

HOUSE BILL No. 5712

June 2, 1988, Introduced by Reps. Willis Bullard, Munsell, Bennett, Law, Sparks, Ouwinga, Sikkema, Bankes, Van Regenmorter, O'Connor, Walberg, Wartner, Krause, DeLange, Hoekman and Power and referred to the Committee on Taxation.

A bill to amend section 35 of Act No. 228 of the Public Acts of 1975, entitled
"Single business tax act,"
being section 208.35 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 35 of Act No. 228 of the Public Acts of
2 1975, being section 208.35 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 35. (1) There shall be exempt from the tax imposed by
5 this act:

6 (a) For the ~~+1977~~ 1987 tax year and each year thereafter,
7 the first ~~\$40,000.00~~ \$100,000.00 of the tax base of every
8 person. This exemption shall be increased by ~~+\$12,000.00~~
9 \$20,000.00 for each partner of a partnership or shareholder of a
10 subchapter S corporation or professional corporation in excess of

1 ~~one~~ 1 who is a full-time employee of the taxpayer, whose
2 business income from that business is at least ~~\$12,000.00~~
3 \$20,000.00, and who owns at least 10% of that business. The
4 total ~~increased~~ INCREASE IN THE exemption shall be not more
5 than ~~\$48,000.00~~ \$100,000.00. For a taxpayer whose business
6 activity is for a fractional part of a year, the exemption pro-
7 vided in this subdivision including the increased exemption shall
8 be prorated for the period of the taxpayer's business activity.
9 This exemption shall be reduced by \$2.00 for each \$1.00 that
10 business income exceeds the amount of the exemption. For the
11 purposes of computing the exemption, business income shall be as
12 defined in section ~~3(3)~~ 3 plus compensation and director's fees
13 of shareholders of a corporation and any carryback or carry-
14 forward of a net operating loss or capital loss to the extent
15 deducted in arriving at federal taxable income. In calculating
16 eligibility for the exemption provided in this subdivision, a
17 person who is not a corporation may elect to average ~~his~~ ITS
18 business income for the current year and the previous 4 taxable
19 years. Business income, as defined in this subdivision, shall
20 not be less than zero. For the purposes of this subdivision, tax
21 base shall be after allocation and apportionment provided in
22 chapter 3 and the adjustments provided in section 23.

23 (b) The United States, this state, other states, and the
24 agencies, political subdivisions, and enterprises of each.

25 (c) A person who is exempt from federal income tax pursuant
26 to the provisions of the internal revenue code is exempt from the
27 tax imposed by this act except:

1 (i) An organization included under section 501(c)(12) ~~and~~
2 OR 501(c)(16) of the internal revenue code.

3 (ii) An organization exempt under section 501(c)(4) of the
4 internal revenue code which would be exempt under section
5 501(c)(12) of the internal revenue code but for its failure to
6 meet the requirements in section 501(c)(12) that 85% or more of
7 its income must consist of amounts collected from members.

8 (iii) The adjusted tax base attributable to the activities
9 giving rise to the unrelated taxable business income of an exempt
10 person.

11 (d) A foreign or alien insurance company subject to the pro-
12 visions of the premium tax under sections 440 to 446 of Act No.
13 218 of the Public Acts of 1956, as amended, being sections
14 500.440 to 500.446 of the Michigan Compiled Laws. This exemption
15 shall not apply to the tax base derived from a business activity
16 other than insurance carrier services.

17 (e) That portion of the payroll of A domestic ~~insurers~~
18 INSURER or of a marketing corporation that constitutes insurance
19 sales commissions paid to employees and salaries of employees
20 primarily concerned with the adjustment of claims. This exemp-
21 tion shall not apply to a marketing corporation which is not con-
22 trolled, directly or indirectly ~~—~~ by stock ownership or common
23 management, by the domestic insurer or insurers from which it
24 derives all or substantially all of its gross income, exclusive
25 of income from investments.

26 ~~(f) Fifty percent of compensation directly related to the~~
27 ~~completion of construction contracts for the planning, design,~~

~~1 construction, alteration, repair, or improvement of real
2 property, for which a bid was submitted or a contract signed on
3 or before September 1, 1975. A taxpayer claiming this exemption
4 shall file a form prescribed by the department showing the date
5 and dollar amount of the bid or contract, with the annual
6 return. This subsection shall not apply to any compensation paid
7 or accrued after December 31, 1979.~~

8 (F) ~~(g)~~ A nonprofit cooperative housing corporation. As
9 used in this subdivision, "nonprofit cooperative housing
10 corporation" means a ~~nonprofit~~ cooperative housing corporation
11 which is engaged in providing housing services to its stockhold-
12 ers and members and which does not pay dividends or interest upon
13 stock or membership investment but which does distribute all
14 earnings to its stockholders or members. This exemption shall
15 not apply to any business activity of a nonprofit cooperative
16 housing corporation other than providing housing services to its
17 stockholders and members.

18 (G) ~~(h)~~ That portion of the tax base attributable to the
19 production of agricultural goods by a person whose primary activ-
20 ity is the production of agricultural goods. "Production of
21 agricultural goods" means commercial farming including, but not
22 limited to, cultivation of the soil, growing and harvesting of
23 any agricultural, horticultural, or floricultural commodity,
24 dairying, raising of livestock, bees, fish, fur-bearing animals,
25 or poultry, or turf or tree farming, but not including the mar-
26 keting at retail of agricultural goods.

1 (2) An affiliated group, ~~as defined in this act and~~ a
2 controlled group of corporations AS DEFINED BY SECTION 1563 OF
3 THE INTERNAL REVENUE CODE, or an entity under common control as
4 defined by the internal revenue code shall be entitled to only 1
5 exemption allowed by subsection (1)(a) whether or not a combined
6 or consolidated return is filed.