

HOUSE BILL No. 4412

February 28, 1991, Introduced by Reps. Jondahl, Profit, Olshove, Gire, Gagliardi, Baade and Ciaramitaro 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 23a.

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 23a to read as follows:

4 SEC. 23A. FOR A TAX YEAR BEGINNING AFTER DECEMBER 31, 1990,
5 AFTER ALLOCATION AS PROVIDED IN SECTION 40 OR APPORTIONMENT AS
6 PROVIDED IN SECTION 41, THE TAX BASE SHALL BE ADJUSTED BY THE
7 FOLLOWING:

8 (A) ADD THE GROSS PROCEEDS OR BENEFIT DERIVED FROM THE SALE
9 OR OTHER DISPOSITION OF THE TANGIBLE ASSETS FOR WHICH A DEDUCTION

1 WAS TAKEN UNDER FORMER SECTION 23(A) FOR A TAX YEAR BEGINNING
2 BEFORE JANUARY 1, 1991 MINUS THE GAIN AND PLUS THE LOSS FROM THE
3 SALE REFLECTED IN FEDERAL TAXABLE INCOME AND MINUS THE GAIN FROM
4 THE SALE OR OTHER DISPOSITION ADDED TO THE TAX BASE IN SECTION
5 9(6). THIS ADDITION SHALL BE MULTIPLIED BY A FRACTION, THE
6 NUMERATOR OF WHICH IS THE PAYROLL FACTOR PLUS THE PROPERTY FACTOR
7 AND THE DENOMINATOR OF WHICH IS 2. AS USED IN THIS SUBDIVISION,
8 "SALE OR OTHER DISPOSITION" DOES NOT INCLUDE THE TRANSFER OF TAN-
9 GIBLE ASSETS THAT ARE LEASED BACK TO THE TRANSFEROR UNDER FORMER
10 SECTION 168(F)(8) OF THE INTERNAL REVENUE CODE.

11 (B) ADD THE GROSS PROCEEDS OR BENEFIT DERIVED FROM THE SALE
12 OR OTHER DISPOSITION OF THE TANGIBLE ASSETS FOR WHICH A DEDUCTION
13 WAS TAKEN UNDER FORMER SECTION 23(C) FOR A TAX YEAR BEGINNING
14 BEFORE JANUARY 1, 1991 MINUS THE GAIN, MULTIPLIED BY THE APPOR-
15 TIONMENT FACTOR FOR THE TAXABLE YEAR AS PRESCRIBED IN CHAPTER 3,
16 AND PLUS THE LOSS, MULTIPLIED BY THE APPORTIONMENT FACTOR AS PRE-
17 SCRIBED IN CHAPTER 3, FROM THE SALE OR OTHER DISPOSITION
18 REFLECTED IN FEDERAL TAXABLE INCOME AND MINUS THE GAIN FROM THE
19 SALE OR OTHER DISPOSITION ADDED TO THE TAX BASE IN SECTION 9(6).

20 (C) DEDUCT ANY AVAILABLE BUSINESS LOSS. AS USED IN THIS
21 SUBDIVISION, "BUSINESS LOSS" MEANS EITHER OF THE FOLLOWING:

22 (i) FOR A TAX YEAR BEGINNING BEFORE JANUARY 1, 1991, THAT
23 TERM AS DEFINED IN FORMER SECTION 23(E).

24 (ii) FOR A TAX YEAR BEGINNING AFTER DECEMBER 31, 1990, A
25 NEGATIVE AMOUNT AFTER ALLOCATION OR APPORTIONMENT AS PROVIDED IN
26 CHAPTER 3 AND ADJUSTMENTS AS PROVIDED IN SUBDIVISIONS (A) AND (B)
27 WITHOUT REGARD TO THE DEDUCTION UNDER THIS SUBDIVISION. THE

1 BUSINESS LOSS SHALL BE CARRIED FORWARD TO THE YEAR NEXT FOLLOWING
2 THE LOSS YEAR AS AN OFFSET TO THE ALLOCATED OR APPORTIONED TAX
3 BASE INCLUDING THE ADJUSTMENTS PROVIDED IN SUBDIVISIONS (A) AND
4 (B), THEN SUCCESSIVELY TO THE NEXT 9 TAXABLE YEARS FOLLOWING THE
5 LOSS YEAR OR UNTIL THE LOSS IS USED UP, WHICHEVER OCCURS FIRST,
6 BUT FOR NOT MORE THAN 10 TAXABLE YEARS AFTER THE LOSS YEAR.