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## **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
  - IS CONSIDERED RECEIVED IN THIS STATE AND ATTRIBUTABLE TO THIS STATE
  - AS FOLLOWS:
  - (A) 100% OF THE BENEFIT OF A SERVICE IS RECEIVED IN THIS STATE
- 9 UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:
  - (i) THE SERVICE RELATES TO REAL PROPERTY THAT IS LOCATED

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## House Bill No. 4937 as amended September 27, 2011

- 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 << >>
- 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:

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## House Bill No. 4937 as amended September 27, 2011

- 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.

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- 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
- 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.

SUCH AS COMPUTER SOFTWARE <<

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

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- 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.