

HOUSE BILL No. 5669

May 25, 1988, Introduced by Reps. Stabenow, Berman, Barns, Stallworth, Porreca, Farhat, DeBeaussiaert, Gubow, Gire, Saunders, Hickner, Spaniola, Rocca, Browne, Mathieu, Van Singel, Emerson, Johnson, Miller, DeMars, Varga, Sofio, Kilpatrick, Richard A. Young and Jondahl and referred to the Committee on Taxation.

A bill to amend Act No. 228 of the Public Acts of 1975, entitled
"Single business tax act,"
as amended, being sections 208.1 to 208.145 of the Michigan Compiled Laws, by adding section 32; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 228 of the Public Acts of 1975, as
2 amended, being sections 208.1 to 208.145 of the Michigan Compiled
3 Laws, is amended by adding section 32 to read as follows:

4 SEC. 32. (1) THERE IS LEVIED AND IMPOSED A SPECIFIC TAX OF
5 4% ON THE TAX BASE OF A PERSON THAT HAS BUSINESS ACTIVITY IN THIS
6 STATE AND THAT QUALIFIES FOR AND ELECTS TO BE SUBJECT TO THE TAX
7 IMPOSED BY THIS SECTION. THE TAX BASE UNDER THIS SECTION IS NOT
8 SUBJECT TO THE ADJUSTMENTS UNDER SECTION 23.

1 (2) THE TAX IMPOSED BY THIS SECTION MAY BE ELECTED ONLY BY A
2 PERSON WHOSE GROSS RECEIPTS DO NOT EXCEED \$6,000,000.00 FOR THE
3 TAX YEAR AND WHOSE ADJUSTED BUSINESS INCOME DOES NOT EXCEED
4 \$550,000.00 FOR THE TAX YEAR SUBJECT TO THE FOLLOWING:

5 (A) A PERSON THAT IS AN INSURANCE COMPANY IS DISQUALIFIED.

6 (B) AN INDIVIDUAL, A PARTNERSHIP, OR A SUBCHAPTER S CORPORA-
7 TION IS DISQUALIFIED IF THE INDIVIDUAL, ANY 1 PARTNER OF THE
8 PARTNERSHIP, OR ANY 1 SHAREHOLDER OF THE SUBCHAPTER S CORPORATION
9 RECEIVES MORE THAN \$110,000.00 FOR THE TAX YEAR AS A DISTRIBUTIVE
10 SHARE OF THE ADJUSTED BUSINESS INCOME OF THE INDIVIDUAL, THE
11 PARTNERSHIP, OR THE SUBCHAPTER S CORPORATION.

12 (C) A CORPORATION OTHER THAN A SUBCHAPTER S CORPORATION IS
13 DISQUALIFIED IF EITHER OF THE FOLLOWING IS TRUE FOR THE TAX
14 YEAR:

15 (i) COMPENSATION AND DIRECTOR'S FEES OF A SHAREHOLDER OR
16 OFFICER EXCEED \$110,000.00.

17 (ii) THE SUM OF BOTH OF THE FOLLOWING AMOUNTS EXCEEDS
18 \$110,000.00:

19 (A) COMPENSATION AND DIRECTOR'S FEES OF A SHAREHOLDER.

20 (B) THE SUM OF BUSINESS INCOME AND THE ADJUSTMENTS PROVIDED
21 IN SECTION 9(4)(A) AND (B) TIMES THE PERCENTAGE OF OUTSTANDING
22 STOCK OWNED BY THAT SHAREHOLDER.

23 (3) A PERSON THAT QUALIFIES AND ELECTS TO PAY THE TAX PRO-
24 VIDED IN THIS SECTION AND THAT HAS GROSS RECEIPTS OF MORE THAN
25 \$5,000,000.00 SHALL PAY AN ADJUSTED TAX AMOUNT. THE ADJUSTED TAX
26 AMOUNT IS CALCULATED AS FOLLOWS:

1 (A) DIVIDE THE AMOUNT BY WHICH GROSS RECEIPTS EXCEED
2 \$5,000,000.00 BY 1,000,000.

3 (B) MULTIPLY THE QUOTIENT OBTAINED UNDER SUBDIVISION (A) BY
4 THE TAX LIABILITY OF THE TAXPAYER IF DETERMINED USING THE PROVI-
5 SIONS OF THE TAX IMPOSED UNDER SECTION 31.

6 (C) SUBTRACT THE QUOTIENT OBTAINED UNDER SUBDIVISION (A)
7 FROM 1 AND MULTIPLY THE REMAINDER BY THE TAXPAYER'S TAX LIABILITY
8 USING THE PROVISIONS OF THE TAX IMPOSED BY THIS SECTION.

9 (D) ADD THE RESULTS OBTAINED UNDER SUBDIVISIONS (B) AND (C),
10 WHICH TOTAL IS THE ADJUSTED TAX AMOUNT.

11 (4) A PERSON PAYING THE TAX IMPOSED BY THIS SECTION MAY
12 CLAIM AS CREDITS AGAINST THE TAX THE CREDITS ALLOWED UNDER SEC-
13 TIONS 36B, 37, 37A, 37B, 38, 38A, 38B, AND 39.

14 (5) A PERSON THAT IS AN AFFILIATED GROUP, OR A CONTROLLED
15 GROUP OF CORPORATIONS OR AN ENTITY UNDER COMMON CONTROL AS USED
16 IN THE INTERNAL REVENUE CODE, SHALL NOT ELECT TO BE SUBJECT TO
17 THE TAX IMPOSED BY THIS SECTION UNLESS THE PERSON QUALIFIES AFTER
18 CONSOLIDATION OF THE BUSINESS ACTIVITIES OF THE ENTITIES.

19 (6) THE TAX IMPOSED BY THIS SECTION IS UPON THE PRIVILEGE OF
20 DOING BUSINESS AND NOT UPON INCOME, AND SHALL BE LEVIED AND COL-
21 LECTED IN THE SAME MANNER AS THE TAX LEVIED AND IMPOSED UNDER
22 SECTION 31. IF ANOTHER PROVISION OF THIS ACT CONFLICTS WITH A
23 PROVISION OF THIS SECTION, THIS SECTION CONTROLS.

24 (7) AS USED IN THIS SECTION:

25 (A) "ACTIVE SHAREHOLDER" MEANS A SHAREHOLDER WHO RECEIVES AT
26 LEAST \$10,000.00 IN COMPENSATION, DIRECTOR'S FEES, OR DIVIDENDS

1 FROM THE BUSINESS, AND WHO OWNS AT LEAST 5% OF THE OUTSTANDING
2 STOCK.

3 (B) "ADJUSTED BUSINESS INCOME" MEANS BUSINESS INCOME AS
4 DEFINED IN SECTION 3(3) PLUS ALL OF THE FOLLOWING:

5 (i) COMPENSATION AND DIRECTOR'S FEES OF ACTIVE SHAREHOLDERS
6 OF A CORPORATION.

7 (ii) THE ADJUSTMENTS PROVIDED IN SECTION 9(4)(A) AND (B).

8 (iii) COMPENSATION AND DIRECTOR'S FEES OF OFFICERS OF A
9 CORPORATION.

10 (C) "OFFICER" MEANS AN OFFICER OF A CORPORATION OTHER THAN A
11 CORPORATION ELECTING TAXATION UNDER SUBCHAPTER S OF CHAPTER 1 OF
12 SUBTITLE A OF THE INTERNAL REVENUE CODE, SECTIONS 1361 TO 1379 OF
13 THE INTERNAL REVENUE CODE, INCLUDING THE CHAIRPERSON OF THE
14 BOARD, PRESIDENT, VICE-PRESIDENT, SECRETARY, AND TREASURER, OR
15 PERSONS PERFORMING SIMILAR DUTIES.

16 (D) "SHAREHOLDER" MEANS A PERSON THAT OWNS OUTSTANDING STOCK
17 IN THE BUSINESS. AN INDIVIDUAL SHALL BE CONSIDERED AS OWNING THE
18 STOCK OWNED, DIRECTLY OR INDIRECTLY, BY OR FOR FAMILY MEMBERS AS
19 DEFINED BY SECTION 318(a)(1) OF THE INTERNAL REVENUE CODE.

20 (E) "TAX BASE" MEANS THE PERSON'S ADJUSTED BUSINESS INCOME
21 ALLOCATED AND APPORTIONED AS PROVIDED IN CHAPTER 3.

22 Section 2. Section 36 of Act No. 228 of the Public Acts of
23 1975, being section 208.36 of the Michigan Compiled Laws, is
24 repealed.

25 Section 3. This amendatory act shall take effect January 1,
26 1989 and is effective for tax years beginning on and after
27 January 1, 1989.