

SENATE BILL No. 771

February 26, 1992, Introduced by Senator GEAKE and referred to the Committee on Finance.

A bill to amend section 35 of Act No. 228 of the Public Acts of 1975, entitled
"Single business tax act,"
as amended by Act No. 285 of the Public Acts of 1989, being section 208.35 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 35 of Act No. 228 of the Public Acts of
2 1975, as amended by Act No. 285 of the Public Acts of 1989, being
3 section 208.35 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 35. (1) The following are exempt from the tax imposed
6 by this act:

7 (a) For tax years beginning after 1976 and before January 1,
8 1989, the first \$40,000.00; for tax years beginning in 1989, the
9 first \$41,000.00; for tax years beginning in 1990, the first

1 \$42,000.00; for tax years beginning in 1991, the first
2 \$43,000.00; for tax years beginning in 1992, the first
3 \$44,000.00; and for tax years beginning after 1992, the first
4 \$45,000.00 of the tax base of every person. This exemption shall
5 be increased by \$12,000.00 for each partner of a partnership or
6 shareholder of a subchapter S corporation or professional corpo-
7 ration in excess of 1 who is a full-time employee of the taxpay-
8 er, whose business income from that business is at least
9 \$12,000.00, and who owns at least 10% of that business. The
10 total increase in the exemption shall be not more than
11 \$48,000.00. For a taxpayer whose business activity is for a
12 fractional part of a year, the exemption provided in this subdi-
13 vision including the increase in the exemption shall be prorated
14 for the period of the taxpayer's business activity. This exemp-
15 tion shall be reduced by \$2.00 for each \$1.00 that business
16 income exceeds the amount of the exemption. For the purposes of
17 computing the exemption, "business income" means that term as
18 defined in section 3 plus compensation and director's fees of
19 shareholders of a corporation and any carryback or carryover of a
20 net operating loss or capital loss to the extent deducted in
21 arriving at federal taxable income. In calculating eligibility
22 for the exemption provided in this subdivision, a person who is
23 not a corporation may elect to average its business income for
24 the current year and the previous 4 taxable years. Business
25 income as defined in this subdivision shall not be less than
26 zero. For the purposes of this subdivision, tax base shall be
27 after allocation and apportionment provided in chapter 3 and the

1 adjustments provided in ~~section~~ SECTIONS 23 AND 23B. This
2 subdivision does not apply to an adjusted tax base under
3 section 22a.

4 (b) The United States, this state, other states, and the
5 agencies, political subdivisions, and enterprises of each.

6 (c) A person who is exempt from federal income tax pursuant
7 to the provisions of the internal revenue code except the
8 following:

9 (i) An organization included under section 501(c)(12) or
10 501(c)(16) of the internal revenue code.

11 (ii) An organization exempt under section 501(c)(4) of the
12 internal revenue code that would be exempt under section
13 501(c)(12) of the internal revenue code but for its failure to
14 meet the requirements in section 501(c)(12) that 85% or more of
15 its income must consist of amounts collected from members.

16 (iii) The adjusted tax base attributable to the activities
17 giving rise to the unrelated taxable business income of an exempt
18 person.

19 (d) Before August 3, 1987, a foreign or alien insurance com-
20 pany subject to the provisions of the premium tax under sections
21 440 to 446 of Act No. 218 of the Public Acts of 1956, as those
22 sections were in effect on December 27, 1987. This exemption
23 does not apply to the tax base derived from a business activity
24 other than insurance carrier services.

25 (e) Before August 3, 1987, that portion of the payroll of a
26 domestic insurer or of a marketing corporation that constitutes
27 insurance sales commissions paid to employees and salaries of

1 employees primarily concerned with the adjustment of claims.

2 This exemption does not apply to a marketing corporation that is
3 not controlled, directly or indirectly, by stock ownership or
4 common management, by the domestic insurer or insurers from which
5 it derives all or substantially all of its gross income, exclu-
6 sive of income from investments.

7 (f) Beginning August 3, 1987 and after being apportioned
8 under section 62, the first \$130,000,000.00 of disability insur-
9 ance premiums, OR, FOR THE 1991 TAX YEAR ONLY, THE FIRST
10 \$162,500,000.00 OF DISABILITY INSURANCE PREMIUMS, other than
11 credit insurance and disability income insurance premiums, of
12 each insurer subject to tax under this act. This exemption shall
13 be reduced by \$2.00 for each \$1.00 by which the insurer's gross
14 premiums from insurance carrier services in this state and out-
15 side this state exceed \$180,000,000.00, OR, FOR THE 1991 TAX YEAR
16 ONLY, \$225,000,000.00.

17 (g) A nonprofit cooperative housing corporation. As used in
18 this subdivision, "nonprofit cooperative housing corporation"
19 means a cooperative housing corporation that is engaged in pro-
20 viding housing services to its stockholders and members and that
21 does not pay dividends or interest upon stock or membership
22 investment but that does distribute all earnings to its stock-
23 holders or members. This exemption does not apply to a business
24 activity of a nonprofit cooperative housing corporation other
25 than providing housing services to its stockholders and members.

26 (h) That portion of the tax base attributable to the
27 production of agricultural goods by a person whose primary

1 activity is the production of agricultural goods. "Production of
2 agricultural goods" means commercial farming including, but not
3 limited to, cultivation of the soil; growing and harvesting of an
4 agricultural, horticultural, or floricultural commodity; dairy-
5 ing; raising of livestock, bees, fish, fur-bearing animals, or
6 poultry; or turf or tree farming, but not including the marketing
7 at retail of agricultural goods.

8 (i) Except as provided in subsection (3), a farmers' cooper-
9 ative corporation organized within the limitations of section 98
10 of Act No. 327 of the Public Acts of 1931, being section 450.98
11 of the Michigan Compiled Laws, ~~which corporation~~ THAT was at
12 any time exempt under subdivision (c) because the corporation was
13 exempt from federal income taxes under section 521 of the inter-
14 nal revenue code and ~~which corporation~~ THAT would continue to
15 be exempt under section 521 of the internal revenue code except
16 for either of the following activities:

17 (i) The corporation's repurchase from nonproducer customers
18 of portions or components of commodities the corporation markets
19 to those nonproducer customers and the corporation's subsequent
20 manufacturing or marketing of the repurchased portions or compo-
21 nents of the commodities.

22 (ii) The corporation's incidental or emergency purchases of
23 commodities from nonproducers to facilitate the manufacturing or
24 marketing of commodities purchased from producers.

25 (j) That portion of the tax base attributable to the direct
26 and indirect marketing activities of a farmers' cooperative
27 corporation organized within the limitations of section 98 of Act

1 No. 327 of the Public Acts of 1931, if those marketing activities
2 are provided on behalf of the members of that corporation and are
3 related to the members' direct sales of their products to third
4 parties, or, for livestock, are related to the members' direct or
5 indirect sales of that product to third parties. Marketing
6 activities for a product that is not livestock are not exempt
7 under this subdivision if the farmers' cooperative corporation
8 takes physical possession of the product. As used in this subdi-
9 vision, "marketing activities" includes, but is not limited to,
10 activities under the agricultural commodities marketing act, Act
11 No. 232 of the Public Acts of 1965, being sections 290.651 to
12 290.674 of the Michigan Compiled Laws, and the agricultural mar-
13 keting and bargaining act, Act No. 344 of the Public Acts of
14 1972, being sections 290.701 to 290.726 of the Michigan Compiled
15 Laws; dissemination of market information; establishment of price
16 and other terms of trade; promotion; and research relating to
17 members' products.

18 (2) An affiliated group, a controlled group of corporations
19 as defined by section 1563 of the internal revenue code, or an
20 entity under common control as defined by the internal revenue
21 code is entitled to only 1 exemption allowed by subsection (1)(a)
22 whether or not a combined or consolidated return is filed.

23 (3) Subsection (1)(i) does not exempt a farmers' cooperative
24 corporation if the total dollar value of the corporation's inci-
25 dental and emergency purchases described in subsection (1)(i)(ii)
26 are equal to or greater than 5% of the total dollar value of the
27 corporation's repurchases described in subsection (1)(i)(i).