

HOUSE BILL No. 4937

September 13, 2011, Introduced by Rep. Gilbert and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 669 (MCL 206.669), as added by 2011 PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 669. (1) All other receipts not otherwise sourced under
2 this part shall be sourced based on where the benefit to the
3 customer is received or, if where the benefit to the customer is
4 received cannot be determined, to the customer's billing address.

5 (2) FOR PURPOSES OF SECTION 665(2), THE BENEFIT OF A SERVICE
6 IS CONSIDERED RECEIVED IN THIS STATE AND ATTRIBUTABLE TO THIS STATE
7 AS FOLLOWS:

8 (A) 100% OF THE BENEFIT OF A SERVICE IS RECEIVED IN THIS STATE
9 UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

10 (i) THE SERVICE RELATES TO REAL PROPERTY THAT IS LOCATED

1 ENTIRELY IN THIS STATE.

2 (ii) THE SERVICE RELATES TO TANGIBLE PERSONAL PROPERTY THAT IS
3 EITHER OWNED OR LEASED BY THE PURCHASER AND LOCATED IN THIS STATE
4 AT THE TIME THAT THE SERVICE IS RECEIVED OR TO TANGIBLE PERSONAL
5 PROPERTY THAT IS DELIVERED TO THE PURCHASER OR THE PURCHASER'S
6 DESIGNEE IN THIS STATE.

7 (iii) THE SERVICE IS PROVIDED TO A PURCHASER WHO IS AN
8 INDIVIDUAL PHYSICALLY PRESENT IN THIS STATE AT THE TIME THAT THE
9 SERVICE IS RECEIVED.

10 (iv) THE SERVICES ARE RECEIVED IN THIS STATE AND ARE IN THE
11 NATURE OF PERSONAL SERVICES, SUCH AS CONSULTING, COUNSELING,
12 TRAINING, SPEAKING, AND PROVIDING ENTERTAINMENT, THAT ARE TYPICALLY
13 CONDUCTED OR PERFORMED FIRST-HAND, ON A DIRECT, ONE-TO-ONE OR ONE-
14 TO-MANY BASIS.

15 (v) THE SERVICE IS PROVIDED TO A PURCHASER THAT IS ENGAGED IN
16 A TRADE OR BUSINESS IN THIS STATE AND RELATES ONLY TO THE TRADE OR
17 BUSINESS OF THAT PURCHASER IN THIS STATE.

18 (vi) THE SERVICE RELATES TO THE USE OF INTANGIBLE PROPERTY SUCH
19 AS COMPUTER SOFTWARE OTHER THAN PREWRITTEN COMPUTER SOFTWARE,
20 LICENSES, DESIGNS, PROCESSES, PATENTS, AND COPYRIGHTS, WHICH IS
21 USED ENTIRELY IN THIS STATE.

22 (vii) THE SERVICES PROVIDED ARE PROFESSIONAL IN NATURE, SUCH AS
23 LEGAL OR ACCOUNTING SERVICES, AND ARE PROVIDED TO A PURCHASER THAT
24 IS AN INDIVIDUAL DOMICILED IN THIS STATE, OR TO A PURCHASER WITH
25 BUSINESS OPERATIONS ONLY IN MICHIGAN.

26 (B) A PORTION OF THE BENEFIT OF THE SERVICE IS IN THIS STATE
27 AND SHALL BE APPORTIONED TO THIS STATE AS FOLLOWS:

1 (i) IF THE SERVICE RELATES TO REAL PROPERTY THAT IS LOCATED IN
2 THIS STATE AND IN 1 OR MORE OTHER STATES, THE BENEFIT OF THE
3 SERVICE IS RECEIVED IN MICHIGAN TO THE EXTENT THAT THE REAL
4 PROPERTY IS LOCATED IN MICHIGAN.

5 (ii) IF THE SERVICE RELATES TO TANGIBLE PERSONAL PROPERTY THAT
6 IS OWNED OR LEASED BY THE PURCHASER AND LOCATED IN THIS STATE AND
7 IN 1 OR MORE OTHER STATES AT THE TIME THAT THE SERVICE IS RECEIVED,
8 OR TO TANGIBLE PERSONAL PROPERTY THAT IS DELIVERED TO THE PURCHASER
9 OR THE PURCHASER'S DESIGNEE IN THIS STATE AND IN 1 OR MORE OTHER
10 STATES, THE BENEFIT OF THE SERVICE IS RECEIVED IN MICHIGAN TO THE
11 EXTENT THAT THE TANGIBLE PERSONAL PROPERTY IS LOCATED IN MICHIGAN,
12 OR IS DELIVERED TO THE PURCHASER OR THE PURCHASER'S DESIGNEE IN
13 MICHIGAN.

14 (iii) IF THE SERVICE IS PROVIDED TO A PURCHASER THAT IS ENGAGED
15 IN A TRADE OR BUSINESS IN THIS STATE AND IN 1 OR MORE OTHER STATES,
16 AND THE SERVICE RELATES TO THE TRADE OR BUSINESS OF THAT PURCHASER
17 IN THIS STATE AND IN 1 OR MORE OTHER STATES, THE BENEFIT OF THE
18 SERVICE IS RECEIVED IN MICHIGAN TO THE EXTENT THAT IT RELATES TO
19 THE TRADE OR BUSINESS OF THE PURCHASER IN MICHIGAN.

20 (iv) IF THE SERVICE RELATES TO THE USE OF INTANGIBLE PROPERTY
21 SUCH AS COMPUTER SOFTWARE OTHER THAN PREWRITTEN COMPUTER SOFTWARE,
22 LICENSES, DESIGNS, PROCESSES, PATENTS, AND COPYRIGHTS, WHICH IS
23 USED IN THIS STATE AND IN 1 OR MORE OTHER STATES, THE BENEFIT OF
24 THE SERVICE IS RECEIVED IN MICHIGAN TO THE EXTENT THAT THE
25 INTANGIBLE PROPERTY IS USED IN MICHIGAN.

26 (v) IF THE SERVICES PROVIDED ARE PROFESSIONAL IN NATURE, SUCH
27 AS LEGAL OR ACCOUNTING SERVICES, AND ARE PROVIDED TO A PURCHASER

1 WITH BUSINESS OPERATIONS IN MICHIGAN AND 1 OR MORE OTHER STATES,
2 AND THE SERVICES RELATE TO THE PURCHASER'S OPERATIONS BOTH IN
3 MICHIGAN AND IN 1 OR MORE OTHER STATES, THE BENEFIT OF THE SERVICES
4 IS RECEIVED IN MICHIGAN TO THE EXTENT THAT THE SERVICES RELATE TO
5 THE PURCHASER'S MICHIGAN OPERATIONS.

6 Enacting section 1. This amendatory act takes effect January
7 1, 2012.