Apportionment and Allocation

Chapter 3 of the Single Business Tax Act provides for either allocation of tax base or apportionment of tax base.

> "If the taxpayer's business activity is confined solely to Michigan, then, the entire tax base shall be allocated to Michigan." (MCL 208.40)
>
> "A taxpayer whose business activities are taxable both within and without Michigan shall apportion tax base." (MCL 208.41)
>
> "For purposes of apportionment the taxpayer is taxable in another state if:
>
> "In that state he is subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax, a tax of the type imposed under this act, or that state has jurisdiction to subject the taxpayer to one or more of the taxes, regardless of whether, in fact, the state does or does not." (MCL 208.42]

The Michigan Department of Treasury has promulgated proposed rules which provide guidance in the interpretation of Sections 40, 41, and 42 of the Single Business Tax Act.

Under section 41 of the act, a taxpayer is subject to the apportionment provisions of the act if the taxpayer engages in business activities that are taxable both within and without this state. A taxpayer's business activity is taxable in another state within the meaning of section 42 of the act. A taxpayer is taxable within another state if the taxpayer meets either of the following tests:

1. If, by reason of business activity in another state, the taxpayer is subject to 1 of the types of taxes specified in section 42 of the act.
2. If, by reason of such business activity, another state has jurisdiction to subject the taxpayer to 1 or more of the taxes specified in section 42 of the act, whether, in fact, the state does or does not subject to the tax or taxes.

A taxpayer is subject to 1 of the taxes specified in section 42 of the act if the taxpayer carries on business activities in another state and the state imposes a tax on the business activities. If the taxpayer voluntarily files and pays 1 or more of the taxes specified in section 42 of the act when not required to do so by the laws of that state or pays a minimal fee for qualification, organization, or the privilege of doing business in that state, but does not actually engage in business activity in that state or does actually engage in some activity, but the activity is not sufficient for nexus, and the minimum tax bears no relation to the taxpayer's business activity within such state, then

the taxpayer is not subject to 1 of the taxes specified within the meaning of section 42 of the act. (MCL 208.42)

"Nexus" Outside The State Of Michigan

Nexus outside of the State of Michigan is a topic that is more fully covered in the preceding chapter on jurisdictional standards.

Apportionment of Tax Base

The Single Business Tax provides for the apportionment of tax base in sections 45 through 69 of the Act. (MCL 208.45 to MCL 208.69)

Apportionment Formula

Michigan apportions tax base by the use of a three factor weighted apportionment formula.

Starting with tax years beginning after December 31, 1998 and before January 1, 2006, the apportionment formula is weighted 90 percent to the sales factor, 5 percent to the property factor, and 5 percent to the payroll factor.

Tax years beginning after December 31, 2005 and before January 1, 2008, the apportionment formula is weighted 92.5 percent to the sales factor, 3.75 percent to the property factor, and 3.75 percent to the payroll factor.

Tax years beginning after December 31, 2007, the apportionment formula is weighted 95 percent to the sales factor, 2.5 percent to the property factor, and 2.5 percent to the payroll factor.

Property Factor

Property Factor - Section 46 (MCL 208.46)

> "The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented in this state during the tax year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented during the tax year."

Valuation of Property owned or rented. Section 47 (MCL 208.47)

> "Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from sub-rentals."

Average value of property Section 48 (MCL 208.48)

> "The average value of property shall be determined by averaging the values at the beginning and ending of the tax year, but the commissioner may require the periodic averaging of values during the tax year if reasonably required to reflect properly the average value of the taxpayer's property."

The property factor of the apportionment formula shall include all real and tangible personal property, including construction in progress, which is owned or rented by the taxpayer during the tax period.

"Real and tangible personal property" includes any of the following:

1. Land.
2. Buildings.
3. Machinery.
4. Stocks of goods.
5. Equipment.
6. Tools.
7. Implements
8. Wares and merchandise.
9. Other real and tangible personal property.

The term does not include coin or currency.

The property factor does not include or cover intangible property that is owned by the taxpayer, such as an interest in a joint venture.

There is no requirement that real and tangible personal property be used, be capable of use, or be available for use by a taxpayer before it shall be included in the property factor. Any consideration of use is irrelevant to a determination of whether real and tangible personal property will be included in the property factor. The property factor shall reflect the average value of property includable in the.

In filing returns, if a taxpayer departs from or modifies the manner of valuing property used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by the taxpayer with all to which the taxpayer reports are not uniform in the valuation of property in the property factor, the taxpayer shall disclose, in its return to this state, the nature and extent of the variance.

Amway Corporation, Michigan Court of Appeals No. 105020, April 3, 1989.

The Michigan Court of Appeals held that the entire value of the corporation's leased mobile property (delivery trucks and aircraft) must be included as Michigan property when calculating the value of its property "owned or rented in Michigan" for the numerator of the property factor of the apportionment formula, regardless of the

amount of time the property was used in Michigan. Property need only be owned or rented in Michigan to be taxable.

Under these circumstances, Y's cost of the assets is the purchase price of the X stock as allocated to the X assets by the taxpayer for federal income tax purposes. Inventory of stock of goods shall be included in the factor in accordance with the valuation method used for federal income tax purposes. Property that is acquired by gift or inheritance shall be included in the factor at its basis for determining depreciation for federal income tax purposes.

Property that is rented by the taxpayer is valued at 8 times its net annual rental rate. The net annual rental rate for any item of rented property is the annual rental rate paid by the taxpayer for such property, less the aggregate annual sub-rental rates paid by subtenants of the taxpayer. "Annual rental rate" means the amount paid as rental for property for a 12-month period, that is, the amount of the annual rent. If property is rented for less than a 12-month period, the rent paid for the actual period of rental shall constitute the annual rental rate for the tax period. However, where a taxpayer has rented property for a term of 12 or more months and the current tax period covers a period of less than 12 months, due, for example, to a reorganization or change of accounting period, the rent paid for the short tax period shall be annualized. If the rental term is for less than 12 months, the rent shall not be annualized beyond its term. Rent shall not be annualized because of the uncertain duration when the rental term is on a month-to-month basis.

Any amount that is payable for the use of real or tangible personal property, or any part thereof, whether designated as a fixed sum of money or as a percentage of sales profits or otherwise.

Any amount that is payable as additional rent or in place of rents, such as interest, taxes, insurance, repairs, or any other items that are required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities, and janitor services. If a payment includes rent and other charges that are not segregated, the amount of rent shall be determined by considering the relative values of the rent and the other items.

The average value of property owned by the taxpayer shall be determined by averaging the values at the beginning and ending of the tax period. However, the commissioner may require or allow averaging by monthly values if required to properly reflect the average value of the taxpayer's property for the tax period. Averaging by monthly values will generally be applied if substantial fluctuations in the values of the property exist during the tax period or if property is acquired after the beginning of the tax period or disposed of before the end of the tax period.

If sub-rents that are taken into account in determining the net annual rental rate produce a negative or clearly inaccurate value for any item of property, another method that will properly reflect the value of rented property may be required or permitted by the commissioner or his or her authorized agent. In no case, however, shall such value be less than an amount that bears the same ratio to the annual rental

rate paid by the taxpayer for the property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property.

If the property that is owned by others is used by the taxpayer at no charge or is rented by the taxpayer for a nominal rate, the net annual rental rate for the property shall be determined on the basis of a reasonable market rental rate for the property.

Payroll Factor

Payroll Factor - Section 49 (MCL 208.49)

> "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 purposes of this chapter only "wages" means wages as defined in Section 3401 of the Internal Revenue Code."

Wages paid in state - Section 50 (MCL 208.50)

> "Wages are paid in this state if:
> 1. The individual's service is performed entirely within the state.
> 2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state.
> 3. Some of the service is performed in the state and the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is in the state; or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state."

The payroll factor of the apportionment formula shall include the total amount paid by a taxpayer for wages during the tax period.

The total amount paid to employees is determined upon the basis of the taxpayer's accounting method. If the taxpayer has adopted the accrual method of accounting, all wages properly accrued shall be deemed to have been paid. Notwithstanding the taxpayer's method of accounting, at the election of the taxpayer, wages that are paid to employees may be included in the payroll factor by use of the cash method if the taxpayer is required to report the wages under the cash method for unemployment compensation purposes.

In filing returns with this state, if a taxpayer departs from or modifies the treatment of wages paid used in returns for prior years, the taxpayer shall disclose, in the return for the current year, the nature and extent of the modification.

The denominator of the payroll factor is the total wages paid everywhere during the tax period by the taxpayer.

The numerator of the payroll factor is the total wages paid in this state during the tax period by the taxpayer. The tests to be applied in determining whether wages are paid in this state are specified in Section 50 of the act. (MCL 208.50)

Accordingly, if wages paid to employees are included in the payroll factor by use of the cash method of accounting or if the taxpayer is required to report the wages under the cash method for unemployment compensation purposes, it shall be presumed that the real total wages reported by the taxpayer to this state for unemployment compensation purposes constitute wages paid in this state, except for wages that are excluded pursuant to the provisions of this sub-rule and sub-rule 6. of this rule. The presumption may be overcome by satisfactory evidence that an employee's wage is not properly reportable to this state for unemployment compensation purposes.

"Base of operations" means the place of more or less permanent nature from which the employee starts his or her work and to which he or she customarily returns to receive instructions from the taxpayer or communications from his or her customers or other persons or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of his or her trade or profession at some other point or points. As used in this subdivision, "place from which the service is directed or controlled" means the place from which the power to direct or controlled is exercised by the taxpayer.

Sales Factor

Sales Factor - Section 51 (MCL 208.51)

> "The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax year, and the denominator of which is the total sales of the taxpayer everywhere during the tax year."

Sales of tangible personal property Section 52 (MCL 208.52)

> "Sales of tangible personal property are in this state if: The property is shipped or delivered to a purchaser within this state regardless of the free on board point or other conditions of the sales."

Sales other than tangible personal property Section 53 (MCL 208.53)

> "Sales, other than sales of tangible personal property, are in this state if:
> 1. The business activity is performed in this state.
> 2. The business activity is performed both in and outside this state and, based on costs of performance, a greater proportion of the business activity is performed in this state than is performed outside this state.

3. Receipts derived from services performed for planning, design, or construction activities within this state shall be deemed Michigan receipts."

"Sales" means gross receipts received as consideration in certain transactions specified in section 7(1) (MCL 208.7) of the act and includes rental or lease receipts.

The denominator of the sales factor shall include the total sales that are derived by the taxpayer during the tax year.

The numerator of the sales factor shall include sales that attributable to this state during the tax year.

Gross receipts from sales of tangible personal property are in this state if either of the following conditions is satisfied if the property is delivered or shipped to a purchaser within this state regardless of the free on board point or other conditions of sale.

"Purchaser within this state" means the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.

Royalties included in the tax base must also be included in the sales factor numerator and denominator of the apportionment formula.

The sale by the taxpayer is a Michigan sale when property being shipped by a seller from the state of origin to a consignee in another state is diverted while in-route to a purchaser in this Michigan.

"Purchaser within this state" shall not include dock sales or pickup sales, for example, sales that are picked up by the purchaser in this state for immediate transportation to another state.

Industrial Restructuring

Section 54 to the Single Business Tax Act (MCL 208.54) allows certain taxpayers to exclude certain sales when calculating the sales factor of the apportionment formula for either five years or seven years.

The provision would apply to a “spun off corporation” that had been:
1. Included in a combined or consolidated return in the immediately preceding tax year,
2. Ceased to be included in the combined or consolidated return as a result of a restructuring transaction that occurred after January 1, 1999, and
3. Whose Single Business Tax liability would otherwise have been increased as a result of the restructuring transaction. (MCL 208.54(1))

Qualified persons could exclude sales from the numerator of the sales factor to a purchaser that had been a member of the same affiliated group that had included the

seller in the filing of a combined or consolidated return but ceased to include the seller as a result of the restructuring transaction. This means sales by a spun off corporation to an entity that had been a member of the same affiliated group until a restructuring would exclude such sales from the numerator of the apportionment sales factor.

To qualify for this exclusion for five years, the spun off corporation would have to request approval in writing from the state treasurer and commit to an investment of at least $500 million of capital investment within the state within five years. The five year period would begin with the first tax year following the tax year in which the restructuring was completed. (MCL 208.54(1)(c)(iii))

The exclusion would be available for an additional two years if the corporation made a similar request prior to the end of the sixth year following the restructuring and committing to invest at least $200 million of capital investment during the next two years. (MCL 208.54(1)(e)(iii))

If a corporation failed to make the required capital investment, in either case, it would be required to file amended returns, regardless of the expiration of the four year statute of limitations and pay the additional tax due plus interest.

With each request, the spun off corporation would have to provide the state treasurer with a list of all corporations, limited liability companies, and any other business entities that the spun off corporation controlled at the time of the restructuring transaction.

The term "spun off corporation" is defined as "an entity treated as a controlled corporation under section 355 of the internal revenue code. Controlled corporation includes a controlled subsidiary created for the purpose of a restructuring transaction, a limited liability company, or an operational unit or division with business activities that were previously carried out as part of the distributing corporation." (MCL 208.54(8)(a))

The term "restructuring transaction" means a tax free distribution under section 355 of the internal revenue code and includes tax free transactions under section 355 that are commonly referred to as spin offs, split ups, split offs, or Type D reorganizations. (MCL 208.54(8)(b))

Special Industry Apportionment

Section 62 (MCL 208.62) provides a special apportionment formula for a domestic insurer.

Section 65 (MCL 208.65) provides a special apportionment formula for a financial organization.

Sections 56, 57, and 58 (MCL 208.56-58) provides a special apportionment formula to be used by transportation companies.

Section 68 (MCL 208.68) provides for the use of a single factor, sales, formula to be used by a taxpayer with gross sales not in excess of $100,000.

If a taxpayer renders service that consists of both transportation services and non-transportation services, then the taxpayer shall separately compute the tax base for the transportation services and for the non-transportation services. The taxpayer shall apply the apportionment formula described in section 57(1) of the act to the tax base for the transportation services. The taxpayer shall apply the apportionment formula described in section 45 of the act to the tax base for the non-transportation services.

Apportionment Not Representative of Business Activity

Section 69 (MCL 208.69) provides for a special formula when apportionment does not fairly represent business activity.

"If the apportionment provisions of this act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the commissioner may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

1. Separate accounting.

2. The exclusion of any 1 or more of the factors.

3. The inclusion of 1 or more additional factors which will fairly represent the taxpayer's business activity in this state.

4. The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's tax base.

An alternate method will be effective only if it is approved by the commissioner."

Clear and cogent evidence shall be established to overcome the presumption that the apportionment provisions fairly represent the business activity of a taxpayer that is attributable to this state. The burden of proof rests with the person who seeks an alternate method of apportionment.

Relief From Apportionment Formula Not Representative

A taxpayer that seeks to depart from the statutory apportionment formula shall request and obtain permission to use an alternate method before filing a return that uses an alternate method.

A taxpayer shall file a written petition with the commissioner not more than 30 days after the end of the taxpayer's tax year.

The commissioner shall issue a decision approving or rejecting the request.

Jones & Laughlin Steel Corporation v. Michigan Department of Treasury
Michigan Court of Appeals Docket Nos. 80472 & 80473 Supreme Court Denied Treasury's Appeal.

The court determined that the statutory three-factor apportionment formula under Sec. 45 did not fairly represent the extent of the taxpayer's business activity in Michigan. Instead, the taxpayer was allowed to use a combined method of allocating their compensation to Michigan, while still applying the three-factor apportionment formula against all other components of their tax base. The allocation was permitted under Sec. 69 thus eliminating a substantial portion of compensation that was not a part of the Michigan tax base.

The 1987 session of the legislature amended Section 69 of the Single Business Tax Act, pertaining to the apportionment of a taxpayer's Michigan business activity, to express the original intent of the legislature that the single business tax (SINGLE BUSINESS TAX) is an individual value-added type of tax rather than a combination or series of several smaller taxes, and that relief from formula apportionment should be granted only under extraordinary circumstances. (MCL 208.69)

Unless it can be demonstrated that the business activity of a taxpayer in Michigan is out of all appropriate proportion to the business transacted in the state and leads to a grossly distorted result, the apportionment provisions of the SINGLE BUSINESS TAX shall fairly represent the taxpayer's Michigan business activity taken as a whole without a separate examination of the specific elements of the tax base such as depreciation, compensation, or income. A taxpayer's business activity shall be presumed to be fairly represented if the adjusted tax base, computed without regard to the reduction based upon gross receipts, is not greater than the adjusted tax base computed after application of the reduction based upon gross receipts, or if the adjusted tax base is not greater than the adjusted tax base which would result from an apportioned tax base computed by using the apportionment formula prescribed for a corporate income tax or franchise tax in the taxpayer's business domicile. For purposes of the SINGLE BUSINESS TAX, a taxpayer's business domicile is the state in which the sum of the taxpayer's payroll factor and property factor is greatest. However, even if the taxpayer fails to satisfy either of these tests, there shall be no presumption that the taxpayer's business activity is not fairly represented.

The filing of an SINGLE BUSINESS TAX return or an amended return shall not be considered a petition for the use of any other method to effectuate an equitable allocation and apportionment of the taxpayer's tax base.

Trinova Corporation v. Michigan Department of Treasury
Michigan Court of Appeals, Docket no. 100641 February 22, 1988.

An Ohio-based manufacturer of auto parts, with taxable activities both within and without Michigan, claimed that the use of the three-factor apportionment formula in the determination of its single business tax liability did not fairly reflect its business activity in Michigan in that its application resulted in apportioned compensation and

depreciation expenses substantially higher than the corresponding actual expenses attributable to Michigan.

The Michigan Court of Claims approved the company's proposed use of a single-factor apportionment (sales only) and allocation of the actual amounts of compensation and depreciation attributable to Michigan, in accordance with the Court of Appeals decision in Jones & Laughlin Steel Corp. v. Department of Treasury. In that case, the court allowed the use of a two-factor method (sales and property only) and then allocated the exact amount of compensation attributable to Michigan, reasoning that the alternate method more accurately represented the company's activities in Michigan. This reasoning suffers from a fallacy in that it focuses on those factors that distort the average percentage, and fails to recognize the offsetting factors inherent in the apportionment formula, that is, a higher sales factor is offset by lower property and payroll factors, or vice versa.

The Court of Claims' adoption of the Jones & Laughlin doctrine as a rule in other cases involving foreign taxpayers led the Michigan legislature to pass on June 8, 1987, an amendment to Section 69 of the Single Business Tax Act providing that alternative apportionment methods are available only if application of the standard apportionment formula would result in an unfair representation of the taxpayer's Michigan-based business activity "taken as a whole and without a separate examination of the specific elements of the tax base." The company challenged as unconstitutional the retroactive application of Section 69, as amended. However, the court held that an amendment intended to make legislative intent clear has retroactive effect. Furthermore, the principle of prospective application of law does not apply to statutes that are remedial or procedural in nature and that do not create new rights or destroy existing ones.

The Court of Claims opinion was reversed on appeal to the Court of Appeals. In reversing the Court of Claims and Jones & Laughlin the Court of Appeals said:

“We take this opportunity to reject the logic of Jones & Laughlin's holding. Since the final apportionment percentage is the average of the component percentages (i.e., property, payroll and sales), it will always be larger than at least one of the component percentages unless, of course, they are all equal”. Under Jones & Laughlin then, a foreign taxpayer could defeat the tax simply by taking one factor, the percentage of which is smaller than the average, and applying the average to the total dollar value of that factor. This overvaluation is, as previously mentioned, offset by any factor(s) in the apportionment formula which is/are larger than the average. The net effect of the apportionment formula is to ascertain that portion of the foreign taxpayer's adjusted tax base attributable to its business activity in this state. The right to Section 69 relief was available only where application of the apportionment formula resulted in an unfair representation of the taxpayer's Michigan-based business activity taken as a whole.

"The fallacy of Trinova's instant claim is that it focused only on those factors which distorted the average percentage and failed to recognize the offsetting factors inherent in the apportionment formula. Likewise, this was the error in Jones & Laughlin."

United States Supreme Court, Docket No. 89-1106, February 19, 1991. Application of the Michigan Single Business Tax, a value-added tax, and its apportionment formula against a multistate taxpayer did not violate the Due Process or Commerce Clauses of the federal Constitution, according to the U.S. Supreme Court. The taxpayer, an Ohio manufacturer, generated a large portion of its sales revenues in Michigan but had very little staff or property located in the state. For 1980, it had no federal taxable income but was liable for Michigan Single Business Tax.

Although value added taxes are common in Europe and Latin America, Michigan is the only state that has enacted a value added tax. Because a value-added tax is a tax on the value that a business adds to a product rather than a tax on net income, a business could be liable for some value added tax even if it is unprofitable.

The Michigan Single Business Tax is an "addition method" value added tax. Under Michigan Compiled Laws Section 208.1 et seq. (1979), labor costs (compensation), depreciation, and other items are added to a taxpayer's federal taxable income to determine the total tax base.

Apportionment is permitted when the geographic source of income cannot be ascertained. In this case, the taxpayer argued that apportionment was not appropriate, because the largest components of its Single Business Tax base - compensation and depreciation - could be assigned to specific states, mostly outside of Michigan. The taxpayer argued that it was taxable on its Michigan compensation and Michigan depreciation, but that it owed no tax on income apportionable to Michigan because it had no income during the tax year in question.

The Supreme Court rejected this claim, noting that the Single Business Tax was not three separate and independent taxes on compensation, depreciation, and income. Rather, it was an "indivisible" tax on a different measure of business activity in the state, i.e., value added. Michigan was entitled to apportion the Single Business Tax when, as with state income taxes, factors such as functional integration, centralized management, and economies of scale make it difficult to determine the precise location of value added activity by a multistate enterprise.

Generally, Michigan uses a three-factor apportionment formula (property, payroll, and sales) to determine what portion of a multistate taxpayer's total value added business activity is attributable to Michigan. The Court previously affirmed the use of this three-factor formula to apportion income and, in this case, affirmed its use with respect to a value-added tax. Under the formula, the taxpayer's Michigan payroll and property each constituted less than 1% of total payroll and property, and Michigan sales constituted 26% of total sales.

The taxpayer failed to prove that the value-added activity attributed to Michigan under the three-factor formula was out of all proportion to its business done in the state. The formula did not lead to a "grossly distorted result" or tax value earned outside of Michigan. The taxpayer also failed to prove that the Single Business Tax discriminated against out-of-state businesses in violation of the Commerce Clause.

An alternative two-factor formula proposed by the taxpayer would have excluded the sales factor. In affirming the three-factor formula, the Court noted that the importance of sales in generating value has been long acknowledged by the Court, commentators, and the Uniform Division of Income for Tax Purposes Act.

William Wrigley, Jr. Company v. Michigan Department of Treasury
Michigan Court of Claims, No. 91-13382-CM, January 1992.

A Delaware corporation with its principal offices in Illinois was denied relief from the single business tax apportionment formula pursuant to Section 208.69 because it did not prove that the formula failed the external consistency test. Specifically, the taxpayer failed to provide clear and cogent evidence that there was no rational relationship between the base measure attributed to the state and the contributions of Michigan business activity to the entire value-added process. The taxpayer did not allege how or why the formula led to a distorted result that was out of all proportion to the business done by it in Michigan and did not plead any factual allegations pertaining to the apportionment formula.