

# SENATE BILL No. 69

February 12, 1991, Introduced by Senators N. SMITH and  
POSTHUMUS and referred to the Committee on Finance.

A bill to amend sections 23 and 31 of Act No. 228 of the  
Public Acts of 1975, entitled  
"Single business tax act,"  
section 23 as amended by Act No. 208 of the Public Acts of 1981  
and section 31 as amended by Act No. 262 of the Public Acts of  
1987, being sections 208.23 and 208.31 of the Michigan Compiled  
Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 23 and 31 of Act No. 228 of the Public  
2 Acts of 1975, section 23 as amended by Act No. 208 of the Public  
3 Acts of 1981 and section 31 as amended by Act No. 262 of the  
4 Public Acts of 1987, being sections 208.23 and 208.31 of the  
5 Michigan Compiled Laws, are amended to read as follows:

1       Sec. 23. After allocation as provided in section 40 or  
2 apportionment as provided in section 41, the tax base shall be  
3 adjusted by the following:

4       (a) Deduct the cost, including fabrication and installation,  
5 paid or accrued in the taxable year of tangible assets of a type  
6 ~~which~~ THAT are, or under the internal revenue code will become,  
7 eligible for depreciation, amortization, or accelerated capital  
8 cost recovery for federal income tax purposes excluding costs of  
9 assets ~~which~~ THAT are defined in section 1250 of the internal  
10 revenue code, except that for tangible assets ~~which~~ THAT are  
11 subject to a lease back agreement under FORMER section 168(f)(8)  
12 of the internal revenue code, the deduction shall be allowed only  
13 to the lessee or sublessee as the case may be under the 168(f)(8)  
14 agreement. ~~This deduction shall be multiplied by a fraction,~~  
15 ~~the numerator of which is the payroll factor plus the property~~  
16 ~~factor and the denominator of which is 2.~~

17       (b) Add the gross proceeds or benefit derived from the sale  
18 or other disposition of the tangible assets ~~defined in~~  
19 DESCRIBED IN, AND FOR WHICH A DEDUCTION WAS TAKEN UNDER, subdivi-  
20 sion (a) minus the gain and plus the loss from the sale reflected  
21 in federal taxable income and minus the gain from the sale or  
22 other disposition added to the tax base in section 9(6). This  
23 addition shall be multiplied by a fraction, the numerator of  
24 which is the payroll factor plus the property factor and the  
25 denominator of which is 2. As used in this subdivision, "sale or  
26 other disposition" ~~shall~~ DOES not include the transfer of

1 tangible assets that are leased back to the transferor under  
2 FORMER section 168(f)(8) of the internal revenue code.

3 (c) Deduct the cost, including fabrication and installation,  
4 excluding the cost deducted under subdivision (a) paid or accrued  
5 in the taxable year of tangible assets of a type ~~which~~ THAT  
6 are, or under the internal revenue code will become eligible for  
7 depreciation, amortization, or accelerated capital cost recovery  
8 for federal income tax purposes. ~~, provided that the assets are~~  
9 ~~physically located in Michigan.~~

10 (d) Add the gross proceeds or benefit derived from the sale  
11 or other disposition of the tangible assets ~~defined in~~  
12 ~~subsection~~ DESCRIBED IN, AND FOR WHICH A DEDUCTION WAS TAKEN  
13 UNDER, SUBDIVISION (c), minus the gain, multiplied by the  
14 APPLICABLE apportionment factor for the taxable year as ~~defined~~  
15 PRESCRIBED in chapter 3, and plus the loss, multiplied by the  
16 APPLICABLE apportionment factor as ~~defined~~ PRESCRIBED in chap-  
17 ter 3, from the sale or other disposition reflected in federal  
18 taxable income and minus the gain from the sale or other disposi-  
19 tion added to the tax base in section 9(6).

20 (e) Deduct any available business loss. ~~"Business~~ AS USED  
21 IN THIS SUBDIVISION, "BUSINESS loss" means ~~any~~ A negative  
22 amount after allocation or apportionment as ~~provided~~ PRESCRIBED  
23 in chapter 3 and adjustments as provided in subdivisions (a) to  
24 (d) without regard to the deduction under this subdivision. The  
25 business loss shall be carried forward to the year next following  
26 the loss year as an offset to the allocated or apportioned tax  
27 base including the adjustments provided in subdivisions (a) to

1 (d), then successively to the next 9 taxable years following the  
2 loss year or until the loss is used up, whichever occurs first,  
3 but for not more than 10 taxable years after the loss year.

4 ~~(f) Deduct any unused net operating loss carryover arising~~  
5 ~~under former sections 32(3) and 34(3) of Act No. 281 of the~~  
6 ~~Public Acts of 1967, pertaining to net operating losses of corpo-~~  
7 ~~rations and financial institutions. This deduction shall not be~~  
8 ~~made for a tax year ending after December 31, 1980.~~

9 Sec. 31. (1) There is ~~hereby~~ levied and imposed a spe-  
10 cific tax of 2.35% upon the adjusted tax base of every person  
11 with business activity in this state ~~which~~ THAT is allocated or  
12 apportioned to this state.

13 (2) As used in this section, "adjusted tax base" means the  
14 tax base allocated or apportioned to this state pursuant to chap-  
15 ter 3 ~~and~~ WITH the adjustments ~~permitted~~ PRESCRIBED by  
16 section 23 and the exemptions permitted by sections 35 and 37.  
17 If the adjusted tax base exceeds 50% of the sum of gross receipts  
18 plus the adjustments provided in section 23(b) and (d), appor-  
19 tioned or allocated to Michigan with the apportionment fraction  
20 calculated pursuant to chapter 3, the adjusted tax base may, at  
21 the option of the taxpayer, be reduced by ~~such~~ THAT excess.  
22 ~~The~~ IF A TAXPAYER REDUCES ADJUSTED TAX BASE UNDER THIS SUBSEC-  
23 TION, THE taxpayer ~~shall not be~~ IS NOT entitled to the adjust-  
24 ment provided in subsection (4) for the same taxable year. This  
25 subsection does not apply to an adjusted tax base under section  
26 22a.

1 (3) The tax ~~so~~ levied and imposed UNDER THIS SECTION is  
2 upon the privilege of doing business and not upon income.

3 (4) In lieu of the ~~adjustment~~ REDUCTION provided in sub-  
4 section (2), a person may elect to reduce the adjusted tax base  
5 by the percentage that the compensation divided by the tax base  
6 exceeds 63%. The deduction shall not exceed 37% of the adjusted  
7 tax base. For ~~the 1976 tax year and each tax year thereafter,~~  
8 ~~for~~ purposes of computing the ~~deduction~~ REDUCTION allowed by  
9 this subsection, as effective for the respective tax year, com-  
10 pensation ~~shall~~ DOES not include amounts of compensation exempt  
11 from tax under section 35(1)(e). ~~or (f).~~ This subsection does  
12 not apply to an adjusted tax base under section 22a.