

Act No. 329
Public Acts of 1993
Approved by the Governor
December 31, 1993
Filed with the Secretary of State
December 31, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Munsell and Bender

ENROLLED HOUSE BILL No. 5109

AN ACT to amend sections 31 and 136 of Act No. 228 of the Public Acts of 1975, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," section 31 as amended by Act No. 77 of the Public Acts of 1991 and section 136 as amended by Act No. 168 of the Public Acts of 1993, being sections 208.31 and 208.136 of the Michigan Compiled Laws; and to repeal certain parts of the act.

The People of the State of Michigan enact:

Section 1. Sections 31 and 136 of Act No. 228 of the Public Acts of 1975, section 31 as amended by Act No. 77 of the Public Acts of 1991 and section 136 as amended by Act No. 168 of the Public Acts of 1993, being sections 208.31 and 208.136 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 31. (1) There is levied and imposed a specific tax of 2.35% upon the adjusted tax base of every person with business activity in this state that is allocated or apportioned to this state. Beginning May 1, 1994, provided no amendment to the state constitution has been approved prior to that date by the electors to allow a sales tax rate in excess of 4%, there is levied and imposed an additional tax of 0.4% upon the adjusted tax base of every person with business activity in this state that is allocated or apportioned to this state. The gross revenues from the additional tax of 0.4% shall be deposited in the state school aid fund created in section 11 of article IX of the state constitution of 1963. The department shall annualize the rates provided under this subsection as necessary for tax years that end after April 30, 1994 and the applicable annualized rate shall be imposed for those tax years.

(2) As used in this section, "adjusted tax base" means the tax base allocated or apportioned to this state pursuant to chapter 3 with the adjustments prescribed by sections 23 and 23b and the exemptions prescribed by section 35. If the adjusted tax base exceeds 50% of the sum of gross receipts plus the adjustments provided in section 23b(a), (b), and (c), apportioned or allocated to Michigan with the apportionment fraction calculated pursuant to chapter 3, the adjusted tax base may, at the option of the taxpayer, be reduced by that excess. If a taxpayer reduces the adjusted tax base under this subsection, the taxpayer is not entitled to the adjustment provided in subsection (4) for the same taxable year. This subsection does not apply to an adjusted tax base under section 22a.

(3) The tax levied under this section and imposed is upon the privilege of doing business and not upon income.

(4) In lieu of the reduction provided in subsection (2), a person may elect to reduce the adjusted tax base by the percentage that the compensation divided by the tax base exceeds 63%. The deduction shall not exceed 37% of the

adjusted tax base. For purposes of computing the deduction allowed by this subsection, as effective for the respective tax year, compensation does not include amounts of compensation exempt from tax under section 35(1)(e). This subsection does not apply to an adjusted tax base under section 22a.

Sec. 136. (1) The department of treasury shall total the amounts payable to cities, villages, and townships under section 134 between July 1, 1976 and February 1, 1977, but excluding any payments under section 137.

(2) Between July 1, 1977 and February 28, 1978, an additional amount of the single business tax equal to 5% of the amount calculated in subsection (1) shall be distributed to all cities, villages, and townships through the tax effort formula as defined in the state revenue sharing act of 1971, Act No. 140 of the Public Acts of 1971, as amended, being sections 141.901 to 141.921 of the Michigan Compiled Laws.

(3) For every year following June 30, 1978, the growth in the single business tax payable to cities, villages, and townships by the tax effort formula is calculated in the following manner:

(a) The percentage that the amount calculated in subsection (1) is of the gross collections before refunds of the single business tax from July 1, 1976, through June 30, 1977.

(b) The percentage calculated in subdivision (a) is multiplied by the gross collections before refunds of the single business tax levied at a rate of 2.35% from each July 1 through June 30, starting with the gross collections before refunds from July 1, 1977, through June 30, 1978. From this amount subtract the amount necessary to make the payments to cities, villages, and townships under section 134 for the same year. The difference shall be distributed to cities, villages, and townships by the tax effort formula between October 1 and February 28 following the calculation based upon the preceding June 30. At least 1/2 of this payment shall be distributed before November 1 in any year that money is distributed under this section.

(4) During each June, starting in 1976, the department of treasury shall distribute to cities, villages, and townships through the tax effort formula, as defined in Act No. 140 of the Public Acts of 1971, an amount to replace payments to cities, villages, and townships from the intangibles tax previously made under section 13 of Act No. 140 of the Public Acts of 1971, as amended, being section 141.913 of the Michigan Compiled Laws, determined as follows:

(a) For the June 1976 payment only, \$35,000,000.00 of the collections of the tax levied by this act and for the June 1977 payment only, \$35,000,000.00 of the collections of the tax levied by this act.

(b) For payments after January 1, 1978, a percentage of the gross collections before refunds of the tax levied by this act at the rate of 2.35% for the most recent fully completed July 1 through June 30 period as certified by the department of treasury as of May 31. The percentage set aside for distribution is calculated by dividing \$40,000,000.00 by the gross collections before refunds of the single business tax from July 1, 1976, through June 30, 1977. For the 1992-1993 state fiscal year, the amount determined under this subsection shall be reduced by \$11,775,000.00 before the distribution under this subsection is made. For the 1993-94 state fiscal year, the amount determined under this subsection shall be reduced by \$6,863,000.00 before the distribution under this subsection is made.

(5) A city, village, or township is not eligible for a payment under subsection (4) unless that local unit of government requires sealed competitive bidding for any contract of \$20,000.00 or more except a contract for professional services or emergency repairs or services exempted pursuant to a written policy adopted or approved by the governing body of the local unit of government. This section shall not apply to transactions between governmental units.

Section 2. Section 39a of Act No. 228 of the Public Acts of 1975, being section 208.39a of the Michigan Compiled Laws, is repealed.

Section 3. This amendatory act shall not take effect unless Senate Joint Resolution S is submitted to the voters and the following bills are enacted into law:

- (a) House Bill No. 5110.
- (b) House Bill No. 5116.
- (c) House Bill No. 5009.
- (d) House Bill No. 5010.
- (e) House Bill No. 5118.
- (f) House Bill No. 5097.
- (g) House Bill No. 5123.
- (h) House Bill No. 4279.
- (i) House Bill No. 5102.
- (j) House Bill No. 5103.
- (k) House Bill No. 5104.
- (l) House Bill No. 5106.

- (m) House Bill No. 5111.
- (n) House Bill No. 5115.
- (o) House Bill No. 5112.
- (p) House Bill No. 5120.
- (q) House Bill No. 5129.
- (r) House Bill No. 5224.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.