



HOUSE BILL No. 4211

February 10, 1993, Introduced by Rep. Bullard and referred to the Committee on Taxation.

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.

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 to read
4 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 (2) Add gross interest income and dividends derived from
9 obligations or securities of states other than Michigan, in the

1 same amount that was excluded from federal taxable income, less
2 related portion of expenses not deducted in computing federal
3 taxable income because of sections 265 and 291 of the internal
4 revenue code.

5 (3) Add all taxes on or measured by net income and the tax
6 imposed by this act to the extent the taxes were deducted in
7 arriving at federal taxable income.

8 (4) Add, to the extent deducted in arriving at federal tax-
9 able income:

10 (a) A carryback or carryover of a net operating loss.

11 (b) A carryback or carryover of a capital loss.

12 (c) A deduction for depreciation, amortization, or immediate
13 or accelerated write-off related to the cost of tangible assets.

14 (d) A dividend paid or accrued except a dividend that repre-
15 sents a reduction of premiums to policyholders of insurance
16 companies.

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

24 (f) All interest including amounts paid, credited, or
25 reserved by insurance companies as amounts necessary to fulfill
26 the policy and other contract liability requirements of sections
27 805 and 809 of the internal revenue code. For tax years

1 beginning after December 31, 1984, interest does not include
2 payments or credits made to or on behalf of a taxpayer by a manu-
3 facturer, distributor, or supplier of inventory to defray any
4 part of the taxpayer's floor plan interest, if these payments are
5 used by the taxpayer to reduce interest expense in determining
6 federal taxable income. For purposes of this section, "floor
7 plan interest" means interest paid that finances any part of the
8 taxpayer's purchase of automobile inventory from a manufacturer,
9 distributor, or supplier. However, amounts attributable to any
10 invoiced items used to provide more favorable floor plan assist-
11 ance to a taxpayer than to a person who is not a taxpayer is con-
12 sidered interest paid by a manufacturer, distributor, or
13 supplier.

14 (g) All royalties except for the following:

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

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

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

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

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

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

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

10 (v) FILM RENTAL PAYMENTS MADE BY A THEATER OWNER TO A FILM
11 DISTRIBUTOR.

12 (vi) ROYALTIES, FEES, CHARGES, OR OTHER PAYMENTS OR CONSID-
13 ERATION PAID OR INCURRED BY RADIO OR TELEVISION BROADCASTERS FOR
14 MATTER OR SIGNALS THAT THEY BROADCAST.

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

22 (5) Add compensation.

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

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

1 (a) A dividend received or considered received, including
2 the foreign dividend gross-up provided for in the internal reve-
3 nue code.

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

8 (c) All royalties except for the following:

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

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

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

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

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

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

1 (d) Rent attributable to a lease back that continues in
2 effect under the former provisions of section 168(f)(8) of the
3 internal revenue code as that section provided immediately before
4 the tax reform act of 1986, Public Law 99-514, became effective
5 or to a lease back of property to which the amendments made by
6 the tax reform act of 1986 do not apply as provided in section
7 204 of the tax reform act of 1986.

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

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