

# HOUSE BILL No. 5222

October 3, 1991, Introduced by Reps. Yokich, Harrison, Bennane, Profit, Bennett, DeMars, Scott, Palamara, Dobronski, Byrum, Hertel, Gubow, Dalman, Olshove, Pitoniak, Murphy, Anthony, Joe Young, Sr., Jacobetti, Barns, Varga, Rocca, Clack and Emerson and referred to the Committee on Taxation.

A bill to amend section 9 of Act No. 228 of the Public Acts of 1975, entitled

"Single business tax act,"

as amended by Act No. 294 of the Public Acts of 1989, being section 208.9 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 9 of Act No. 228 of the Public Acts of  
2 1975, as amended by Act No. 294 of the Public Acts of 1989, being  
3 section 208.9 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 9. (1) "Tax base" means business income, before appor-  
6 tionment or allocation as provided in chapter 3, even if zero or  
7 negative, subject to the adjustments in subsections (2) to ~~(9)~~  
8 (10).

1       (2) Add gross interest income and dividends derived from  
2 obligations or securities of states other than Michigan, in the  
3 same amount that was excluded from federal taxable income, less  
4 related portion of expenses not deducted in computing federal  
5 taxable income because of sections 265 and 291 of the internal  
6 revenue code.

7       (3) Add all taxes on or measured by net income and the tax  
8 imposed by this act to the extent the taxes were deducted in  
9 arriving at federal taxable income.

10       (4) Add, to the extent deducted in arriving at federal tax-  
11 able income:

12       (a) A carryback or carryover of a net operating loss.

13       (b) A carryback or carryover of a capital loss.

14       (c) A deduction for depreciation, amortization, or immediate  
15 or accelerated write-off related to the cost of tangible assets.  
16 ~~for which a capital acquisition deduction was claimed in any tax~~  
17 ~~year pursuant to section 23, and for the 1976 tax year, 72%, and~~  
18 ~~for the 1977 tax year and subsequent tax years 100% of any deduc-~~  
19 ~~tion for other depreciation, amortization, or immediate or accel-~~  
20 ~~erated write off related to the cost of tangible assets.~~

21       (d) A dividend paid or accrued except a dividend that repre-  
22 sents a reduction of premiums to policyholders of insurance  
23 companies.

24       (e) A deduction or exclusion by a taxpayer due to a classi-  
25 fication as, or the payment of commissions or other fees to, a  
26 domestic international sales corporation or any like special  
27 classification the purpose of which is to reduce or postpone the

1 federal income tax liability. This subdivision ~~shall~~ DOES not  
2 apply to the special provisions of sections 805, 809, and  
3 815(c)(2)(A) of the internal revenue code.

4 (f) All interest including amounts paid, credited, or  
5 reserved by insurance companies as amounts necessary to fulfill  
6 the policy and other contract liability requirements of sections  
7 805 and 809 of the internal revenue code. For tax years begin-  
8 ning after December 31, 1989, interest does not include payments  
9 or credits made to or on behalf of a taxpayer by a manufacturer,  
10 distributor, or supplier of inventory to defray any part of the  
11 taxpayer's floor plan interest, if these payments are used by the  
12 taxpayer to reduce interest expense in determining federal tax-  
13 able income. For purposes of this section, "floor plan interest"  
14 means interest paid that finances any part of the taxpayer's pur-  
15 chase of automobile inventory from a manufacturer, distributor,  
16 or supplier. However, amounts attributable to any invoiced items  
17 used to provide more favorable floor plan assistance to a tax-  
18 payer than to a person who is not a taxpayer ~~shall be~~ IS con-  
19 sidered interest paid by a manufacturer, distributor, or  
20 supplier.

21 (g) All royalties except for the following:

22 (i) On and after July 1, 1985, oil and gas royalties that  
23 are excluded in the depletion deduction calculation under the  
24 internal revenue code.

25 (ii) Cable television franchise fees as defined in section  
26 622 of part III of title VI of the communications act of 1934, 47  
27 U.S.C. 542.

1       (iii) Except as provided in subparagraph (iv), for the tax  
2 years 1986 and after 1986, a franchise fee as defined by section  
3 3 of the franchise investment law, Act No. 269 of the Public Acts  
4 of 1974, being section 445.1503 of the Michigan Compiled Laws, in  
5 the following amounts:

6       (A) For the tax years 1986, 1987, and 1988, 20% of the fran-  
7 chise fee.

8       (B) For the tax years 1989 and 1990, 50% of the franchise  
9 fee.

10       (C) For the tax years 1991 and after 1991, 100% of the fran-  
11 chise fee.

12       (iv) For the tax years ending before 1991, this subdivision  
13 does not apply to a fee for services paid by a franchisee that,  
14 with respect to a specific provision of a franchise agreement, a  
15 court of competent jurisdiction, before June 5, 1985, has deter-  
16 mined is not a royalty payment under this act.

17       (h) A deduction for rent attributable to a lease back that  
18 continues in effect under the former provisions of section  
19 168(f)(8) of the internal revenue code as that section provided  
20 immediately before ~~the enactment of~~ the tax reform act of 1986,  
21 Public Law 99-514, BECAME EFFECTIVE or to a lease back of prop-  
22 erty to which the amendments made by the tax reform act of 1986  
23 do not apply as provided in section 204 of the tax reform act of  
24 1986.

25       (5) Add compensation. ~~as defined in section 4.~~

1 (6) Add a capital gain related to business activity of  
2 individuals to the extent excluded in arriving at federal taxable  
3 income.

4 (7) Deduct, to the extent included in arriving at federal  
5 taxable income:

6 (a) A dividend received or considered received, including  
7 the foreign dividend gross-up provided for in the internal reve-  
8 nue code.

9 (b) All interest except amounts paid, credited, or reserved  
10 by an insurance company as amounts necessary to fulfill the  
11 policy and other contract liability requirements of sections 805  
12 and 809 of the internal revenue code.

13 (c) All royalties except for the following:

14 (i) On and after July 1, 1985, oil and gas royalties that  
15 are included in the depletion deduction calculation under the  
16 internal revenue code.

17 (ii) Except as provided in subparagraph (iii), for the 1986  
18 tax year and after the 1986 tax year, a franchise fee as defined  
19 in section 3 of THE FRANCHISE INVESTMENT LAW, Act No. 269 of the  
20 Public Acts of 1974, in the following amounts:

21 (A) For the tax years 1986, 1987, and 1988, 20% of the fran-  
22 chise fee.

23 (B) For the tax years 1989 and 1990, 50% of the franchise  
24 fee.

25 (C) For the tax years 1991 and after 1991, 100% of the fran-  
26 chise fee.

1       (iii) For the tax years ending before 1991, this subdivision  
2 does not apply to a fee for services paid by a franchisee that,  
3 with respect to a specific provision of a franchise agreement, a  
4 court of competent jurisdiction, before June 5, 1985, has deter-  
5 mined is not a royalty payment under this act.

6       (d) Rent attributable to a lease back that continues in  
7 effect under the former provisions of section 168(f)(8) of the  
8 internal revenue code as that section provided immediately before  
9 ~~the enactment of~~ the tax reform act of 1986, Public Law 99-514,  
10 BECAME EFFECTIVE or to a lease back of property to which the  
11 amendments made by the tax reform act of 1986 do not apply as  
12 provided in section 204 of the tax reform act of 1986.

13       (8) Deduct a capital loss not deducted in arriving at fed-  
14 eral taxable income in the year the loss occurred.

15       (9) To the extent included in federal taxable income, add  
16 the loss or subtract the gain from the tax base that is attribut-  
17 able to another entity whose business activities are taxable  
18 under this act or would be taxable under this act if the business  
19 activities were in this state.

20       (10) DEDUCT THE COST PAID BY THE TAXPAYER IN THE TAXABLE  
21 YEAR FOR AN EMPLOYEE WELLNESS PROGRAM IF THE TAXPAYER RECEIVED A  
22 GRANT PURSUANT TO SECTION 5925 OF THE PUBLIC HEALTH CODE, ACT  
23 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.5925 OF  
24 THE MICHIGAN COMPILED LAWS, TO PROVIDE AN EMPLOYEE WELLNESS PRO-  
25 GRAM, IF THAT GRANT EXPIRED BEFORE THE BEGINNING OF THE TAXABLE  
26 YEAR, AND IF THE TAXPAYER CONTINUED THE PROGRAM AFTER THE  
27 EXPIRATION OF THAT GRANT. THE TAXPAYER IS ELIGIBLE FOR THIS

1 DEDUCTION FOR 5 CONSECUTIVE YEARS OF CONTINUOUS PARTICIPATION IN  
2 AN EMPLOYEE WELLNESS PROGRAM AFTER THE EXPIRATION OF AN EMPLOYEE  
3 WELLNESS GRANT.

4       Section 2. This amendatory act shall not take effect unless  
5 Senate Bill No. \_\_\_\_\_ or House Bill No. 5223 (request  
6 no. 04109'91) of the 86th Legislature is enacted into law.