sales in
11 this state of every person included in the unitary business group
12 without regard to whether the person has nexus in this state. Sales
13 between persons included in a unitary business group must be
14 eliminated in calculating the sales factor. **SALES BETWEEN A
15 TAXPAYER AND FLOW-THROUGH ENTITIES UNITARY WITH THAT TAXPAYER, OR
16 BETWEEN FLOW-THROUGH ENTITIES UNITARY WITH A TAXPAYER, MUST BE
17 ELIMINATED IN CALCULATING THE SALES FACTOR.**

18 (3) It is the intent of the legislature that ~~each~~**THE** tax base
19 of a taxpayer is apportioned to this state by multiplying ~~each~~**THE**
20 tax base by the sales factor multiplied by 100% and that
21 apportionment shall not be based on property, payroll, or any other
22 factor notwithstanding section 1 of 1969 PA 343, MCL 205.581.

23 Enacting section 1. This amendatory act takes effect January
24 1, 2012.