

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5009

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 691 (MCL 206.691), as amended by 2013 PA 266.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 691. (1) Except as otherwise provided under section
2 680(3), a unitary business group shall file a combined return that
3 includes each United States person that is included in the unitary
4 business group. Each United States person included in a unitary
5 business group or included in a combined return shall be treated as
6 a single person, and all transactions between those persons
7 included in the unitary business group shall be eliminated from the
8 corporate income tax base, ~~and~~ the apportionment formulas, **AND FOR**
9 **PURPOSES OF DETERMINING EXEMPTIONS, CREDITS, AND THE FILING**
10 **THRESHOLD** under this part. If a United States person included in a
11 unitary business group or included in a combined return is subject

1 to the tax under chapter 12 or 13, any corporate income
2 attributable to that person shall be eliminated from the corporate
3 income tax base and any sales attributable to that person shall be
4 eliminated from the apportionment formula under this part.

5 (2) A person that is part of an affiliated group may elect
6 without the consent of the department to have all of the persons
7 that are included in that affiliated group to be treated as a
8 unitary business group. A taxpayer that elects to file as a unitary
9 business group pursuant to this subsection shall compute its tax
10 under this part in accordance with all other provisions of this
11 part that apply to a unitary business group. The taxpayer shall
12 make the election under this subsection on a form or in a format as
13 prescribed by the department that is to be filed in a timely manner
14 with the taxpayer's annual return. Each person included in the
15 affiliated group is deemed to have agreed to be bound by the
16 election made under this subsection and any renewal of that
17 election and to have waived any objection to its inclusion in the
18 affiliated group and treatment as a unitary business group. Each
19 person that subsequently enters the affiliated group after the tax
20 year for which the election is made is deemed to have consented to
21 the application of and is bound by the election and to have waived
22 any objection to its inclusion in the affiliated group and
23 treatment as a unitary business group. An election made pursuant to
24 this subsection is irrevocable and binding for and applicable to
25 the tax year for which it is made and for the next 9 tax years. The
26 election shall remain in effect for the time period in which the
27 ownership requirements under this section are met irrespective of

1 whether a federal consolidated group to which the unitary business
2 group belongs discontinues the filing of a federal consolidated
3 return or whether the common parent changes due to a reverse
4 acquisition or acquisition by a related person. Upon the expiration
5 of the election after it has been in effect for 10 tax years, an
6 election may be renewed for another 10 tax years, without the
7 consent of the department; provided however, that in the case of a
8 nonrenewal a new election under this subsection is not permitted in
9 any of the immediately following 3 tax years. The renewal shall be
10 made on a form or in a format as prescribed by the department that
11 is to be filed in a timely manner with the taxpayer's annual return
12 after the completion of a 10-year period for which an election
13 under this subsection was in place.

14 Enacting section 1. This amendatory act is effective for tax
15 years that begin after December 31, 2013.