

SUBSTITUTE FOR
SENATE BILL NO. 1170

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.713) by adding sections 254 and 675 and part 4.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 254. (1) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SECTION,
2 FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1, 2018, A TAXPAYER
3 WHO IS EITHER A MEMBER OF A FLOW-THROUGH ENTITY THAT ELECTS TO FILE
4 A RETURN AND PAY THE TAX IMPOSED UNDER PART 4 OR A DIRECT OR
5 INDIRECT MEMBER OF ANOTHER FLOW-THROUGH ENTITY THAT ELECTS TO FILE
6 A RETURN AND PAY THE TAX IMPOSED UNDER PART 4 MAY CLAIM A CREDIT
7 AGAINST THE TAX IMPOSED UNDER THIS PART IN AN AMOUNT EQUAL TO THE
8 MEMBER'S ALLOCATED SHARE OF THE TAX AS REPORTED TO THE MEMBER BY
9 THE FLOW-THROUGH ENTITY PURSUANT TO SECTION 789(2) FOR THE TAX YEAR

ENDING ON OR WITHIN THE TAXPAYER'S SAME TAX YEAR.

(2) FOR A TAXPAYER THAT IS AN ESTATE OR TRUST, THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT CALCULATED UNDER SUBSECTION (1) BY A PERCENTAGE EQUAL TO A FRACTION, THE NUMERATOR OF WHICH IS THE FLOW-THROUGH ENTITY BUSINESS INCOME TAX BASE THAT IS RETAINED BY THE ESTATE OR TRUST AND THE DENOMINATOR OF WHICH IS THE TOTAL FLOW-THROUGH ENTITY BUSINESS INCOME TAX BASE THAT IS INCLUDED IN DISTRIBUTABLE NET INCOME.

(3) FOR A TAXPAYER WHO IS A BENEFICIARY OF AN ESTATE OR TRUST THAT IS EITHER A MEMBER OF A FLOW-THROUGH ENTITY THAT ELECTS TO FILE A RETURN AND PAY THE TAX IMPOSED UNDER PART 4 OR A DIRECT OR INDIRECT MEMBER OF ANOTHER FLOW-THROUGH ENTITY THAT ELECTS TO FILE A RETURN AND PAY THE TAX IMPOSED UNDER PART 4, THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION IS EQUAL TO THE ALLOCABLE SHARE OF THE TAX IMPOSED UNDER PART 4 FOR THE YEAR ENDING ON OR WITHIN THE TAXPAYER'S SAME TAX YEAR AS REPORTED TO THE BENEFICIARY IN ACCORDANCE WITH SECTION 789(3).

(4) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT PORTION OF THE CREDIT THAT EXCEEDS THE TAX LIABILITY SHALL BE REFUNDED.

SEC. 675. (1) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SECTION, FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1, 2018, A TAXPAYER WHO IS EITHER A MEMBER OF A FLOW-THROUGH ENTITY THAT ELECTS TO FILE A RETURN AND PAY THE TAX IMPOSED UNDER PART 4 OR A DIRECT OR INDIRECT MEMBER OF ANOTHER FLOW-THROUGH ENTITY THAT ELECTS TO FILE A RETURN AND PAY THE TAX IMPOSED UNDER PART 4 MAY CLAIM A CREDIT

1 AGAINST THE TAX IMPOSED UNDER THIS PART IN AN AMOUNT EQUAL TO THE
2 MEMBER'S ALLOCATED SHARE OF THE TAX AS REPORTED TO THE MEMBER BY
3 THE FLOW-THROUGH ENTITY PURSUANT TO SECTION 789(2) FOR THE TAX YEAR
4 ENDING ON OR WITHIN THE TAXPAYER'S SAME TAX YEAR.

5 (2) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE TAX
6 LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT PORTION OF THE
7 CREDIT THAT EXCEEDS THE TAX LIABILITY SHALL BE REFUNDED.

8 PART 4

9 CHAPTER 18

10 SEC. 751. A TERM USED IN THIS PART AND NOT DEFINED DIFFERENTLY
11 SHALL HAVE THE SAME MEANING AS WHEN USED IN COMPARABLE CONTEXT IN
12 THE LAWS OF THE UNITED STATES RELATING TO FEDERAL INCOME TAXES IN
13 EFFECT FOR THE TAX YEAR UNLESS A DIFFERENT MEANING IS CLEARLY
14 REQUIRED. A REFERENCE IN THIS PART TO THE INTERNAL REVENUE CODE
15 INCLUDES OTHER PROVISIONS OF THE LAWS OF THE UNITED STATES RELATING
16 TO FEDERAL INCOME TAXES.

17 SEC. 753. (1) "AFFILIATED GROUP" MEANS THAT TERM AS DEFINED IN
18 SECTION 1504 OF THE INTERNAL REVENUE CODE AND INCLUDES ALL UNITED
19 STATES PERSONS THAT ARE FLOW-THROUGH ENTITIES THAT ARE COMMONLY
20 CONTROLLED AS PROVIDED IN 26 CFR 1.414(C)-1.

21 (2) "BUSINESS ACTIVITY" MEANS A TRANSFER OF LEGAL OR EQUITABLE
22 TITLE TO OR RENTAL OF PROPERTY, WHETHER REAL, PERSONAL, OR MIXED,
23 TANGIBLE OR INTANGIBLE, OR THE PERFORMANCE OF SERVICES, OR A
24 COMBINATION THEREOF, MADE OR ENGAGED IN, OR CAUSED TO BE MADE OR
25 ENGAGED IN, WHETHER IN INTRASTATE, INTERSTATE, OR FOREIGN COMMERCE,
26 WITH THE OBJECT OF GAIN, BENEFIT, OR ADVANTAGE, WHETHER DIRECT OR
27 INDIRECT, TO THE TAXPAYER OR TO OTHERS, BUT DOES NOT INCLUDE THE

1 SERVICES RENDERED BY AN EMPLOYEE TO HIS OR HER EMPLOYER OR SERVICES
2 AS A DIRECTOR OF A CORPORATION. ALTHOUGH AN ACTIVITY OF A TAXPAYER
3 MAY BE INCIDENTAL TO ANOTHER OR TO OTHERS OF HIS OR HER BUSINESS
4 ACTIVITIES, EACH ACTIVITY SHALL BE CONSIDERED TO BE BUSINESS
5 ENGAGED IN WITHIN THE MEANING OF THIS PART.

6 (3) "BUSINESS INCOME" MEANS FEDERAL TAXABLE INCOME AND
7 INCLUDES PAYMENTS AND ITEMS OF INCOME AND EXPENSE THAT ARE
8 ATTRIBUTABLE TO BUSINESS ACTIVITY OF THE FLOW-THROUGH ENTITY AND
9 SEPARATELY REPORTED TO ITS MEMBERS.

10 (4) "CORPORATION" MEANS A PERSON THAT IS REQUIRED OR HAS
11 ELECTED TO FILE AS A C CORPORATION AS DEFINED UNDER SECTION
12 1361(A)(2) AND SECTION 7701(A)(3) OF THE INTERNAL REVENUE CODE.
13 CORPORATION DOES NOT INCLUDE AN INSURANCE COMPANY OR A FINANCIAL
14 INSTITUTION.

15 (5) "DEPARTMENT" MEANS THE DEPARTMENT OF TREASURY.

16 (6) "EMPLOYEE" MEANS AN EMPLOYEE AS DEFINED IN SECTION 3401(C)
17 OF THE INTERNAL REVENUE CODE. A PERSON FROM WHOM AN EMPLOYER IS
18 REQUIRED TO WITHHOLD FOR FEDERAL INCOME TAX PURPOSES IS PRIMA FACIE
19 CONSIDERED AN EMPLOYEE.

20 (7) "EMPLOYER" MEANS AN EMPLOYER AS DEFINED IN SECTION 3401(D)
21 OF THE INTERNAL REVENUE CODE. A PERSON REQUIRED TO WITHHOLD FOR
22 FEDERAL INCOME TAX PURPOSES IS PRIMA FACIE CONSIDERED AN EMPLOYER.

23 (8) "FEDERAL TAXABLE INCOME" MEANS TAXABLE INCOME AS DEFINED
24 IN SECTION 63 OF THE INTERNAL REVENUE CODE WITHOUT THE DEDUCTIONS
25 DESCRIBED UNDER SECTION 703(A)(2) OF THE INTERNAL REVENUE CODE. FOR
26 THE PURPOSES OF THIS PART IN COMPUTING FEDERAL TAXABLE INCOME, S
27 CORPORATIONS SHALL BE TREATED AS A CORPORATION UNDER SECTION

1 1361(A)(2) OF THE INTERNAL REVENUE CODE AND PARTNERSHIPS SHALL BE
2 TREATED AS AN ASSOCIATION TAXABLE AS A CORPORATION PURSUANT TO AN
3 ELECTION UNDER 26 CFR 301.7701-3(A).

4 (9) "FINANCIAL INSTITUTION" MEANS THAT TERM AS DEFINED IN
5 SECTION 657.

6 (10) "FLOW-THROUGH ENTITY" MEANS AN ENTITY THAT FOR THE
7 APPLICABLE TAX YEAR IS TREATED AS AN S CORPORATION OR A PARTNERSHIP
8 UNDER THE INTERNAL REVENUE CODE FOR FEDERAL INCOME TAX PURPOSES.
9 FLOW-THROUGH ENTITY DOES NOT INCLUDE A PUBLICLY TRADED PARTNERSHIP
10 OR ANY ENTITY DISREGARDED UNDER SECTION 799.

11 (11) "GROSS RECEIPTS" MEANS THAT TERM AS DEFINED UNDER SECTION
12 607.

13 (12) "INSURANCE COMPANY" MEANS THAT TERM AS DEFINED IN SECTION
14 607.

15 (13) "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTERNAL
16 REVENUE CODE OF 1986 IN EFFECT ON JANUARY 1, 2018 OR, AT THE OPTION
17 OF THE TAXPAYER, IN EFFECT FOR THE TAX YEAR.

18 (14) "MEMBER", WHEN USED IN REFERENCE TO A FLOW-THROUGH
19 ENTITY, MEANS A SHAREHOLDER OF AN S CORPORATION OR A PARTNER OR
20 MEMBER IN A PARTNERSHIP.

21 (15) "PARTNERSHIP" MEANS AN ENTITY THAT IS REQUIRED TO OR HAS
22 ELECTED TO FILE AS A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES.
23 PARTNERSHIP INCLUDES A LIMITED LIABILITY COMPANY THAT IS TREATED AS
24 A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES.

25 (16) "PERSON" MEANS AN INDIVIDUAL, BANK, FINANCIAL
26 INSTITUTION, INSURANCE COMPANY, ASSOCIATION, CORPORATION, FLOW-
27 THROUGH ENTITY, RECEIVER, ESTATE, TRUST, OR ANY OTHER GROUP OR

1 COMBINATION OF GROUPS ACTING AS A UNIT.

2 (17) "PUBLICLY TRADED PARTNERSHIP" MEANS THAT TERM AS DEFINED
3 UNDER SECTION 7704 OF THE INTERNAL REVENUE CODE.

4 (18) "RESIDENT" MEANS A FLOW-THROUGH ENTITY DOMICILED IN THE
5 STATE OR INCORPORATED, FORMED, OR ORGANIZED UNDER THE LAWS OF THIS
6 STATE. "DOMICILE" MEANS THE PRINCIPAL PLACE FROM WHICH THE TRADE OR
7 BUSINESS OF THE FLOW-THROUGH ENTITY IS DIRECTED OR MANAGED.

8 (19) "S CORPORATION" MEANS A CORPORATION OR LIMITED LIABILITY
9 COMPANY ELECTING TAXATION UNDER SECTIONS 1361 TO 1379 OF THE
10 INTERNAL REVENUE CODE.

11 (20) "SALE" OR "SALES" MEANS THAT TERM AS DEFINED IN SECTION
12 609.

13 (21) "STATE" MEANS ANY STATE OF THE UNITED STATES, THE
14 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, ANY
15 TERRITORY OR POSSESSION OF THE UNITED STATES, AND ANY FOREIGN
16 COUNTRY, OR A POLITICAL SUBDIVISION OF ANY OF THE FOREGOING.

17 (22) "TAX" MEANS THE TAX IMPOSED UNDER THIS PART, INCLUDING
18 INTEREST AND PENALTIES UNDER THIS PART, UNLESS THE TERM IS GIVEN A
19 MORE LIMITED MEANING IN THE CONTEXT OF THIS PART OR A PROVISION OF
20 THIS PART.

21 (23) "TAX YEAR" MEANS THE CALENDAR YEAR, OR THE FISCAL YEAR
22 ENDING DURING THE CALENDAR YEAR, UPON THE BASIS OF WHICH THE TAX
23 BASE OF A TAXPAYER IS COMPUTED UNDER THIS PART. IF A RETURN IS MADE
24 FOR A FRACTIONAL PART OF A YEAR, TAX YEAR MEANS THE PERIOD FOR
25 WHICH THE RETURN IS MADE. EXCEPT FOR THE FIRST RETURN REQUIRED BY
26 THIS PART, A TAXPAYER'S TAX YEAR IS FOR THE SAME PERIOD AS IS
27 COVERED BY ITS FEDERAL INCOME TAX RETURN. A TAXPAYER THAT HAS A 52-

1 OR 53-WEEK TAX YEAR BEGINNING NOT MORE THAN 7 DAYS BEFORE THE END
2 OF ANY MONTH IS CONSIDERED TO HAVE A TAX YEAR BEGINNING ON THE
3 FIRST DAY OF THE SUBSEQUENT MONTH. A PERSON INCLUDED IN A UNITARY
4 BUSINESS GROUP THAT JOINS OR DEPARTS THE UNITARY BUSINESS GROUP
5 OTHER THAN AT THE END OF THAT PERSON'S FEDERAL TAX YEAR SHALL HAVE
6 A TAX YEAR BEGINNING WITH ITS FEDERAL INCOME TAX PERIOD AND ENDING
7 ON THE DATE OF JOINING OR DEPARTING THE UNITARY BUSINESS GROUP, AND
8 ANOTHER TAX YEAR BEGINNING ON THE DATE IMMEDIATELY AFTER JOINING OR
9 DEPARTING THE UNITARY BUSINESS GROUP AND ENDING WITH ITS FEDERAL
10 INCOME TAX PERIOD.

11 (24) "TAXPAYER" MEANS A FLOW-THROUGH ENTITY THAT ELECTS
12 PURSUANT TO SECTION 757 TO BE SUBJECT TO THE TAX UNDER THIS PART.

13 (25) "UNITARY BUSINESS GROUP" MEANS A GROUP OF UNITED STATES
14 PERSONS THAT ARE FLOW-THROUGH ENTITIES, 1 OF WHICH OWNS OR
15 CONTROLS, DIRECTLY OR INDIRECTLY, MORE THAN 50% OF THE OWNERSHIP
16 INTEREST WITH VOTING RIGHTS OR OWNERSHIP INTERESTS THAT CONFER
17 COMPARABLE RIGHTS TO VOTING RIGHTS OF THE OTHER MEMBERS, AND THAT
18 HAS BUSINESS ACTIVITIES OR OPERATIONS WHICH RESULT IN A FLOW OF
19 VALUE BETWEEN OR AMONG MEMBERS INCLUDED IN THE UNITARY BUSINESS
20 GROUP OR HAS BUSINESS ACTIVITIES OR OPERATIONS THAT ARE INTEGRATED
21 WITH, ARE DEPENDENT UPON, OR CONTRIBUTE TO EACH OTHER. UNITARY
22 BUSINESS GROUP INCLUDES AN AFFILIATED GROUP THAT MAKES THE ELECTION
23 TO BE TREATED, AND TO FILE, AS A UNITARY BUSINESS GROUP UNDER
24 SECTION 791.

25 (26) "UNITED STATES PERSON" MEANS THAT TERM AS DEFINED IN
26 SECTION 7701(A)(30) OF THE INTERNAL REVENUE CODE.

27 SEC. 755. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, A

1 TAXPAYER HAS SUBSTANTIAL NEXUS IN THIS STATE AND IS SUBJECT TO THE
2 TAX IMPOSED UNDER THIS PART IF THE TAXPAYER ELECTS TO PAY THE TAX
3 PURSUANT TO SECTION 757 AND IF THE TAXPAYER HAS A PHYSICAL PRESENCE
4 IN THIS STATE FOR A PERIOD OF MORE THAN 1 DAY DURING THE TAX YEAR,
5 ACTIVELY SOLICITS SALES IN THIS STATE AND HAS GROSS RECEIPTS
6 SOURCED TO THIS STATE, OR IS A MEMBER OR HAS AN OWNERSHIP INTEREST
7 OR A BENEFICIAL INTEREST IN A FLOW-THROUGH ENTITY, DIRECTLY, OR
8 INDIRECTLY THROUGH 1 OR MORE OTHER FLOW-THROUGH ENTITIES, THAT HAS
9 SUBSTANTIAL NEXUS IN THIS STATE.

10 (2) AS USED IN THIS SECTION:

11 (A) "ACTIVELY SOLICITS" MEANS EITHER OF THE FOLLOWING:

12 (i) SPEECH, CONDUCT, OR ACTIVITY THAT IS PURPOSEFULLY DIRECTED
13 AT OR INTENDED TO REACH PERSONS WITHIN THIS STATE AND THAT
14 EXPLICITLY OR IMPLICITLY INVITES AN ORDER FOR A PURCHASE OR SALE.

15 (ii) SPEECH, CONDUCT, OR ACTIVITY THAT IS PURPOSEFULLY
16 DIRECTED AT OR INTENDED TO REACH PERSONS WITHIN THIS STATE THAT
17 NEITHER EXPLICITLY NOR IMPLICITLY INVITES AN ORDER FOR A PURCHASE
18 OR SALE, BUT IS ENTIRELY ANCILLARY TO REQUESTS FOR AN ORDER FOR A
19 PURCHASE OR SALE.

20 (B) "PHYSICAL PRESENCE" MEANS ANY ACTIVITY CONDUCTED BY THE
21 TAXPAYER OR ON BEHALF OF THE TAXPAYER BY THE TAXPAYER'S EMPLOYEE,
22 AGENT, OR INDEPENDENT CONTRACTOR ACTING IN A REPRESENTATIVE
23 CAPACITY. PHYSICAL PRESENCE DOES NOT INCLUDE THE ACTIVITIES OF
24 PROFESSIONALS PROVIDING SERVICES IN A PROFESSIONAL CAPACITY OR
25 OTHER SERVICE PROVIDERS IF THE ACTIVITY IS NOT SIGNIFICANTLY
26 ASSOCIATED WITH THE TAXPAYER'S ABILITY TO ESTABLISH AND MAINTAIN A
27 MARKET IN THIS STATE.

1 SEC. 757. FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1,
2 2018, A FLOW-THROUGH ENTITY MAY, IN A FORM AND MANNER AS PRESCRIBED
3 BY THE DEPARTMENT, ELECT TO FILE A RETURN AND PAY THE TAX IMPOSED
4 BY THIS PART IN ANY TAX YEAR. AN ELECTION FOR A TAX YEAR DOES NOT
5 OBLIGATE THE FLOW-THROUGH ENTITY TO MAKE THE SAME ELECTION IN
6 SUBSEQUENT TAX YEARS. A SEPARATE ELECTION MUST BE MADE FOR EACH TAX
7 YEAR IN A TIMELY MANNER AS PROVIDED UNDER SECTION 785.

8 SEC. 759. (1) BEGINNING JANUARY 1, 2018 AND EACH TAX YEAR
9 AFTER 2018, THERE IS LEVIED AND IMPOSED A FLOW-THROUGH ENTITY TAX
10 ON EVERY TAXPAYER WITH BUSINESS ACTIVITY IN THIS STATE UNLESS
11 PROHIBITED BY 15 USC 381 TO 384. EXCEPT AS OTHERWISE PROVIDED UNDER
12 SUBSECTION (6), THE FLOW-THROUGH ENTITY TAX IS IMPOSED ON THE
13 POSITIVE BUSINESS INCOME TAX BASE, AFTER ALLOCATION OR
14 APPORTIONMENT TO THIS STATE, AT THE SAME RATE LEVIED AND IMPOSED
15 UNDER SECTION 51 FOR THAT SAME TAX YEAR. A NEGATIVE BUSINESS INCOME
16 TAX BASE OF A FLOW-THROUGH ENTITY, AFTER ALLOCATION OR
17 APPORTIONMENT TO THIS STATE, IS INCLUDIBLE IN THE BUSINESS INCOME
18 TAX BASE OF EACH MEMBER OF THE FLOW-THROUGH ENTITY AND IS NOT
19 AVAILABLE AS AN OFFSET TO THE ALLOCATED OR APPORTIONED BUSINESS
20 INCOME TAX BASE OF THE FLOW-THROUGH ENTITY IN ANY OTHER TAX YEAR
21 FOR WHICH AN ELECTION IS MADE UNDER SECTION 757.

22 (2) THE BUSINESS INCOME TAX BASE MEANS A TAXPAYER'S BUSINESS
23 INCOME SUBJECT TO THE FOLLOWING ADJUSTMENTS, BEFORE ALLOCATION OR
24 APPORTIONMENT, AND THE ADJUSTMENT IN SUBSECTION (5) AFTER
25 ALLOCATION OR APPORTIONMENT:

26 (A) ADD INTEREST INCOME AND DIVIDENDS DERIVED FROM OBLIGATIONS
27 OR SECURITIES OF STATES OTHER THAN THIS STATE, IN THE SAME AMOUNT

1 THAT WAS EXCLUDED FROM FEDERAL TAXABLE INCOME, LESS THE RELATED
2 PORTION OF EXPENSES NOT DEDUCTED IN COMPUTING FEDERAL TAXABLE
3 INCOME BECAUSE OF SECTIONS 265 AND 291 OF THE INTERNAL REVENUE
4 CODE.

5 (B) ADD ALL TAXES ON OR MEASURED BY NET INCOME INCLUDING THE
6 TAX IMPOSED UNDER THIS PART TO THE EXTENT THAT THE TAXES WERE
7 DEDUCTED IN ARRIVING AT FEDERAL TAXABLE INCOME.

8 (C) TO THE EXTENT INCLUDED IN FEDERAL TAXABLE INCOME, DEDUCT
9 DIVIDENDS AND ROYALTIES RECEIVED FROM PERSONS OTHER THAN UNITED
10 STATES PERSONS AND FOREIGN OPERATING ENTITIES, INCLUDING, BUT NOT
11 LIMITED TO, AMOUNTS DETERMINED UNDER SECTION 78 OF THE INTERNAL
12 REVENUE CODE OR SECTIONS 951 TO 965 OF THE INTERNAL REVENUE CODE.

13 (D) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBDIVISION, TO
14 THE EXTENT DEDUCTED IN ARRIVING AT FEDERAL TAXABLE INCOME, ADD ANY
15 ROYALTY, INTEREST, OR OTHER EXPENSE PAID TO A PERSON RELATED TO THE
16 TAXPAYER BY OWNERSHIP OR CONTROL FOR THE USE OF AN INTANGIBLE ASSET
17 IF THE PERSON IS NOT INCLUDED IN THE TAXPAYER'S UNITARY BUSINESS
18 GROUP. THE ADDITION OF ANY ROYALTY, INTEREST, OR OTHER EXPENSE
19 DESCRIBED UNDER THIS SUBDIVISION IS NOT REQUIRED TO BE ADDED IF THE
20 TAXPAYER CAN DEMONSTRATE THAT THE TRANSACTION HAS A NONTAX BUSINESS
21 PURPOSE, IS CONDUCTED WITH ARM'S-LENGTH PRICING AND RATES AND TERMS
22 AS APPLIED IN ACCORDANCE WITH SECTIONS 482 AND 1274(D) OF THE
23 INTERNAL REVENUE CODE, AND 1 OF THE FOLLOWING IS TRUE:

24 (i) THE TRANSACTION IS A PASS THROUGH OF ANOTHER TRANSACTION
25 BETWEEN A THIRD PARTY AND THE RELATED PERSON WITH COMPARABLE RATES
26 AND TERMS.

27 (ii) AN ADDITION WOULD RESULT IN DOUBLE TAXATION. FOR PURPOSES

1 OF THIS SUBPARAGRAPH, DOUBLE TAXATION EXISTS IF THE TRANSACTION IS
2 SUBJECT TO TAX IN ANOTHER JURISDICTION.

3 (iii) AN ADDITION WOULD BE UNREASONABLE AS DETERMINED BY THE
4 STATE TREASURER.

5 (iv) THE RELATED PERSON RECIPIENT OF THE TRANSACTION IS
6 ORGANIZED UNDER THE LAWS OF A FOREIGN NATION WHICH HAS IN FORCE A
7 COMPREHENSIVE INCOME TAX TREATY WITH THE UNITED STATES.

8 (E) TO THE EXTENT INCLUDED IN FEDERAL TAXABLE INCOME, DEDUCT
9 INTEREST INCOME DERIVED FROM UNITED STATES OBLIGATIONS.

10 (F) ELIMINATE ALL OF THE FOLLOWING:

11 (i) INCOME FROM PRODUCING OIL AND GAS TO THE EXTENT INCLUDED
12 IN FEDERAL TAXABLE INCOME.

13 (ii) EXPENSES OF PRODUCING OIL AND GAS TO THE EXTENT DEDUCTED
14 IN ARRIVING AT FEDERAL TAXABLE INCOME.

15 (iii) INCOME DERIVED FROM A MINERAL TO THE EXTENT INCLUDED IN
16 FEDERAL TAXABLE INCOME.

17 (iv) EXPENSES RELATED TO THE INCOME DEDUCTIBLE UNDER
18 SUBPARAGRAPH (iii) TO THE EXTENT DEDUCTED IN ARRIVING AT FEDERAL
19 TAXABLE INCOME.

20 (3) FOR A TAXPAYER THAT HAS A DIRECT, OR INDIRECT THROUGH 1 OR
21 MORE OTHER FLOW-THROUGH ENTITIES, OWNERSHIP OR BENEFICIAL INTEREST
22 IN A FLOW-THROUGH ENTITY FOR WHICH AN ELECTION WAS MADE UNDER
23 SECTION 757 AND WHICH REPORTED POSITIVE BUSINESS INCOME IN A TAX
24 YEAR ENDING ON OR WITHIN THE TAXPAYER'S TAX YEAR, THE ADJUSTMENTS
25 IN SUBSECTION (2) SHALL NOT INCLUDE THE TAXPAYER'S SHARE OF THE
26 ELECTING FLOW-THROUGH ENTITIES ADJUSTMENTS UNDER SUBSECTION (2).

27 (4) FOR PURPOSES OF SUBSECTION (2), THE BUSINESS INCOME OF A

1 UNITARY BUSINESS GROUP IS THE SUM OF THE BUSINESS INCOME OF EACH
2 PERSON INCLUDED IN THE UNITARY BUSINESS GROUP LESS ANY ITEMS OF
3 INCOME AND RELATED DEDUCTIONS ARISING FROM TRANSACTIONS INCLUDING
4 DIVIDENDS BETWEEN PERSONS INCLUDED IN THE UNITARY BUSINESS GROUP.

5 (5) FOR A TAXPAYER THAT HAS A DIRECT, OR INDIRECT THROUGH 1 OR
6 MORE OTHER FLOW-THROUGH ENTITIES, OWNERSHIP OR BENEFICIAL INTEREST
7 IN A FLOW-THROUGH ENTITY FOR WHICH AN ELECTION WAS MADE UNDER
8 SECTION 757, DEDUCT THE TAXPAYER'S SHARE OF THE ELECTING FLOW-
9 THROUGH ENTITY'S POSITIVE BUSINESS INCOME AS DETERMINED UNDER
10 SECTION 761(2).

11 (6) IN COMPUTING THE TAX DUE UNDER THIS PART, THE FLOW-THROUGH
12 ENTITY MAY ELECT TO PAY THE TAX DUE ONLY ON THE BUSINESS INCOME
13 ALLOCABLE TO THOSE MEMBERS WHO ARE INDIVIDUALS OR TRUSTS AND
14 EXCLUDE THE BUSINESS INCOME ALLOCABLE TO THOSE MEMBERS THAT ARE
15 CORPORATIONS.

16 (7) AS USED IN THIS SECTION, "OIL AND GAS" MEANS OIL AND GAS
17 THAT IS SUBJECT TO SEVERANCE TAX UNDER 1929 PA 48, MCL 205.301 TO
18 205.317.

19 SEC. 761. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, THE
20 TAX BASE ESTABLISHED UNDER THIS PART SHALL BE APPORTIONED IN
21 ACCORDANCE WITH ALLOCATION AND APPORTIONMENT PROVISIONS IN CHAPTER
22 3.

23 (2) FOR A TAXPAYER THAT HAS A DIRECT, OR INDIRECT THROUGH 1 OR
24 MORE OTHER FLOW-THROUGH ENTITIES, OWNERSHIP INTEREST OR BENEFICIAL
25 INTEREST IN A FLOW-THROUGH ENTITY, THE TAXPAYER'S BUSINESS INCOME
26 THAT IS DIRECTLY ATTRIBUTABLE TO THE BUSINESS ACTIVITY OF THE FLOW-
27 THROUGH ENTITY SHALL BE APPORTIONED TO THIS STATE USING AN

1 APPORTIONMENT FACTOR DETERMINED UNDER CHAPTER 3 BASED ON THE
2 BUSINESS ACTIVITY OF THE FLOW-THROUGH ENTITY UNLESS THE FLOW-
3 THROUGH ENTITY IS INCLUDED WITH A UNITARY BUSINESS GROUP FILING A
4 COMBINED RETURN.

5 (3) A TAXPAYER IS SUBJECT TO TAX IN ANOTHER STATE IN EITHER OF
6 THE FOLLOWING CIRCUMSTANCES:

7 (A) THE TAXPAYER IS SUBJECT TO, OR WOULD BE SUBJECT TO, IF THE
8 TAXPAYER WAS NOT A FLOW-THROUGH ENTITY, A BUSINESS PRIVILEGE TAX, A
9 NET INCOME TAX, A FRANCHISE TAX MEASURED BY NET INCOME, A FRANCHISE
10 TAX FOR THE PRIVILEGE OF DOING BUSINESS, OR A CORPORATE STOCK TAX.

11 (B) THAT STATE HAS JURISDICTION TO SUBJECT THE TAXPAYER TO 1
12 OR MORE OF THE TAXES LISTED IN SUBDIVISION (A) REGARDLESS OF
13 WHETHER, IN FACT, THAT STATE DOES OR DOES NOT SUBJECT THE TAXPAYER
14 TO THAT TAX.

15 SEC. 771. (1) ANY TAXPAYER ALLOCATED INCOME AS A MEMBER OF A
16 FLOW-THROUGH ENTITY BY THE FLOW-THROUGH ENTITY MAY CLAIM A CREDIT
17 AGAINST THE TAX IMPOSED BY THIS PART IN AN AMOUNT EQUAL TO THE
18 TAXPAYER'S ALLOCATED SHARE OF THE TAX AS REPORTED BY THE OTHER
19 FLOW-THROUGH ENTITY PURSUANT TO SECTION 789(2).

20 (2) A TAXPAYER IS ALLOWED A CREDIT AGAINST THE TAX DUE UNDER
21 THIS PART FOR THE AMOUNT OF AN INCOME TAX IMPOSED ON THE TAXPAYER
22 FOR THE TAX YEAR BY ANOTHER STATE OF THE UNITED STATES, A POLITICAL
23 SUBDIVISION OF ANOTHER STATE OF THE UNITED STATES, THE DISTRICT OF
24 COLUMBIA, OR A CANADIAN PROVINCE, ON INCOME DERIVED FROM SOURCES
25 OUTSIDE THIS STATE THAT IS ALSO SUBJECT TO TAX UNDER THIS PART OR
26 THE AMOUNT DETERMINED UNDER THIS SUBSECTION, WHICHEVER IS LESS. FOR
27 PURPOSES OF THE CANADIAN PROVINCIAL CREDIT, THE CREDIT IS ALLOWED

1 FOR ONLY THAT PORTION OF THE PROVINCIAL TAX NOT CLAIMED AS A CREDIT
2 FOR FEDERAL INCOME TAX PURPOSES. IT IS PRESUMED THAT THE CANADIAN
3 FEDERAL INCOME TAX IS CLAIMED FIRST. THE PROVINCIAL TAX CLAIMED AS
4 A CARRYOVER DEDUCTION AS PROVIDED IN THE INTERNAL REVENUE CODE IS
5 NOT ALLOWED AS A CREDIT UNDER THIS SECTION. THE CREDIT UNDER THIS
6 SUBSECTION SHALL NOT EXCEED AN AMOUNT DETERMINED BY DIVIDING INCOME
7 THAT IS SUBJECT TO TAXATION BOTH IN THIS STATE AND IN ANOTHER
8 JURISDICTION BY TAXABLE INCOME AND THEN MULTIPLYING THAT RESULT BY
9 THE TAXPAYER'S TAX LIABILITY BEFORE ANY CREDITS ARE DEDUCTED.

10 SEC. 781. (1) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SECTION,
11 BEGINNING WITH THE 2019 TAX YEAR, A TAXPAYER THAT REASONABLY
12 EXPECTS LIABILITY FOR THE TAX YEAR TO EXCEED \$800.00 SHALL FILE AN
13 ESTIMATED RETURN AND PAY AN ESTIMATED TAX FOR EACH QUARTER OF THE
14 TAXPAYER'S TAX YEAR.

15 (2) FOR TAXPAYERS ON A CALENDAR YEAR BASIS, THE QUARTERLY
16 RETURNS AND ESTIMATED PAYMENTS SHALL BE MADE BY APRIL 15, JULY 15,
17 OCTOBER 15, AND JANUARY 15. TAXPAYERS NOT ON A CALENDAR YEAR BASIS
18 SHALL FILE QUARTERLY RETURNS AND MAKE ESTIMATED PAYMENTS ON THE
19 APPROPRIATE DUE DATE WHICH IN THE TAXPAYER'S FISCAL YEAR
20 CORRESPONDS TO THE CALENDAR YEAR.

21 (3) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, THE
22 ESTIMATED PAYMENT MADE WITH EACH QUARTERLY RETURN OF EACH TAX YEAR
23 SHALL BE FOR THE ESTIMATED TAX BASE THAT IS APPLICABLE TO THE
24 TAXPAYER UNDER THIS PART FOR THE QUARTER OR 25% OF THE ESTIMATED
25 ANNUAL LIABILITY. THE SECOND, THIRD, AND FOURTH ESTIMATED PAYMENTS
26 IN EACH TAX YEAR SHALL INCLUDE ADJUSTMENTS, IF NECESSARY, TO
27 CORRECT UNDERPAYMENTS OR OVERPAYMENTS FROM PREVIOUS QUARTERLY

1 PAYMENTS IN THE TAX YEAR TO A REVISED ESTIMATE OF THE ANNUAL TAX
2 LIABILITY. FOR A TAXPAYER THAT CALCULATES AND PAYS ESTIMATED
3 PAYMENTS FOR FEDERAL INCOME TAX PURPOSES PURSUANT TO SECTION
4 6655(E) OF THE INTERNAL REVENUE CODE, THAT TAXPAYER MAY USE THE
5 SAME METHODOLOGY AS USED TO CALCULATE THE ANNUALIZED INCOME
6 INSTALLMENT OR THE ADJUSTED SEASONAL INSTALLMENT, WHICHEVER IS USED
7 AS THE BASIS FOR THE FEDERAL ESTIMATED PAYMENT, TO CALCULATE THE
8 ESTIMATED PAYMENTS REQUIRED EACH QUARTER UNDER THIS SECTION. THE
9 INTEREST AND PENALTY PROVIDED BY THIS PART SHALL NOT BE ASSESSED IF
10 ANY OF THE FOLLOWING OCCUR:

11 (A) IF THE SUM OF THE ESTIMATED PAYMENTS EQUALS AT LEAST 85%
12 OF THE LIABILITY AND THE AMOUNT OF EACH ESTIMATED PAYMENT
13 REASONABLY APPROXIMATES THE TAX LIABILITY INCURRED DURING THE
14 QUARTER FOR WHICH THE ESTIMATED PAYMENT WAS MADE.

15 (B) FOR THE 2019 TAX YEAR AND EACH SUBSEQUENT TAX YEAR, IF THE
16 PRECEDING YEAR'S TAX LIABILITY UNDER THIS PART WAS \$20,000.00 OR
17 LESS AND IF THE TAXPAYER SUBMITTED 4 EQUAL INSTALLMENTS THE SUM OF
18 WHICH EQUALS THE IMMEDIATELY PRECEDING TAX YEAR'S TAX LIABILITY.

19 (4) EACH ESTIMATED RETURN SHALL BE MADE ON A FORM PRESCRIBED
20 BY THE DEPARTMENT AND SHALL INCLUDE AN ESTIMATE OF THE ANNUAL TAX
21 LIABILITY AND OTHER INFORMATION REQUIRED BY THE STATE TREASURER.
22 THE FORM PRESCRIBED UNDER THIS SUBSECTION MAY BE COMBINED WITH ANY
23 OTHER TAX REPORTING FORM PRESCRIBED BY THE DEPARTMENT.

24 (5) WITH RESPECT TO A TAXPAYER FILING AN ESTIMATED TAX RETURN
25 FOR THE TAXPAYER'S FIRST TAX YEAR OF LESS THAN 12 MONTHS, THE
26 AMOUNTS PAID WITH EACH RETURN SHALL BE PROPORTIONAL TO THE NUMBER
27 OF PAYMENTS MADE IN THE FIRST TAX YEAR. A TAXPAYER WITH A TAX YEAR

1 OF LESS THAN 4 MONTHS IS NOT REQUIRED TO FILE AN ESTIMATED TAX
2 RETURN OR REMIT ESTIMATED PAYMENTS.

3 (6) PAYMENTS MADE UNDER THIS SECTION SHALL BE A CREDIT AGAINST
4 THE PAYMENT REQUIRED WITH THE ANNUAL TAX RETURN REQUIRED IN SECTION
5 785.

6 (7) IF THE DEPARTMENT CONSIDERS IT NECESSARY TO INSURE PAYMENT
7 OF THE TAX OR TO PROVIDE A MORE EFFICIENT ADMINISTRATION OF THE
8 TAX, THE DEPARTMENT MAY REQUIRE FILING OF THE RETURNS AND PAYMENT
9 OF THE TAX FOR OTHER THAN QUARTERLY OR ANNUAL PERIODS.

10 SEC. 785. (1) FOR THE FIRST TAX YEAR BEGINNING ON OR AFTER
11 JANUARY 1, 2018, A FLOW-THROUGH ENTITY THAT ELECTS TO PAY THE TAX
12 IMPOSED BY THIS PART SHALL, ON OR BEFORE THE LAST DAY OF THE THIRD
13 MONTH AFTER THE END OF THE TAX YEAR, EITHER FILE AN ANNUAL OR FINAL
14 RETURN AS REQUIRED UNDER SUBSECTION (2) OR FILE AN IRREVOCABLE
15 ELECTION TO PAY THE TAX IMPOSED BY THIS PART FOR THAT TAX YEAR IN
16 THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT. FOR ANY
17 SUBSEQUENT TAX YEAR, A FLOW-THROUGH ENTITY THAT ELECTS TO PAY THE
18 TAX IMPOSED BY THIS PART SHALL, ON OR BEFORE THE FIFTEENTH DAY OF
19 THE FOURTH MONTH OF THAT TAX YEAR, FILE AN IRREVOCABLE ELECTION, IN
20 THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT, TO PAY THE TAX
21 IMPOSED BY THIS PART FOR THAT TAX YEAR.

22 (2) AN ANNUAL OR FINAL RETURN FOR THE TAX IMPOSED UNDER THIS
23 PART SHALL BE FILED WITH THE DEPARTMENT IN THE FORM AND CONTENT
24 PRESCRIBED BY THE DEPARTMENT BY THE LAST DAY OF THE THIRD MONTH
25 AFTER THE END OF THE TAXPAYER'S TAX YEAR. ANY FINAL LIABILITY SHALL
26 BE REMITTED BY THE ANNUAL DUE DATE OF THE TAXPAYER'S ANNUAL OR
27 FINAL RETURN, EXCLUDING ANY EXTENSION OF TIME TO FILE THE RETURN AS

1 PROVIDED UNDER SUBSECTIONS (3) AND (4). A TAXPAYER WHOSE TAX
2 LIABILITY UNDER THIS PART IS LESS THAN OR EQUAL TO \$100.00 DOES NOT
3 NEED TO FILE A RETURN OR PAY THE TAX IMPOSED UNDER THIS PART. THE
4 DEPARTMENT MAY PROVIDE RULES FOR FILING AN INFORMATION ONLY RETURN
5 FOR TAX YEARS FOR WHICH AN ELECTION UNDER SECTION 757 IS NOT MADE
6 AFTER A TAX YEAR FOR WHICH A RETURN WAS FILED UNDER THIS PART.

7 (3) THE DEPARTMENT, UPON APPLICATION OF THE TAXPAYER AND FOR
8 GOOD CAUSE SHOWN, MAY EXTEND THE DATE FOR FILING THE ANNUAL RETURN.
9 INTEREST AT THE RATE UNDER SECTION 23(2) OF 1941 PA 122, MCL
10 205.23, SHALL BE ADDED TO THE AMOUNT OF THE TAX UNPAID FOR THE
11 PERIOD OF THE EXTENSION. THE STATE TREASURER SHALL REQUIRE WITH THE
12 APPLICATION PAYMENT OF THE ESTIMATED TAX LIABILITY UNPAID FOR THE
13 TAX PERIOD COVERED BY THE EXTENSION.

14 (4) IF A TAXPAYER IS GRANTED AN EXTENSION OF TIME WITHIN WHICH
15 TO FILE THE FEDERAL INCOME TAX RETURN FOR ANY TAX YEAR, THE FILING
16 OF A COPY OF THE REQUEST FOR EXTENSION TOGETHER WITH A TENTATIVE
17 RETURN AND PAYMENT OF AN ESTIMATED TAX WITH THE DEPARTMENT BY THE
18 DUE DATE PROVIDED IN SUBSECTION (2) SHALL AUTOMATICALLY EXTEND THE
19 DUE DATE FOR THE FILING OF AN ANNUAL OR FINAL RETURN UNDER THIS
20 PART UNTIL THE LAST DAY OF THE EIGHTH MONTH FOLLOWING THE ORIGINAL
21 DUE DATE OF THE RETURN. INTEREST AT THE RATE UNDER SECTION 23(2) OF
22 1941 PA 122, MCL 205.23, SHALL BE ADDED TO THE AMOUNT OF THE TAX
23 UNPAID FOR THE PERIOD OF THE EXTENSION.

24 SEC. 787. (1) A TAXPAYER REQUIRED TO FILE A RETURN UNDER THIS
25 PART MAY BE REQUIRED TO FURNISH A TRUE AND CORRECT COPY OF ANY
26 RETURN OR PORTION OF ANY RETURN FILED UNDER THE PROVISIONS OF THE
27 INTERNAL REVENUE CODE.

1 (2) A TAXPAYER SHALL FILE AN AMENDED RETURN WITH THE
2 DEPARTMENT SHOWING ANY ALTERATION IN OR MODIFICATION OF A FEDERAL
3 INCOME TAX RETURN THAT AFFECTS ITS TAX BASE UNDER THIS PART. THE
4 AMENDED RETURN SHALL BE FILED WITHIN 120 DAYS AFTER THE FINAL
5 DETERMINATION BY THE INTERNAL REVENUE SERVICE.

6 SEC. 789. (1) AT THE REQUEST OF THE DEPARTMENT, A TAXPAYER
7 REQUIRED BY THE INTERNAL REVENUE CODE TO FILE OR SUBMIT AN
8 INFORMATION ONLY RETURN OF INCOME PAID TO OTHERS SHALL, TO THE
9 EXTENT THE INFORMATION IS APPLICABLE TO RESIDENTS OF THIS STATE, AT
10 THE SAME TIME FILE OR SUBMIT THE INFORMATION IN THE FORM AND
11 CONTENT PRESCRIBED TO THE DEPARTMENT.

12 (2) A TAXPAYER OR A FLOW-THROUGH ENTITY THAT DID NOT MAKE THE
13 ELECTION UNDER SECTION 757 SHALL PROVIDE ON OR BEFORE THE DUE DATE
14 OF THE RETURN UNDER SECTION 785, UPON THE AMENDMENT OF A RETURN
15 FILED UNDER SECTION 785 OR THE ADJUSTMENT OF THE TAX UNDER THIS
16 PART BY THE DEPARTMENT, TO ANY MEMBER TO WHICH THE PROVISION OF
17 INFORMATION IS REQUIRED BY THE INTERNAL REVENUE CODE ALL OF THE
18 FOLLOWING FOR THE TAX YEAR:

19 (A) INFORMATION REGARDING THE ALLOCATION AND APPORTIONMENT OF
20 THE BUSINESS INCOME DESCRIBED UNDER THIS PART.

21 (B) THE AMOUNT OF TAX UNDER THIS PART THAT WAS DEDUCTED OR
22 INCLUDED IN THE DETERMINATION OF THE MEMBER'S SHARE OF BUSINESS
23 INCOME.

24 (C) IF THE REPORTING FLOW-THROUGH ENTITY IS A TAXPAYER, THE
25 MEMBER'S SHARE OF THE TAX IMPOSED UNDER THIS PART ON THE TAXPAYER
26 FOR THE TAX YEAR.

27 (D) IF THE REPORTING FLOW-THROUGH ENTITY DID NOT MAKE THE

1 ELECTION UNDER SECTION 757, THE MEMBER'S SHARE OF THE AMOUNT OF TAX
2 ALLOCATED TO THE REPORTING FLOW-THROUGH ENTITY UNDER SUBDIVISIONS
3 (C) AND (D) BY THE OTHER FLOW-THROUGH ENTITIES WITH TAX YEARS
4 ENDING ON OR WITHIN THE REPORTING FLOW-THROUGH ENTITY'S TAX YEAR.

5 (E) THE MEMBER'S SHARE OF THE TAX ALLOCATED UNDER SUBDIVISIONS
6 (C) AND (D) MUST BE DETERMINED BASED ON THE MEMBER'S SHARE OF THE
7 INCOME OR GAIN GENERATING THE TAX IMPOSED UNDER THIS PART AND
8 INCLUDED IN THE MEMBER'S SHARE OF BUSINESS INCOME. IF A MEMBER IS
9 ALLOCATED DIFFERENT PORTIONS OF SEPARATELY REPORTED CATEGORIES OF
10 INCOME AND GAIN, THEN THE ALLOCATED SHARE OF TAX MUST BE BASED ON
11 THE TAX IMPOSED UNDER THIS PART ON EACH SEPARATE CATEGORY OF INCOME
12 OR GAIN.

13 (3) AN ESTATE OR TRUST WHO IS EITHER A MEMBER OF A FLOW-
14 THROUGH ENTITY THAT ELECTS TO FILE A RETURN AND PAY THE TAX IMPOSED
15 UNDER THIS PART OR A DIRECT OR INDIRECT MEMBER OF ANOTHER FLOW-
16 THROUGH ENTITY THAT ELECTS TO FILE A RETURN AND PAY THE TAX IMPOSED
17 UNDER THIS PART SHALL ON OR BEFORE THE DUE DATE OF THE RETURN
18 REQUIRED UNDER PART 1 REPORT TO ITS BENEFICIARIES THEIR ALLOCABLE
19 SHARE OF THE TAX IMPOSED UNDER THIS PART AND INCURRED BY THE ESTATE
20 OR TRUST IN THE SAME TAX YEAR. THE ALLOCABLE SHARE IS DETERMINED BY
21 MULTIPLYING THE TOTAL AMOUNT OF TAX IMPOSED UNDER THIS PART AND
22 INCURRED BY THE ESTATE OR TRUST IN THE TAX YEAR BY A PERCENTAGE
23 EQUAL TO A FRACTION, THE NUMERATOR OF WHICH IS THE FLOW-THROUGH
24 ENTITY BUSINESS INCOME TAX BASE THAT IS DISTRIBUTED TO THE
25 BENEFICIARIES AND THE DENOMINATOR OF WHICH IS THE TOTAL FLOW-
26 THROUGH ENTITY BUSINESS INCOME TAX BASE THAT IS INCLUDED IN
27 DISTRIBUTABLE NET INCOME.

1 SEC. 791. (1) A UNITARY BUSINESS GROUP MAY ELECT TO FILE A
2 COMBINED RETURN THAT INCLUDES EACH UNITED STATES PERSON THAT IS
3 INCLUDED IN THE UNITARY BUSINESS GROUP. EACH UNITED STATES PERSON
4 INCLUDED IN A UNITARY BUSINESS GROUP OR INCLUDED IN A COMBINED
5 RETURN SHALL BE TREATED AS A SINGLE PERSON, AND ALL TRANSACTIONS
6 BETWEEN THOSE PERSONS INCLUDED IN THE UNITARY BUSINESS GROUP SHALL
7 BE ELIMINATED FROM THE FLOW-THROUGH ENTITY BUSINESS INCOME TAX BASE
8 AND FROM THE APPORTIONMENT FORMULAS.

9 (2) A PERSON THAT IS PART OF AN AFFILIATED GROUP MAY ELECT
10 WITHOUT THE CONSENT OF THE DEPARTMENT TO HAVE ALL OF THE PERSONS
11 THAT ARE INCLUDED IN THAT AFFILIATED GROUP TO BE TREATED AS A
12 UNITARY BUSINESS GROUP. A TAXPAYER THAT ELECTS TO FILE AS A UNITARY
13 BUSINESS GROUP PURSUANT TO THIS SUBSECTION SHALL COMPUTE ITS TAX
14 UNDER THIS PART IN ACCORDANCE WITH ALL OTHER PROVISIONS OF THIS
15 PART THAT APPLY TO A UNITARY BUSINESS GROUP. THE TAXPAYER SHALL
16 MAKE THE ELECTION UNDER THIS SUBSECTION ON A FORM OR IN A FORMAT AS
17 PRESCRIBED BY THE DEPARTMENT THAT IS TO BE FILED IN A TIMELY MANNER
18 WITH THE TAXPAYER'S ANNUAL RETURN. EACH PERSON INCLUDED IN THE
19 AFFILIATED GROUP IS DEEMED TO HAVE AGREED TO BE BOUND BY THE
20 ELECTION MADE UNDER THIS SUBSECTION AND ANY RENEWAL OF THAT
21 ELECTION AND TO HAVE WAIVED ANY OBJECTION TO ITS INCLUSION IN THE
22 AFFILIATED GROUP AND TREATMENT AS A UNITARY BUSINESS GROUP. EACH
23 PERSON THAT SUBSEQUENTLY ENTERS THE AFFILIATED GROUP AFTER THE TAX
24 YEAR FOR WHICH THE ELECTION IS MADE IS DEEMED TO HAVE CONSENTED TO
25 THE APPLICATION OF AND IS BOUND BY THE ELECTION AND TO HAVE WAIVED
26 ANY OBJECTION TO ITS INCLUSION IN THE AFFILIATED GROUP AND
27 TREATMENT AS A UNITARY BUSINESS GROUP. AN ELECTION MADE PURSUANT TO

1 THIS SUBSECTION IS IRREVOCABLE AND BINDING FOR AND APPLICABLE TO
2 THE TAX YEAR FOR WHICH IT IS MADE AND FOR THE NEXT 9 TAX YEARS BUT
3 THE LIABILITY FOR THE TAX UNDER THIS PART SHALL APPLY ONLY FOR THE
4 YEARS IN WHICH AN ELECTION UNDER SECTION 757 IS MADE. UPON THE
5 EXPIRATION OF THE ELECTION AFTER IT HAS BEEN IN EFFECT FOR 10 TAX
6 YEARS, AN ELECTION MAY BE RENEWED FOR ANOTHER 10 TAX YEARS, WITHOUT
7 THE CONSENT OF THE DEPARTMENT; PROVIDED HOWEVER, THAT IN THE CASE
8 OF A NONRENEWAL A NEW ELECTION UNDER THIS SUBSECTION IS NOT
9 PERMITTED IN ANY OF THE IMMEDIATELY FOLLOWING 3 TAX YEARS. THE
10 RENEWAL SHALL BE MADE ON A FORM OR IN A FORMAT AS PRESCRIBED BY THE
11 DEPARTMENT THAT IS TO BE FILED IN A TIMELY MANNER WITH THE
12 TAXPAYER'S ANNUAL RETURN AFTER THE COMPLETION OF A 10-YEAR PERIOD
13 FOR WHICH AN ELECTION UNDER THIS SUBSECTION WAS IN PLACE.

14 SEC. 793. (1) THE TAX IMPOSED BY THIS PART SHALL BE
15 ADMINISTERED BY THE DEPARTMENT OF TREASURY PURSUANT TO 1941 PA 122,
16 MCL 205.1 TO 205.31, AND THIS PART. IF A CONFLICT EXISTS BETWEEN
17 1941 PA 122, MCL 205.1 TO 205.31, AND THIS PART, THE PROVISIONS OF
18 THIS PART APPLY.

19 (2) THE DEPARTMENT MAY PROMULGATE RULES TO IMPLEMENT THIS PART
20 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
21 MCL 24.201 TO 24.328.

22 (3) THE DEPARTMENT SHALL PRESCRIBE FORMS FOR USE BY TAXPAYERS
23 AND MAY PROMULGATE RULES IN CONFORMITY WITH THIS PART FOR THE
24 MAINTENANCE BY TAXPAYERS OF RECORDS, BOOKS, AND ACCOUNTS, AND FOR
25 THE COMPUTATION OF THE TAX, THE MANNER AND TIME OF CHANGING OR
26 ELECTING ACCOUNTING METHODS AND OF EXERCISING THE VARIOUS OPTIONS
27 CONTAINED IN THIS PART, THE MAKING OF RETURNS, AND THE

Senate Bill No. 1170 as amended November 29, 2018

1 ASCERTAINMENT, ASSESSMENT, AND COLLECTION OF THE TAX IMPOSED UNDER
2 THIS PART.

3 (4) THE TAX IMPOSED BY THIS PART IS IN ADDITION TO ALL OTHER
4 TAXES FOR WHICH THE TAXPAYER MAY BE LIABLE.

5 (5) THE DEPARTMENT SHALL PREPARE AND PUBLISH STATISTICS FROM
6 THE RECORDS KEPT TO ADMINISTER THE TAX IMPOSED BY THIS PART THAT
7 DETAIL THE DISTRIBUTION OF TAX RECEIPTS BY TYPE OF BUSINESS, LEGAL
8 FORM OF ORGANIZATION, SOURCES OF TAX BASE, TIMING OF TAX RECEIPTS,
9 AND TYPES OF DEDUCTIONS. THE STATISTICS SHALL NOT RESULT IN THE
10 DISCLOSURE OF INFORMATION REGARDING ANY SPECIFIC TAXPAYER.

11 <<

12 SEC. 795. FROM THE TAX LEVIED UNDER
THIS PART, THAT PERCENTAGE OF THE GROSS COLLECTIONS BEFORE REFUNDS THAT
IS EQUAL TO 1.012% DIVIDED BY THE TAX RATE LEVIED UNDER THIS PART SHALL
BE DEPOSITED IN THE STATE SCHOOL AID FUND CREATED IN SECTION 11 OF
ARTICLE IX OF THE STATE CONSTITUTION OF 1963 AND THE BALANCE OF THE
REVENUE COLLECTED UNDER THIS PART AFTER THE DISTRIBUTION TO THE SCHOOL
AID FUND SHALL BE DEPOSITED INTO THE GENERAL FUND.>>

13 SEC. 797. THERE IS APPROPRIATED TO THE DEPARTMENT FOR THE
14 2018-2019 STATE FISCAL YEAR THE SUM OF \$100.00 TO BEGIN
15 IMPLEMENTING THE REQUIREMENTS OF THIS PART. ANY PORTION OF THIS
16 AMOUNT UNDER THIS SECTION THAT IS NOT EXPENDED IN THE 2018-2019
17 STATE FISCAL YEAR SHALL NOT LAPSE TO THE GENERAL FUND BUT SHALL BE
18 CARRIED FORWARD IN A WORK PROJECT ACCOUNT THAT IS IN COMPLIANCE
19 WITH SECTION 451A OF THE MANAGEMENT AND BUDGET ACT, 1984 PA 431,
20 MCL 18.1451A, FOR THE FOLLOWING STATE FISCAL YEAR.

21 SEC. 799. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A
22 PERSON THAT IS A DISREGARDED ENTITY FOR FEDERAL INCOME TAX PURPOSES
23 UNDER THE INTERNAL REVENUE CODE SHALL BE CLASSIFIED AS A
24 DISREGARDED ENTITY FOR PURPOSES OF THIS PART.

25 Enacting section 1. This amendatory act is retroactive and
26 effective for tax years beginning on and after January 1, 2018.