

SINGLE BUSINESS TAX ACT (EXCERPT)
Act 228 of 1975

***** 208.49 THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.49 Payroll factor; “wages” defined.

Sec. 49. (1) The payroll factor is a fraction, the numerator of which is the total wages paid in this state during the tax year by the taxpayer and the denominator of which is the total wages paid everywhere during the tax year by the taxpayer. For the purposes of this chapter only, “wages” means all wages, salaries, fees, bonuses, commissions, paid in the taxable year on behalf of or for the benefit of employees, officers, or directors of the taxpayer and includes, but is not limited to, payments that are subject to or specifically exempt or excepted from withholding under sections 3401 to 3406 of the internal revenue code.

(2) For a foreign person, the payroll factor is a fraction, the numerator of which is the total wages paid for services performed in this state during the tax year by the taxpayer and the denominator of which is the total wages paid for services performed in the United States during the tax year by the taxpayer.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1999, Act 115, Imd. Eff. July 14, 1999.

Constitutionality: In *Trinova Corp. v. Michigan Department of Treasury*, 111 S.Ct. 818 (1991), the United States Supreme Court held that Michigan's single business tax is not violative of the Commerce Clause or Due Process Clause of the Fourteenth Amendment of the United States Constitution. The Court stated that the single business tax meets the Court's test for sustaining a Commerce Clause challenge, by being a tax that: (1) Is applied to an activity with a substantial nexus with the taxing state; (2) Is fairly apportioned; (3) Does not discriminate against interstate commerce; and (4) Is fairly related to the services provided by the state. Neither does the tax violate due process requirements because there is a “minimal connection between the interstate activities and the taxing State, and a rational relationship between the income attributed to the State and the intrastate values of the enterprise.”