

SENATE BILL No. 185

March 14, 1991, Introduced by Senator V. SMITH and
referred to the Committee on Finance.

A bill to amend sections 22a, 22c, 23, 31, and 39 of Act
No. 228 of the Public Acts of 1975, entitled
"Single business tax act,"

section 22a as added and section 31 as amended by Act No. 262 of
the Public Acts of 1987, section 22c as amended by Act No. 255 of
the Public Acts of 1990, and section 23 as amended by Act No. 208
of the Public Acts of 1981, being sections 208.22a, 208.22c,
208.23, 208.31, and 208.39 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 22a, 22c, 23, 31, and 39 of Act No. 228
2 of the Public Acts of 1975, section 22a as added and section 31
3 as amended by Act No. 262 of the Public Acts of 1987, section 22c
4 as amended by Act No. 255 of the Public Acts of 1990, and
5 section 23 as amended by Act No. 208 of the Public Acts of 1981,

1 being sections 208.22a, 208.22c, 208.23, 208.31, and 208.39 of
2 the Michigan Compiled Laws, are amended to read as follows:

3 Sec. 22a. From August 3, 1987 to September 30, 1987, for
4 the tax year beginning October 1, 1987 and ending September 30,
5 1988, and each tax year ~~thereafter~~ AFTER SEPTEMBER 30, 1988
6 THROUGH THE 1992 TAX YEAR, the tax base and adjusted tax base of
7 an insurance company is the product of .25 ~~times~~ MULTIPLIED BY
8 the insurance company's gross receipts as apportioned under sec-
9 tion 62, excluding receipts on the sale of annuities and receipts
10 on the sale of reinsurance. FOR THE 1993 TAX YEAR AND FOR EACH
11 TAX YEAR AFTER THE 1993 TAX YEAR, THE TAX BASE AND ADJUSTED TAX
12 BASE OF AN INSURANCE COMPANY IS THE PRODUCT OF .377 MULTIPLIED BY
13 THE INSURANCE COMPANY'S GROSS DIRECT PREMIUMS RECEIVED FOR INSUR-
14 ANCE ON PROPERTY OR RISK IN THIS STATE, DEDUCTING PREMIUMS ON
15 POLICIES NOT TAKEN AND RETURNED PREMIUMS ON CANCELED POLICIES, AS
16 APPORTIONED UNDER SECTION 62, EXCLUDING RECEIPTS ON THE SALE OF
17 REINSURANCE. The tax base and adjusted tax base calculated under
18 this section shall not be adjusted under section 23. The tax
19 calculated ~~thereon shall be~~ UNDER THIS SECTION IS in lieu of
20 all other privilege or franchise fees or taxes imposed by another
21 law of the state, except taxes on real and personal property and
22 except as otherwise provided in this act and in the insurance
23 code of 1956, Act No. 218 of the Public Acts of 1956, being sec-
24 tions 500.100 to 500.8302 of the Michigan Compiled Laws.

25 Sec. 22c. (1) For the tax year beginning October 1, 1987
26 and ending September 30, 1988 and each tax year thereafter, an
27 insurance company may claim a credit against the tax and

1 surcharge imposed by this act in the following amounts, but not
2 to exceed the limitations provided in this section:

3 (a) Amounts paid to the Michigan worker's compensation
4 placement facility pursuant to chapter 23 of the insurance code
5 of 1956, Act No. 218 of the Public Acts of 1956, being sections
6 500.2301 to 500.2352 of the Michigan Compiled Laws.

7 (b) Amounts paid to the Michigan basic property insurance
8 association pursuant to chapter 29 of the insurance code of 1956,
9 Act No. 218 of the Public Acts of 1956, being sections 500.2901
10 to 500.2954 of the Michigan Compiled Laws.

11 (c) Amounts paid to the Michigan automobile insurance place-
12 ment facility pursuant to chapter 33 of the insurance code of
13 1956, Act No. 218 of the Public Acts of 1956, being sections
14 500.3301 to 500.3390 of the Michigan Compiled Laws.

15 (d) Amounts paid to the property and casualty guaranty asso-
16 ciation pursuant to chapter 79 of the insurance code of 1956, Act
17 No. 218 of the Public Acts of 1956, being sections 500.7901 to
18 500.7949 of the Michigan Compiled Laws.

19 (e) Amounts paid to the Michigan life and health guaranty
20 association pursuant to chapter 77 of the insurance code of 1956,
21 Act No. 218 of the Public Acts of 1956, being sections 500.7701
22 to 500.7780 of the Michigan Compiled Laws.

23 (2) For the tax year beginning October 1, 1987 and ending
24 September 30, 1988, the credit provided in subsection (1) shall
25 not exceed 56% of the insurance company's tax liability under
26 this act before applying the surcharge and credits.

1 (3) Except as otherwise provided in subsections (5) and (6),
2 for the tax year beginning October 1, 1988 and ending
3 September 30, 1989 and each tax year thereafter, the total credit
4 provided in subsection (1) for all insurance companies shall not
5 exceed the product of the remainder obtained by deducting the sum
6 of \$30,000,000.00 plus the credits allowed under section 22e from
7 the total tax liability of domestic insurance companies under
8 this act including the surcharge but before applying any credits
9 multiplied by a fraction the numerator of which is the total
10 assessments paid by all insurance companies to the associations
11 and facilities described in subsection (1) and the denominator of
12 which is the total assessments paid by domestic insurance com-
13 panies to the associations and facilities described in subsection
14 (1). The \$30,000,000.00 subtrahend shall be adjusted annually in
15 proportion to the change in total general fund/general purpose
16 revenues for the preceding year, as certified by the director of
17 management and budget.

18 (4) For the tax year beginning October 1, 1988 and ending
19 September 30, 1989 and each tax year thereafter, the credit for
20 each insurance company shall not exceed an amount equal to the
21 product of the total credit limitation calculated under subsec-
22 tion (3) multiplied by a fraction the numerator of which is the
23 insurance company's total assessments paid to the association and
24 facilities described in subsection (1) and the denominator of
25 which is the total assessments paid by all insurance companies to
26 the associations and facilities described in subsection (1).

1 (5) For the tax year beginning October 1, 1988 and ending
2 September 30, 1989, the credit provided in subsection (1) shall
3 be 40.366% of the total assessments paid by the insurance company
4 to the facilities and associations described in subsection (1).

5 (6) The tax liability and assessments of insurance companies
6 from the preceding tax year shall be used in calculating the
7 credits allowed under this section for each tax year, except for
8 the following:

9 (a) In calculating the total authorized credits for the 1991
10 tax year, assessments of insurance companies for calendar year
11 1990 shall be used and the total credit limitation calculated
12 under subsection (3) shall be multiplied by 1.25.

13 (b) In calculating the total authorized credits for the 1992
14 tax year, assessments of insurance companies for calendar year
15 1991 shall be used and the total tax liability of domestic insur-
16 ance companies for tax year 1991 shall be multiplied by 0.8.

17 (7) Not later than June 30 of each year after 1990, the
18 state treasurer shall certify the amounts needed to calculate the
19 credits allowed under this section for the insurance company tax
20 year ending in that calendar year.

21 (8) THIS SECTION APPLIES THROUGH THE 1992 TAX YEAR.

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

25 (a) ~~Deduct~~ FOR A TAX YEAR BEGINNING BEFORE JANUARY 1,
26 1993, DEDUCT the cost, including fabrication and installation,
27 paid or accrued in the taxable year of tangible assets of a type

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

12 (b) Add the gross proceeds or benefit derived from the sale
 13 or other disposition of the tangible assets ~~defined in~~
 14 DESCRIBED IN, AND FOR WHICH A DEDUCTION WAS TAKEN UNDER, subdivi-
 15 sion (a) minus the gain and plus the loss from the sale reflected
 16 in federal taxable income and minus the gain from the sale or
 17 other disposition added to the tax base in section 9(6). This
 18 addition shall be multiplied by a fraction, the numerator of
 19 which is the payroll factor plus the property factor and the
 20 denominator of which is 2. As used in this subdivision, "sale or
 21 other disposition" ~~shall~~ DOES not include the transfer of tan-
 22 gible assets that are leased back to the transferor under FORMER
 23 section 168(f)(8) of the internal revenue code.

24 (c) ~~Deduct~~ FOR A TAX YEAR BEGINNING BEFORE JANUARY 1,
 25 1993, DEDUCT the cost, including fabrication and installation,
 26 excluding the cost deducted under subdivision (a) paid or accrued
 27 in the taxable year of tangible assets of a type ~~which~~ THAT

1 are, or under the internal revenue code will become eligible for
2 depreciation, amortization, or accelerated capital cost recovery
3 for federal income tax purposes, provided that the assets are
4 physically located in Michigan.

5 (d) Add the gross proceeds or benefit derived from the sale
6 or other disposition of the tangible assets ~~defined in subsec-~~
7 ~~tion (e)~~ DESCRIBED IN, AND FOR WHICH A DEDUCTION WAS TAKEN
8 UNDER, SUBDIVISION (C), minus the gain, multiplied by the appor-
9 tionment factor for the taxable year as ~~defined~~ PRESCRIBED in
10 chapter 3, and plus the loss, multiplied by the apportionment
11 factor as ~~defined~~ PRESCRIBED in chapter 3, from the sale or
12 other disposition reflected in federal taxable income and minus
13 the gain from the sale or other disposition added to the tax base
14 in section 9(6).

15 (e) ~~Deduct any available~~ FOR A TAX YEAR BEGINNING BEFORE
16 JANUARY 1, 1993, DEDUCT business loss. ~~"Business"~~ AS USED IN
17 THIS SUBDIVISION, "BUSINESS loss" means ~~any~~ A negative amount
18 after allocation or apportionment as provided in chapter 3 and
19 adjustments as provided in subdivisions (a) to (d) without regard
20 to the deduction under this subdivision. The business loss shall
21 be carried forward to the year next following the loss year as an
22 offset to the allocated or apportioned tax base including the
23 adjustments provided in subdivisions (a) to (d), then succes-
24 sively to the next 9 taxable years following the loss year or
25 until the loss is used up, whichever occurs first, but for not
26 more than 10 taxable years after the loss year.

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

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

10 (2) As used in this section, "adjusted tax base" means the
 11 tax base allocated or apportioned to this state pursuant to chap-
 12 ter 3 ~~and~~ WITH the adjustments ~~permitted~~ PRESCRIBED by sec-
 13 tion 23 and the exemptions permitted by ~~sections 35 and 37~~
 14 SECTION 35. ~~If~~ FOR A TAX YEAR BEGINNING BEFORE JANUARY 1,
 15 1993, IF the adjusted tax base exceeds 50% of the sum of gross
 16 receipts plus the adjustments provided in section 23(b) and (d),
 17 apportioned or allocated to Michigan with the apportionment frac-
 18 tion calculated pursuant to chapter 3, the adjusted tax base may,
 19 at the option of the taxpayer, be reduced by ~~such~~ THAT excess.
 20 ~~The~~ FOR A TAX YEAR BEGINNING BEFORE JANUARY 1, 1993, THE tax-
 21 payer shall not be entitled to the adjustment provided in subsec-
 22 tion (4) for the same taxable year. This subsection does not
 23 apply to an adjusted tax base under section 22a.

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

26 (4) ~~In~~ FOR A TAX YEAR BEGINNING BEFORE JANUARY 1, 1993, IN
 27 lieu of the adjustment provided in subsection (2) a person may

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

10 Sec. 39. (1) A taxpayer subject to Act No. 282 of the
11 Public Acts of 1905, as amended, being sections 207.1 to 207.21
12 of the Michigan Compiled Laws, ~~shall be~~ IS allowed a credit
13 against the tax imposed by this act for the taxable year ~~—~~ IN
14 an amount equal to 5% of the tax imposed under Act No. 282 of the
15 Public Acts of 1905, as amended. The credit allowed by this sec-
16 tion shall not be in excess of the tax liability of the taxpayer
17 under this act. Except as provided in subsection (2) this sub-
18 section shall not apply to a taxpayer who files pursuant to the
19 provisions of section 57.

20 (2) ~~A person eligible to file under section 57 who has a~~
21 ~~net operating loss for 2 or more years or has had a net operating~~
22 ~~loss for each year of operation immediately preceding the current~~
23 ~~tax year, shall be allowed a credit against the tax imposed by~~
24 ~~this act in an amount equal to the following percentage of the~~
25 ~~tax imposed under Act No. 282 of the Public Acts of 1905, as~~
26 ~~amended: 5% for the 1977 and 1978 tax year; 4% for the 1979 tax~~
27 ~~year; 3% for the 1980 tax year; 2% for the 1981 tax year; and 1%~~

1 ~~for the 1982 tax year. The credit allowed by this subsection~~
 2 ~~shall not be in excess of the tax liability of the taxpayer under~~
 3 ~~this act. This subsection shall expire December 31, 1982. THIS~~
 4 SECTION APPLIES THROUGH THE 1992 TAX YEAR.