

INCOME TAX ACT OF 1967 (EXCERPT)
Act 281 of 1967

206.811 Nexus; "actively solicits", "gross receipts", and "physical presence" defined.

Sec. 811.

(1) Except as otherwise provided in this part, a taxpayer has substantial nexus in this state and is subject to the tax imposed under this part if the taxpayer elects to pay the tax pursuant to section 813 and if the taxpayer has a physical presence in this state for a period of more than 1 day during the tax year, actively solicits sales in this state and has gross receipts sourced to this state, or is a member or 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.

(2) As used in this section:

(a) "Actively solicits" means either of the following:

(i) Speech, conduct, or activity that is purposefully directed at or intended to reach persons within this state and that explicitly or implicitly invites an order for a purchase or sale.

(ii) Speech, conduct, or activity that is purposefully directed at or intended to reach persons within this state that neither explicitly nor implicitly invites an order for a purchase or sale, but is entirely ancillary to requests for an order for a purchase or sale.

(b) "Gross receipts" means that term as defined under section 607.

(c) "Physical presence" means any activity conducted by the taxpayer or on behalf of the taxpayer by the taxpayer's employee, agent, or independent contractor acting in a representative capacity. Physical presence does not include the activities of professionals providing services in a professional capacity or other service providers if the activity is not significantly associated with the taxpayer's ability to establish and maintain a market in this state.

History: Add. 2021, Act 135, Imd. Eff. Dec. 21, 2021

Compiler's Notes: Enacting section 1 of Act 135 of 2021 provides: "Enacting section 1. This amendatory act is retroactive and intended to apply retroactively effective for tax years beginning on and after January 1, 2021."