

# HOUSE BILL No. 6139

September 24, 1992, Introduced by Reps. Hollister and Emerson and referred to the Committee on Public Health,

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. 169 of the Public Acts of 1991, being section 208.9 of the Michigan Compiled Laws; and to add section 39b.

## 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. 169 of the Public Acts of 1991, being  
3 section 208.9 of the Michigan Compiled Laws, is amended and  
4 section 39b is added to read 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          (d) A dividend paid or accrued except a dividend that repre-  
17 sents a reduction of premiums to policyholders of insurance  
18 companies.

19          (e) A deduction or exclusion by a taxpayer due to a classi-  
20 fication as, or the payment of commissions or other fees to, a  
21 domestic international sales corporation or any like special  
22 classification the purpose of which is to reduce or postpone the  
23 federal income tax liability. This subdivision does not apply to  
24 the special provisions of sections 805, 809, and 815(c)(2)(A) of  
25 the internal revenue code.

26          (f) All interest including amounts paid, credited, or  
27 reserved by insurance companies as amounts necessary to fulfill

1 the policy and other contract liability requirements of sections  
2 805 and 809 of the internal revenue code. For tax years begin-  
3 ning after December 31, 1984, interest does not include payments  
4 or credits made to or on behalf of a taxpayer by a manufacturer,  
5 distributor, or supplier of inventory to defray any part of the  
6 taxpayer's floor plan interest, if these payments are used by the  
7 taxpayer to reduce interest expense in determining federal tax-  
8 able income. For purposes of this section, "floor plan interest"  
9 means interest paid that finances any part of the taxpayer's pur-  
10 chase of automobile inventory from a manufacturer, distributor,  
11 or supplier. However, amounts attributable to any invoiced items  
12 used to provide more favorable floor plan assistance to a tax-  
13 payer than to a person who is not a taxpayer is considered inter-  
14 est paid by a manufacturer, distributor, or supplier.

15 (g) All royalties except for the following:

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

19 (ii) Cable television franchise fees as defined in section  
20 622 of part III of title VI of the communications act of 1934, 47  
21 U.S.C. 542.

22 (iii) Except as provided in subparagraph (iv), for the tax  
23 years 1986 and after 1986, a franchise fee as defined by section  
24 3 of the franchise investment law, Act No. 269 of the Public Acts  
25 of 1974, being section 445.1503 of the Michigan Compiled Laws, in  
26 the following amounts:

1 (A) For the tax years 1986, 1987, and 1988, 20% of the  
2 franchise fee.

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

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

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

12 (h) A deduction for rent attributable to a lease back that  
13 continues in effect under the former provisions of section  
14 168(f)(8) of the internal revenue code as that section provided  
15 immediately before the tax reform act of 1986, Public Law 99-514,  
16 became effective or to a lease back of property to which the  
17 amendments made by the tax reform act of 1986 do not apply as  
18 provided in section 204 of the tax reform act of 1986.

19 (5) Add compensation.

20 (6) Add a capital gain related to business activity of indi-  
21 viduals to the extent excluded in arriving at federal taxable  
22 income.

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

25 (a) A dividend received or considered received, including  
26 the foreign dividend gross-up provided for in the internal  
27 revenue code.

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

5 (c) All royalties except for the following:

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

9 (ii) Except as provided in subparagraph (iii), for the 1986  
10 tax year and after the 1986 tax year, a franchise fee as defined  
11 in section 3 of the franchise investment law, Act No. 269 of the  
12 Public Acts of 1974, in the following amounts:

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

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

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

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

24 (d) Rent attributable to a lease back that continues in  
25 effect under the former provisions of section 168(f)(8) of the  
26 internal revenue code as that section provided immediately before  
27 the tax reform act of 1986, Public Law 99-514, became effective

1 or to a lease back of property to which the amendments made by  
2 the tax reform act of 1986 do not apply as provided in section  
3 204 of the tax reform act of 1986.

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

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

11 (10) ADD, TO THE EXTENT NOT INCLUDED IN FEDERAL TAXABLE  
12 INCOME, PREMIUMS PAID FOR A HEALTH INSURANCE PLAN IF A CREDIT FOR  
13 THOSE PREMIUMS IS TAKEN UNDER SECTION 39B FOR THE TAXABLE YEAR.

14 SEC. 39B. (1) A TAXPAYER THAT IS AN ELIGIBLE EMPLOYER MAY  
15 CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT FOR EXPENDI-  
16 TURES MADE BY THE TAXPAYER IN THE TAX YEAR FOR PREMIUMS FOR A  
17 HEALTH BENEFIT PLAN OFFERED PURSUANT TO CHAPTER 35 OF THE INSUR-  
18 ANCE CODE OF 1956, ACT NO. 218 OF THE PUBLIC ACTS OF 1956, OR FOR  
19 A BENEFITS PLAN OFFERED PURSUANT TO THE MICHIGAN MEDICAL INSUR-  
20 ANCE POOL ACCOUNT ACT EQUAL TO THE LESSER OF \$25.00 PER MONTH PER  
21 COVERED EMPLOYEE OR 50% OF THE TOTAL PREMIUMS PAID TO A CARRIER  
22 OR THE BOARD MULTIPLIED BY THE FOLLOWING PERCENTAGE:

	YEAR OF PARTICIPATION	PERCENTAGE
1		
2		
3	1 OR 2	100
4	3	75
5	4	50
6	5	25

7 (2) A CREDIT SHALL NOT BE CLAIMED UNDER THIS SECTION FOR A  
8 PREMIUM PAID AFTER THE TAXPAYER'S FIFTH YEAR OF PARTICIPATION IN  
9 A HEALTH BENEFIT PLAN OFFERED PURSUANT TO CHAPTER 35 OF THE  
10 INSURANCE CODE OF 1956, ACT NO. 218 OF THE PUBLIC ACTS OF 1956,  
11 OR AFTER THE FIFTH YEAR A TAXPAYER PAYS PREMIUMS FOR A BENEFITS  
12 PLAN OFFERED PURSUANT TO THE MICHIGAN MEDICAL INSURANCE POOL  
13 ACCOUNT ACT.

14 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX  
15 YEAR AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED BY THIS  
16 SECTION EXCEEDS THE TAXPAYER'S TAX LIABILITY FOR THE TAX YEAR,  
17 THAT PORTION THAT EXCEEDS THE TAX LIABILITY FOR THE TAX YEAR  
18 SHALL NOT BE REFUNDED BUT MAY BE CARRIED FORWARD TO OFFSET TAX  
19 LIABILITY IN SUBSEQUENT TAX YEARS UNTIL USED OR RECAPTURED PURSU-  
20 ANT TO SUBSECTION (4).

21 (4) IF A TAXPAYER DISCONTINUES PARTICIPATION IN A HEALTH  
22 BENEFIT PLAN OR A BENEFITS PLAN AFTER RECEIVING A CREDIT FOR THAT  
23 PARTICIPATION, THE CREDIT THE TAXPAYER RECEIVED SHALL BE REVOKED,  
24 ALL CARRIED FORWARD CREDITS SHALL BE FORFEITED, AND ANY PREVI-  
25 OUSLY APPLIED PORTION OF THE CREDIT SHALL BE ADDED TO THE TAX  
26 LIABILITY OF THE TAXPAYER IN THE TAX YEAR IN WHICH PARTICIPATION  
27 ENDED.

(5) AS USED IN THIS SECTION:

(A) "BENEFITS PLAN" AND "BOARD" MEAN THOSE TERMS AS DEFINED IN THE MICHIGAN MEDICAL INSURANCE POOL ACCOUNT ACT.

(B) "CARRIER", "ELIGIBLE EMPLOYER", "HEALTH BENEFIT PLAN", AND "PREMIUM" MEAN THOSE TERMS AS DEFINED IN CHAPTER 35 OF THE INSURANCE CODE OF 1956, ACT NO. 218 OF THE PUBLIC ACTS OF 1956.

(C) "YEAR OF PARTICIPATION" MEANS A YEAR DURING WHICH AN ELIGIBLE EMPLOYER HAS PAID PREMIUMS TO A CARRIER FOR A HEALTH BENEFIT PLAN ISSUED PURSUANT TO CHAPTER 35 OF THE INSURANCE CODE OF 1956, ACT NO. 218 OF THE PUBLIC ACTS OF 1956 OR TO THE BOARD FOR A BENEFITS PLAN ISSUED PURSUANT TO THE MICHIGAN MEDICAL INSURANCE POOL ACCOUNT ACT.

Section 2. This amendatory act shall not take effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 6141 (request no. 03986'91) of the 86th Legislature is enacted into law.