



# HOUSE BILL No. 5109

October 12, 1993, Introduced by Reps. Munsell, Bender and Martin and referred to the Committee on Taxation.

A bill to amend sections 3, 6, 20, 22a, 31, 35, 36, 37, 38c, 71, 73, 76, 134, 135, 136, and 137 of Act No. 228 of the Public Acts of 1975, entitled

"Single business tax act,"

section 22a as added by Act No. 262 of the Public Acts of 1987, sections 31 and 73 as amended by Act No. 77 of the Public Acts of 1991, section 35 as amended by Act No. 170 of the Public Acts of 1992, section 36 as amended by Act No. 98 of the Public Acts of 1992, section 38c as amended by Act No. 170 of the Public Acts of 1991, section 71 as amended by Act No. 281 of the Public Acts of 1984, section 134 as amended by Act No. 267 of the Public Acts of 1987, section 135 as amended by Act No. 234 of the Public Acts of 1983, and section 136 as amended by Act No. 168 of the Public Acts of 1993, being sections 208.3, 208.6, 208.20, 208.22a, 208.31, 208.35, 208.36, 208.37, 208.38c, 208.71, 208.73, 208.76,

208.134, 208.135, 208.136, and 208.137 of the Michigan Compiled Laws; and to repeal certain parts of the act.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Section 1. Sections 3, 6, 20, 22a, 31, 35, 36, 37, 38c, 71,  
2 73, 76, 134, 135, 136, and 137 of Act No. 228 of the Public Acts  
3 of 1975, section 22a as added by Act No. 262 of the Public Acts  
4 of 1987, sections 31 and 73 as amended by Act No. 77 of the  
5 Public Acts of 1991, section 35 as amended by Act No. 170 of the  
6 Public Acts of 1992, section 36 as amended by Act No. 98 of the  
7 Public Acts of 1992, section 38c as amended by Act No. 170 of the  
8 Public Acts of 1991, section 71 as amended by Act No. 281 of the  
9 Public Acts of 1984, section 134 as amended by Act No. 267 of the  
10 Public Acts of 1987, section 135 as amended by Act No. 234 of the  
11 Public Acts of 1983, and section 136 as amended by Act No. 168 of  
12 the Public Acts of 1993, being sections 208.3, 208.6, 208.20,  
13 208.22a, 208.31, 208.35, 208.36, 208.37, 208.38c, 208.71, 208.73,  
14 208.76, 208.134, 208.135, 208.136, and 208.137 of the Michigan  
15 Compiled Laws, are amended to read as follows:

16       Sec. 3. (1) "Affiliated group" means 2 or more corpora-  
17 tions, 1 of which owns or controls, directly or indirectly, 80%  
18 or more of the capital stock with voting rights of the other cor-  
19 poration or corporations.

20       (2) "Business activity" means a transfer of legal or equita-  
21 ble title to or rental of property, whether real, personal, or  
22 mixed, tangible or intangible, or the performance of services, or  
23 a combination thereof, made or engaged in, or caused to be made  
24 or engaged in, within this state, whether in intrastate,

1 interstate, or foreign commerce, with the object of gain,  
2 benefit, or advantage, whether direct or indirect, to the tax-  
3 payer or to others, but shall not include the services rendered  
4 by an employee to his OR HER employer, services as a director of  
5 a corporation, or a casual transaction. Although an activity of  
6 a taxpayer may be incidental to another or other of his OR HER  
7 business activities, each activity shall be considered to be  
8 business engaged in within the meaning of this act.

9 (3) "Business income" means federal taxable income, except  
10 that for a person other than a corporation it means that part of  
11 federal taxable income derived from business activity. For a  
12 partnership, business income includes payments and items of  
13 income and expense ~~which~~ THAT are attributable to business  
14 activity of the partnership and separately reported to the  
15 partners. FOR A LIMITED LIABILITY COMPANY, BUSINESS INCOME  
16 INCLUDES PAYMENTS AND ITEMS OF INCOME AND EXPENSE THAT ARE  
17 ATTRIBUTABLE TO THE BUSINESS ACTIVITY OF THE LIMITED LIABILITY  
18 COMPANY AND SEPARATELY REPORTED TO THE MEMBERS.

19 Sec. 6. (1) "Person" means an individual, firm, bank,  
20 financial institution, limited partnership, copartnership, part-  
21 nership, LIMITED LIABILITY COMPANY, joint venture, association,  
22 corporation, receiver, estate, trust, or any other group or com-  
23 bination acting as a unit.

24 (2) "Rent" includes a lease payment or other payment for the  
25 use of any property to which the taxpayer does not have legal or  
26 equitable title.

1       Sec. 20. The tax base of nonprofit persons not required to  
2 pay federal income taxes shall be the ~~sum of the~~ net  
3 ~~additions~~ AMOUNT AFTER ALL OF THE ADJUSTMENTS specified in sec-  
4 tions 9, ~~and~~ 23, AND 23B. ~~less the deductions specified in~~  
5 ~~those sections.~~

6       Sec. 22a. From August 3, 1987 to September 30, 1987, for  
7 the tax year beginning October 1, 1987 and ending September 30,  
8 1988, and each tax year thereafter, the tax base and adjusted tax  
9 base of an insurance company is the product of .25 times the  
10 insurance company's gross receipts as apportioned under section  
11 62, excluding receipts on the sale of annuities and receipts on  
12 the sale of reinsurance. The tax base and adjusted tax base cal-  
13 culated under this section shall not be adjusted under section 23  
14 OR 23B. The tax calculated ~~thereon~~ PURSUANT TO THIS SECTION  
15 shall be in lieu of all other privilege or franchise fees or  
16 taxes imposed by another law of ~~the~~ THIS state, except taxes on  
17 real and personal property and except as otherwise provided in  
18 this act and in the insurance code of 1956, Act No. 218 of the  
19 Public Acts of 1956, being sections 500.100 to 500.8302 of the  
20 Michigan Compiled Laws.

21       Sec. 31. (1) There is levied and imposed a specific tax of  
22 2.35% upon the adjusted tax base of every person with business  
23 activity in this state that is allocated or apportioned to this  
24 state. FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1993, THERE IS  
25 LEVIED AND IMPOSED AN ADDITIONAL TAX OF 0.5% UPON THE ADJUSTED  
26 TAX BASE OF EVERY PERSON WITH BUSINESS ACTIVITY IN THIS STATE  
27 THAT IS ALLOCATED OR APPORTIONED TO THIS STATE. THE GROSS

1 REVENUES FROM THE ADDITIONAL TAX OF 0.5% SHALL BE DEPOSITED IN  
2 THE STATE SCHOOL AID FUND CREATED IN SECTION 11 OF ARTICLE IX OF  
3 THE STATE CONSTITUTION OF 1963.

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

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

19 (4) In lieu of the reduction provided in subsection (2), a  
20 person may elect to reduce the adjusted tax base by the percen-  
21 tage that the compensation divided by the tax base exceeds 63%.  
22 The deduction shall not exceed 37% of the adjusted tax base. For  
23 purposes of computing the deduction allowed by this subsection,  
24 as effective for the respective tax year, compensation does not  
25 include amounts of compensation exempt from tax under section  
26 35(1)(e). This subsection does not apply to an adjusted tax base  
27 under section 22a.

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

3       (a) For tax years beginning after 1976 and before January 1,  
4 1989, the first \$40,000.00; for tax years beginning in 1989, the  
5 first \$41,000.00; for tax years beginning in 1990, the first  
6 \$42,000.00; for tax years beginning in 1991, the first  
7 \$43,000.00; for tax years beginning in 1992, the first  
8 \$44,000.00; and for tax years beginning after 1992, the first  
9 \$45,000.00 of the tax base of every person. This exemption shall  
10 be increased by \$12,000.00 for each partner of a partnership,  
11 MEMBER OF A LIMITED LIABILITY COMPANY, or shareholder of a sub-  
12 chapter S corporation or professional corporation in excess of 1  
13 who is a full-time employee of the taxpayer, whose business  
14 income from that business is at least \$12,000.00, and who owns at  
15 least 10% of that business. The total increase in the exemption  
16 shall be not more than \$48,000.00. For a taxpayer whose business  
17 activity is for a fractional part of a year, the exemption pro-  
18 vided in this subdivision including the increase in the exemption  
19 shall be prorated for the period of the taxpayer's business  
20 activity. This exemption shall be reduced by \$2.00 for each  
21 \$1.00 that business income exceeds the amount of the exemption.  
22 For the purposes of computing the exemption UNDER THIS  
23 SUBDIVISION, "business income" means that term as defined in sec-  
24 tion 3 plus compensation and director's fees of shareholders of a  
25 corporation and any carryback or carryover of a net operating  
26 loss or capital loss to the extent deducted in arriving at  
27 federal taxable income. In calculating eligibility for the

1 exemption provided in this subdivision, a person who is not a  
2 corporation may elect to average its business income for the cur-  
3 rent year and the previous 4 taxable years. Business income as  
4 defined in this subdivision shall not be less than zero. For the  
5 purposes of this subdivision, tax base shall be after allocation  
6 and apportionment provided in chapter 3 and the adjustments pro-  
7 vided in sections 23 and 23b. This subdivision does not apply to  
8 an adjusted tax base under section 22a.

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

11 (c) A person who is exempt from federal income tax pursuant  
12 to the provisions of the internal revenue code except the  
13 following:

14 (i) An organization included under section 501(c)(12) or  
15 501(c)(16) of the internal revenue code, 26 U.S.C. 501.

16 (ii) An organization exempt under section 501(c)(4) of the  
17 internal revenue code, 26 U.S.C. 501, that would be exempt under  
18 section 501(c)(12) of the internal revenue code, 26 U.S.C. 501,  
19 but for its failure to meet the requirements in section  
20 501(c)(12) OF THE INTERNAL REVENUE CODE that 85% or more of its  
21 income must consist of amounts collected from members.

22 (iii) The adjusted tax base attributable to the activities  
23 giving rise to the unrelated taxable business income of an exempt  
24 person.

25 (d) Before August 3, 1987, a foreign or alien insurance com-  
26 pany subject to the provisions of the premium tax under sections  
27 440 to 446 of Act No. 218 of the Public Acts of 1956, as those

1 sections were in effect on December 27, 1987. This exemption  
2 does not apply to the tax base derived from a business activity  
3 other than insurance carrier services.

4 (e) Before August 3, 1987, that portion of the payroll of a  
5 domestic insurer or of a marketing corporation that constitutes  
6 insurance sales commissions paid to employees and salaries of  
7 employees primarily concerned with the adjustment of claims.  
8 This exemption does not apply to a marketing corporation that is  
9 not controlled, directly or indirectly, by stock ownership or  
10 common management, by the domestic insurer or insurers from which  
11 it derives all or substantially all of its gross income, exclu-  
12 sive of income from investments.

13 (f) Beginning August 3, 1987 and after being apportioned  
14 under section 62, the first \$130,000,000.00 of disability insur-  
15 ance premiums written in Michigan, or, for the 1991 tax year  
16 only, the first \$162,500,000.00 of disability insurance premiums  
17 written in Michigan, other than credit insurance and disability  
18 income insurance premiums, of each insurer subject to tax under  
19 this act. This exemption shall be reduced by \$2.00 for each  
20 \$1.00 by which the insurer's gross premiums from insurance car-  
21 rier services in this state and outside this state exceed  
22 \$180,000,000.00, or, for the 1991 tax year only,  
23 \$225,000,000.00.

24 (g) A nonprofit cooperative housing corporation. As used in  
25 this subdivision, "nonprofit cooperative housing corporation"  
26 means a cooperative housing corporation that is engaged in  
27 providing housing services to its stockholders and members and

1 that does not pay dividends or interest upon stock or membership  
2 investment but that does distribute all earnings to its stock-  
3 holders or members. This exemption does not apply to a business  
4 activity of a nonprofit cooperative housing corporation other  
5 than providing housing services to its stockholders and members.

6 (h) That portion of the tax base attributable to the produc-  
7 tion of agricultural goods by a person whose primary activity is  
8 the production of agricultural goods. "Production of agricul-  
9 tural goods" means commercial farming including, but not limited  
10 to, cultivation of the soil; growing and harvesting of an agri-  
11 cultural, horticultural, or floricultural commodity; dairying;  
12 raising of livestock, bees, fish, fur-bearing animals, or poul-  
13 try; or turf or tree farming, but not including the marketing at  
14 retail of agricultural goods.

15 (i) Except as provided in subsection (3), a farmers' cooper-  
16 ative corporation organized within the limitations of section 98  
17 of Act No. 327 of the Public Acts of 1931, being section 450.98  
18 of the Michigan Compiled Laws, that was at any time exempt under  
19 subdivision (c) because the corporation was exempt from federal  
20 income taxes under section 521 of the internal revenue code, 26  
21 U.S.C. 521, and that would continue to be exempt under section  
22 521 of the internal revenue code except for either of the follow-  
23 ing activities:

24 (i) The corporation's repurchase from nonproducer customers  
25 of portions or components of commodities the corporation markets  
26 to those nonproducer customers and the corporation's subsequent

1 manufacturing or marketing of the repurchased portions or  
2 components of the commodities.

3 (ii) The corporation's incidental or emergency purchases of  
4 commodities from nonproducers to facilitate the manufacturing or  
5 marketing of commodities purchased from producers.

6 (j) That portion of the tax base attributable to the direct  
7 and indirect marketing activities of a farmers' cooperative cor-  
8 poration organized within the limitations of section 98 of Act  
9 No. 327 of the Public Acts of 1931, if those marketing activities  
10 are provided on behalf of the members of that corporation and are  
11 related to the members' direct sales of their products to third  
12 parties, or, for livestock, are related to the members' direct or  
13 indirect sales of that product to third parties. Marketing  
14 activities for a product that is not livestock are not exempt  
15 under this subdivision if the farmers' cooperative corporation  
16 takes physical possession of the product. As used in this subdi-  
17 vision, "marketing activities" includes, but is not limited to,  
18 activities under the agricultural commodities marketing act, Act  
19 No. 232 of the Public Acts of 1965, being sections 290.651 to  
20 290.674 of the Michigan Compiled Laws, and the agricultural mar-  
21 keting and bargaining act, Act No. 344 of the Public Acts of  
22 1972, being sections 290.701 to 290.726 of the Michigan Compiled  
23 Laws; dissemination of market information; establishment of price  
24 and other terms of trade; promotion; and research relating to  
25 members' products.

26 (2) An affiliated group, a controlled group of corporations  
27 as defined by section 1563 of the internal revenue code, 26

1 U.S.C. 1563, or an entity under common control as defined by the  
2 internal revenue code is entitled to only 1 exemption allowed by  
3 subsection (1)(a) whether or not a combined or consolidated  
4 return is filed.

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

10 Sec. 36. (1) As used in this section:

11 (a) "Active shareholder" means a shareholder who receives at  
12 least \$10,000.00 in compensation, director's fees, or dividends  
13 from the business, and who owns at least 5% of the outstanding  
14 stock.

15 (b) "Officer" means an officer of a corporation other than a  
16 subchapter S corporation including the chairperson of the board,  
17 president, vice-president, secretary, and treasurer, or persons  
18 performing similar duties.

19 (c) "Adjusted business income" means business income as  
20 defined in section 3 with all of the following adjustments:

21 (i) Add compensation and director's fees of active share-  
22 holders of a corporation.

23 (ii) Make the adjustments provided in section 9(4)(a) and  
24 (b).

25 (iii) Add compensation and director's fees of officers of a  
26 corporation.

1 (d) "Shareholder" means a person who owns outstanding stock  
 2 in the business. An individual is considered as the owner of the  
 3 stock owned, directly or indirectly, by or for family members as  
 4 defined by section 318(a)(1) of the internal revenue code, 26  
 5 U.S.C. 318.

6 (e) "Loss adjustment" means the amount by which adjusted  
 7 business income was less than zero in any of the 5 tax years  
 8 immediately preceding the tax year for which eligibility for the  
 9 credit provided by this section is being determined. In deter-  
 10 mining the loss adjustment for a tax year, a taxpayer is not  
 11 required to use more of the taxpayer's total negative adjusted  
 12 business income than the amount needed to qualify the taxpayer  
 13 for the credit under this section. A taxpayer shall not be con-  
 14 sidered to have used any portion of the taxpayer's negative  
 15 adjusted business income amount unless the portion used is neces-  
 16 sary to qualify for the credit under this section. A taxpayer  
 17 shall not reuse a negative adjusted business income amount used  
 18 as a loss adjustment in a previous tax year or use a negative  
 19 adjusted business income amount from a year in which the taxpayer  
 20 did not receive the credit under this section.

21 (f) "Subchapter S corporation" means a corporation electing  
 22 taxation under subchapter S of chapter 1 of subtitle A of the  
 23 internal revenue code, ~~sections~~ 26 U.S.C. 1361 to 1379. ~~of the~~  
 24 ~~internal revenue code.~~

25 (2) The credit provided in this section shall be taken  
 26 before any other credit under this act, and is available to any  
 27 person whose gross receipts do not exceed \$6,000,000.00 for tax

1 years commencing on or after January 1, 1984 and before January  
2 1, 1989; \$7,000,000.00 for tax years commencing in 1989;  
3 \$7,250,000.00 for tax years commencing in 1990; \$7,500,000.00 for  
4 tax years commencing in 1991; or \$10,000,000.00 for tax years  
5 commencing after 1991, and whose adjusted business income minus  
6 the loss adjustment does not exceed \$475,000.00 for tax years  
7 commencing on or after January 1, 1985, subject to the  
8 following:

9 (a) An individual, a partnership, A LIMITED LIABILITY  
10 COMPANY, or a subchapter S corporation is disqualified if the  
11 individual, any 1 partner of the partnership, ANY 1 MEMBER OF THE  
12 LIMITED LIABILITY COMPANY, or any 1 shareholder of the subchapter  
13 S corporation receives more than \$95,000.00 for tax years com-  
14 mencing on or after January 1, 1985 as a distributive share of  
15 the adjusted business income minus the loss adjustment of the  
16 individual, the partnership, THE LIMITED LIABILITY COMPANY, or  
17 the subchapter S corporation.

18 (b) A corporation other than a subchapter S corporation is  
19 disqualified if either of the following occur for the respective  
20 tax year:

21 (i) Compensation and director's fees of a shareholder or  
22 officer exceed \$95,000.00 for tax years commencing on or after  
23 January 1, 1985.

24 (ii) The sum of the following amounts exceeds \$95,000.00 for  
25 tax years commencing on or after January 1, 1985:

26 (A) Compensation and director's fees of a shareholder.

1 (B) The product of the percentage of outstanding stock owned  
2 by that shareholder multiplied by the difference of the sum of  
3 business income and the adjustments provided in section 9(4)(a)  
4 and (b) minus the loss adjustment.

5 (3) For the purposes of determining disqualification under  
6 subsection (2), an active shareholder's share of business income  
7 shall not be attributed to another active shareholder.

8 (4) A person who qualifies pursuant to subsection (2) is  
9 allowed a credit against the tax imposed by section 31. For tax  
10 years commencing before January 1, 1989, the credit is a percen-  
11 tage reduction in tax liability. For tax years commencing on and  
12 after January 1, 1989 and through tax years commencing in 1991,  
13 the credit is the greater of the amount by which the tax imposed  
14 by section 31 exceeds 4% of adjusted business income or 3% of  
15 adjusted business income for tax years commencing after 1991 or a  
16 percentage reduction in tax liability.

17 (5) The percentage reduction provided in subsection (4) is  
18 calculated by subtracting from 100% the percentage computed by  
19 dividing adjusted business income by 45% of tax base.

20 (6) If gross receipts exceed \$5,000,000.00 for tax years  
21 commencing on or after January 1, 1984 and before January 1,  
22 1989; \$6,000,000.00 for tax years commencing in 1989;  
23 \$6,250,000.00 for tax years commencing in 1990; \$6,500,000.00 for  
24 tax years commencing in 1991; or \$9,000,000.00 for tax years com-  
25 mencing after 1991, the credit shall be reduced by a fraction,  
26 the numerator of which is the amount of gross receipts over  
27 \$5,000,000.00 for tax years commencing on or after January 1,

1 1984 and before January 1, 1989; \$6,000,000.00 for tax years  
2 commencing in 1989; \$6,250,000.00 for tax years commencing in  
3 1990; \$6,500,000.00 for tax years commencing in 1991; or  
4 \$9,000,000.00 for tax years commencing after 1991, and the denom-  
5 inator of which is \$1,000,000.00. The credit shall not exceed  
6 50% for tax years commencing before January 1, 1984; 90% for tax  
7 years commencing on or after January 1, 1984 and before  
8 January 1, 1988; or 100% for tax years commencing on and after  
9 January 1, 1988 of the tax liability imposed by section 31.

10 (7) An affiliated group as defined in this act and a con-  
11 trolled group of corporations or an entity under common control  
12 as defined by the internal revenue code shall not take the credit  
13 allowed by this section unless the business activities of the  
14 entities are consolidated.

15 (8) The department shall permit a taxpayer who elects to  
16 claim the credit allowed by this section based on the amount by  
17 which the tax imposed by section 31 exceeds the percentage of  
18 adjusted business income for the tax year as determined under  
19 subsection (4), and who is not required to reduce the credit pur-  
20 suant to subsection (6), to file and pay the tax imposed by this  
21 act without computing the tax imposed under section 31.

22 Sec. 37. Every taxpayer ~~who~~ THAT is unincorporated  
23 INCLUDING A LIMITED LIABILITY COMPANY or ~~who~~ THAT elects the  
24 subchapter S provisions of the internal revenue code, 26  
25 U.S.C. 1361 TO 1379, shall be allowed a credit for a portion of  
26 the single business tax liability after the calculation of the

1 credit provided in section 36 for the same year according to the  
2 following schedule:

3 <u>If Business Income Is</u>	4 <u>The Credit Is</u>
5 \$20,000.00 or less	6 20% of the single business tax
7	8 liability
9 <del>more</del> MORE than \$20,000.00,	10 15% of the single business tax
11 but less than \$40,000.00	12 liability
13 \$40,000.00 or more	14 10% of the single business tax
15	16 liability.

10 Sec. 38c. (1) For the 1989 through 1994 tax years and  
11 subject to the limitations in subsections (2) to (5), a taxpayer  
12 who does not claim a credit under section 261 of the income tax  
13 act of 1967, Act No. 281 of the Public Acts of 1967, being sec-  
14 tion 206.261 of the Michigan Compiled Laws, may credit against  
15 the tax imposed by this act 50% of the amount the taxpayer con-  
16 tributes during the taxable year to an endowment fund of a commu-  
17 nity foundation or FOR TAX YEARS BEGINNING IN 1992 AND 1993 AND  
18 SUBJECT TO THE LIMITATIONS IN SUBSECTIONS (2) AND (4), A TAXPAYER  
19 MAY CREDIT AGAINST THE TAX IMPOSED BY THIS ACT 50% of the cash  
20 amount the taxpayer contributes during the taxable year to a  
21 shelter for homeless persons, food kitchen, food bank, or other  
22 entity, the primary purpose of which is to provide overnight  
23 accommodation, food, or meals to persons who are indigent if a  
24 contribution to that entity is tax deductible for the donor under  
25 the internal revenue code.

26 (2) The credit allowed by this section for a contribution to  
27 a community foundation shall not exceed 5% of the taxpayer's tax

1 liability for the tax year before claiming any credits allowed by  
2 this act or \$5,000.00, whichever is less. For tax years begin-  
3 ning after December 31, 1991, a taxpayer may claim an additional  
4 credit under this section not to exceed 5% of the taxpayer's tax  
5 liability for the tax year before claiming any credits allowed by  
6 this act or \$5,000.00, whichever is less, for total cash contri-  
7 butions made in the tax year to shelters for homeless persons,  
8 food kitchens, food banks, and, except for community foundations,  
9 other entities allowed under subsection (1). The credits allowed  
10 by this section are nonrefundable so that a taxpayer shall not  
11 claim under this section a total credit amount that reduces the  
12 taxpayer's tax liability to less than zero.

13 (3) As used in this section, "community foundation" means an  
14 organization that applies for certification on or before April 1  
15 of the tax year for which the taxpayer is claiming the credit and  
16 that the department certifies for that tax year as meeting all of  
17 the following requirements:

18 (a) Qualifies for exemption from federal income taxation  
19 under section 501(c)(3) of the internal revenue code, 26  
20 U.S.C. 501.

21 (b) Supports a broad range of charitable activities within  
22 the specific geographic area of this state that it serves, such  
23 as a municipality or county.

24 (c) Maintains an ongoing program to attract new endowment  
25 funds by seeking gifts and bequests from a wide range of poten-  
26 tial donors in the community or area served.

1 (d) Is publicly supported as defined by the regulations of  
 2 the United States department of treasury, 26  
 3 C.F.R. 1.170A-9(e)(10).

4 (e) Is not a supporting organization as defined under sec-  
 5 tion 509(a)(3) of the internal revenue code and the regulations  
 6 of the United States department of treasury, 26 C.F.R. 1.509(a)-4  
 7 and 1.509(a)-5.

8 (f) Meets the requirements for treatment as a single entity  
 9 contained in the regulations of the United States department of  
 10 treasury, 26 C.F.R. 1.170A-9(e)(11).

11 (g) Is incorporated or established as a trust before  
 12 September 1 of the year immediately preceding the tax year for  
 13 which the credit is claimed.

14 (4) ~~(5)~~ An entity other than a community foundation may  
 15 request that the department determine if a contribution to that  
 16 entity qualifies for the credit under this section. The depart-  
 17 ment shall make a determination and respond to a request no later  
 18 than 30 days after the department receives the request.

19 (5) The credit for a contribution to a community foundation  
 20 under this section does not apply in a tax year for which the  
 21 aggregate amount of the credits claimed by all taxpayers for all  
 22 prior tax years for contributions to community foundations under  
 23 this section and section 261 of the income tax act of 1967, Act  
 24 No. 281 of the Public Acts of 1967, ~~being section 206.261 of the~~  
 25 ~~Michigan Compiled Laws,~~ exceeds \$6,000,000.00. ~~The credit~~  
 26 ~~under this section for a contribution to an entity other than a~~  
 27 ~~community foundation does not apply in a tax year for which the~~

~~1 aggregate amount of the credits claimed by all taxpayers for all~~  
~~2 prior tax years for those contributions under this section and~~  
~~3 section 261 of the income tax act of 1967, Act No. 281 of the~~  
~~4 Public Acts of 1967, exceeds \$1,500,000.00.~~

5 (6) On or before July 1 of each year, the department shall  
6 report to the house OF REPRESENTATIVES committee on taxation and  
7 the senate committee on finance the total amount of tax credits  
8 claimed under this section and under section 261 of the income  
9 tax act of 1967, Act No. 281 of the Public Acts of 1967, for the  
10 IMMEDIATELY preceding tax year.

11 Sec. 71. (1) A taxpayer who reasonably expects liability  
12 for the tax year to exceed \$600.00 or adjustments under ~~section~~  
13 SECTIONS 23 AND 23B to exceed \$100,000.00 shall file an estimated  
14 return and pay an estimated tax for each quarter of the  
15 taxpayer's tax year.

16 (2) For taxpayers on a calendar year basis the quarterly  
17 returns and estimated payments shall be made by April 30,  
18 July 31, October 31, and January 31. Taxpayers not on a calendar  
19 year basis shall file quarterly returns and make estimated pay-  
20 ments on the appropriate due date which in the taxpayer's fiscal  
21 year corresponds to the calendar year.

22 (3) The estimated payment made with each quarterly return of  
23 each tax year shall be for the estimated tax base for the quarter  
24 or 25% of the estimated annual liability. The second, third, and  
25 fourth estimated payments in each tax year shall include adjust-  
26 ments, if necessary, to correct underpayments or overpayments

1 from previous quarterly payments in the tax year to a revised  
2 estimate of the annual tax liability.

3 (4) The interest provided by this act shall not be assessed  
4 if any of the following occur:

5 (a) If the sum of the estimated payments equals at least 85%  
6 of the liability or 1% of the gross receipts for the tax year and  
7 the amount of each estimated payment reasonably approximates the  
8 tax liability incurred during the quarter for which the estimated  
9 payment was made.

10 (b) If the IMMEDIATELY preceding year's tax liability was  
11 \$20,000.00 or less and if the taxpayer submitted 4 equal install-  
12 ments the sum of which equals the previous year's tax liability.

13 (5) Each estimated return shall be made on a form prescribed  
14 by the department and shall include an estimate of the annual tax  
15 liability and other information required by the commissioner.

16 This form may be combined with any other tax reporting form pre-  
17 scribed by the department.

18 (6) With respect to a taxpayer filing an estimated tax  
19 return for the taxpayer's first tax year of less than 12 months,  
20 the amounts paid with each return shall be proportional to the  
21 number of payments made in the first tax year.

22 (7) Payments made under this section shall be a credit  
23 against the payment required with the annual tax return required  
24 in section 73.

25 (8) When the commissioner considers it necessary to insure  
26 payment of the tax or to provide a more efficient administration  
27 of the tax, the commissioner may require filing of the returns

1 and payment of the tax for other than quarterly or annual  
2 periods.

3 (9) A taxpayer who elects under the internal revenue code to  
4 file an annual federal income tax return by March 1 in the year  
5 following the taxpayer's tax year and does not make a quarterly  
6 estimate or payment, or does not make a quarterly estimate or  
7 payment and files a tentative annual return with a tentative pay-  
8 ment by January 15, in the year following the taxpayer's tax year  
9 and a final return by April 15 in the year following the  
10 taxpayer's tax year, shall have the same option in filing the  
11 estimated and annual returns required by this act.

12 (10) Instead of the quarterly return prescribed in subsec-  
13 tions (1) and (2) the taxpayer may elect either of the following  
14 options:

15 (a) To file and pay before the sixteenth day of each month  
16 an estimated return computed at the rate of 1% of the gross  
17 receipts for the IMMEDIATELY preceding month.

18 (b) To file and pay before the sixteenth day of the months  
19 specified in subsection (2) an estimated return computed at the  
20 rate of 1% of the gross receipts for the IMMEDIATELY preceding  
21 quarter.

22 Sec. 73. (1) An annual or final return shall be filed with  
23 the department in the form and content prescribed by the depart-  
24 ment by the last day of the fourth month after the end of the  
25 taxpayer's tax year. Any final liability shall be remitted with  
26 this return. A person whose apportioned or allocated gross  
27 receipts plus the adjustments provided in section 23b(a), (b),

1 and (c) are less than the following amount for the appropriate  
2 year need not file a return or pay the tax provided under this  
3 act:

4 (a) \$40,000.00 for tax years beginning before January 1,  
5 1991.

6 (b) \$60,000.00 for tax years beginning after December 31,  
7 1990 and before January 1, 1992.

8 (c) \$100,000.00 for tax years beginning after December 31,  
9 1991.

10 (2) For a person whose apportioned or allocated gross  
11 receipts plus the adjustments provided in section 23b(a), (b),  
12 and (c), are for a tax year less than 12 months, the amount in  
13 subsection (1) shall be multiplied by a fraction, the numerator  
14 of which is the number of months in the tax year and the denomi-  
15 nator of which is 12.

16 (3) The commissioner upon application of the taxpayer and  
17 for good cause shown may extend the date for filing the annual  
18 return. Interest at the rate ~~of 9% per annum~~ PROVIDED IN SEC-  
19 TION 23(2) OF ACT NO. 122 OF THE PUBLIC ACTS OF 1941, BEING SEC-  
20 TION 205.23 OF THE MICHIGAN COMPILED LAWS, shall be added to the  
21 amount of the tax unpaid for the period of the extension. The  
22 commissioner shall require a tentative return and payment of an  
23 estimated tax.

24 (4) If a taxpayer is granted an extension of time within  
25 which to file the federal income tax return for any taxable year,  
26 the filing of a copy of the request for extension together with a  
27 tentative return and payment of an estimated tax with the

1 commissioner by the due date provided in subsection (1) shall  
2 automatically extend the due date for the filing of a final  
3 return under this act for an equivalent period plus 60 days.  
4 Interest at the rate ~~of 9% per annum~~ PROVIDED IN SECTION 23(2)  
5 OF ACT NO. 122 OF THE PUBLIC ACTS OF 1941, BEING SECTION 205.23  
6 OF THE MICHIGAN COMPILED LAWS, shall be added to the amount of  
7 the tax unpaid for the period of the extension.

8       Sec. 76. (1) At the request of the department, a person  
9 required by the internal revenue code to file or submit an infor-  
10 mation return of income paid to others shall, to the extent the  
11 information is applicable to residents of this state, at the same  
12 time file or submit TO THE DEPARTMENT the information in form and  
13 content ~~as may be~~ prescribed ~~to~~ BY the department.

14       (2) A voluntary association, joint venture, partnership,  
15 LIMITED LIABILITY COMPANY, estate, or trust at the request of the  
16 department shall file a copy of any tax return or portion of any  
17 tax return ~~which~~ THAT was filed ~~under the provisions of~~  
18 PURSUANT TO the internal revenue code. The department may pre-  
19 scribe AN alternate ~~forms of returns~~ FORM FOR A RETURN.

20       Sec. 134. (1) The department of treasury shall calculate  
21 the amount of payment to be made to a city, village, or township  
22 by multiplying the amount of state equalized value of tax exempt  
23 inventory property as certified by the department of treasury  
24 under section 132 times the property tax rate for each taxing  
25 unit as certified each year to the department of treasury for  
26 purposes of this act. The amount due under this section,  
27 including any accrued interest, shall be paid to the cities and

1 villages between July 1 and October 2 of each year. The  
2 townships shall receive their funds by February 1 of each year.

3 (2) Payments made under this section and section 136, and  
4 the allocation and appropriation of amounts necessary to make the  
5 payments under this section and section 136, shall include inter-  
6 est which shall accrue on the unpaid balance from October 2 for  
7 payments under this section to cities and villages, from  
8 February 1 for payments under this section to townships, and from  
9 the date each year the distributions under section 136 are  
10 required to have been paid. Interest shall accrue at the rate  
11 determined under section 13b of the state revenue sharing act OF  
12 1971, Act No. 140 of the Public Acts of 1971, being section  
13 141.913b of the Michigan Compiled Laws.

14 (3) A payment required to be made under this section or sec-  
15 tion 136 shall not be delayed so as to cause interest to accrue  
16 pursuant to subsection (2) unless the delay in any payment is  
17 authorized by a written directive issued and signed by the gover-  
18 nor which directive shall conform to and be subject to subsec-  
19 tions (2) and (3) of section 13b of ~~the state revenue sharing~~  
20 ~~act~~ ACT NO. 140 OF THE PUBLIC ACTS OF 1971.

21 (4) Amounts required to be paid pursuant to this section or  
22 section 136 that are subject to an unavoidable delay of a de  
23 minimis period or that are withheld or set off pursuant to law in  
24 the settlement or adjustment of an obligation or debt due to this  
25 state shall not be subject to subsections (2) and (3).

26 (5) The state treasurer may make a disbursement for a  
27 payment under this section or section 136 which has been delayed

1 in advance of the date the delayed payment is expected to be  
2 paid.

3 (6) For the payments due in February 1988 and February 1989  
4 only, a city, village, or township that received a payment in  
5 February 1987 that was based upon a local tax rate that included  
6 special assessments shall not receive less than the amount  
7 received in February 1987. A payment shall not be made in 1989  
8 to a township pursuant to this subsection unless the township  
9 becomes a charter township or city prior to February 1, 1989.

10 (7) DISBURSEMENTS SHALL NOT BE MADE UNDER THIS SECTION AFTER  
11 SEPTEMBER 30, 1994.

12 Sec. 135. (1) The department of treasury shall pay to each  
13 county by February 1 of each year, following the year the amount  
14 was calculated, an amount of money equal to the product of the  
15 state equalized value based upon inventory as certified by the  
16 department of treasury under section 132 times the county prop-  
17 erty tax rate for the county as reported to the department of  
18 treasury under section 138.

19 (2) Payments made under this section and the allocation and  
20 appropriation of amounts necessary to make the payments under  
21 this section shall include interest, which shall accrue on the  
22 unpaid balance from February 1, at a rate of interest determined  
23 under section 13b of the state revenue sharing act OF 1971, Act  
24 No. 140 of the Public Acts of 1971, being section 141.913b of the  
25 Michigan Compiled Laws.

26 (3) A payment required to be made under this section shall  
27 not be delayed so as to cause interest to accrue pursuant to

1 subsection (2) unless the delay in any payment is authorized by a  
2 written directive issued and signed by the governor which direc-  
3 tive shall conform to and be subject to subsections (2) and (3)  
4 of section 13b of ~~the state revenue sharing act~~ ACT NO. 140 OF  
5 THE PUBLIC ACTS OF 1971.

6 (4) Amounts required to be paid pursuant to this section  
7 that are subject to an unavoidable delay of a de minimis period  
8 or that are withheld or set off pursuant to law in the settlement  
9 or adjustment of an obligation or debt due to this state shall  
10 not be subject to subsections (2) and (3).

11 (5) The state treasurer may make a disbursement for payment  
12 under this section which has been delayed in advance of the date  
13 the delayed payment is expected to be paid.

14 (6) DISBURSEMENTS SHALL NOT BE MADE UNDER THIS SECTION AFTER  
15 SEPTEMBER 30, 1994.

16 Sec. 136. (1) The department of treasury shall total the  
17 amounts payable to cities, villages, and townships under section  
18 134 between July 1, 1976 and February 1, 1977, but excluding any  
19 payments under section 137.

20 (2) Between July 1, 1977 and February 28, 1978, an addi-  
21 tional amount of the single business tax equal to 5% of the  
22 amount calculated in subsection (1) shall be distributed to all  
23 cities, villages, and townships through the tax effort formula as  
24 defined in the state revenue sharing act of 1971, Act No. 140 of  
25 the Public Acts of 1971, as amended, being sections 141.901 to  
26 141.921 of the Michigan Compiled Laws.

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

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

8 (b) The percentage calculated in subdivision (a) is multi-  
9 plied by the gross collections before refunds of the single busi-  
10 ness tax from each July 1 through June 30, starting with the  
11 gross collections before refunds from July 1, 1977, through  
12 June 30, 1978. From this amount subtract the amount necessary to  
13 make the payments to cities, villages, and townships under sec-  
14 tion 134 for the same year. The difference shall be distributed  
15 to cities, villages, and townships by the tax effort formula  
16 between October 1 and February 28 following the calculation based  
17 upon the preceding June 30. At least 1/2 of this payment shall  
18 be distributed before November 1 in any year that money is dis-  
19 tributed under this section. Funds not distributed pursuant to  
20 this subdivision after March 1, 1992 and before October 1, 1992  
21 shall lapse to the general fund at the close of the fiscal year  
22 ending September 30, 1992.

23 (4) During each June, starting in 1976, the department of  
24 treasury shall distribute to cities, villages, and townships  
25 through the tax effort formula, as defined in Act No. 140 of the  
26 Public Acts of 1971, an amount to replace payments to cities,  
27 villages, and townships from the intangibles tax previously made

1 under section 13 of Act No. 140 of the Public Acts of 1971, as  
2 amended, being section 141.913 of the Michigan Compiled Laws,  
3 determined as follows:

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

8 (b) For payments after January 1, 1978, a percentage of the  
9 gross collections before refunds of the tax levied by this act  
10 for the most recent fully completed July 1 through June 30 period  
11 as certified by the department of treasury as of May 31. The  
12 percentage set aside for distribution is calculated by dividing  
13 \$40,000,000.00 by the gross collections before refunds of the  
14 single business tax from July 1, 1976, through June 30, 1977.  
15 For the 1992-1993 state fiscal year, the amount determined under  
16 this subsection shall be reduced by \$11,775,000.00 before the  
17 distribution under this subsection is made. For the 1993-94  
18 state fiscal year, the amount determined under this subsection  
19 shall be reduced by \$6,863,000.00 before the distribution under  
20 this subsection is made.

21 (5) A city, village, or township is not eligible for a pay-  
22 ment under subsection (4) unless that local unit of government  
23 requires sealed competitive bidding for any contract of  
24 \$20,000.00 or more except a contract for professional services or  
25 emergency repairs or services exempted pursuant to a written  
26 policy adopted or approved by the governing body of the local

1 unit of government. This section shall not apply to transactions  
2 between governmental units.

3 (6) DISTRIBUTIONS SHALL NOT BE MADE UNDER THIS SECTION AFTER  
4 SEPTEMBER 30, 1994.

5 Sec. 137. (1) The treasurer of any city, village, township,  
6 or county who collects money for an authority that levies prop-  
7 erty taxes, shall pay an eligible authority its proportionate  
8 share of the reimbursements under sections 134 and 135. The pro-  
9 portionate share shall be calculated by the percentage that the  
10 property taxes collected by the authority are to the property  
11 taxes of the assessing unit. The property taxes of such authori-  
12 ties may be added to the millages used in section 134.

13 (2) For an authority to be eligible for compensation under  
14 this act, that authority must have an authorization to have taxes  
15 levied for its use as provided by law.

16 (3) School districts, intermediate school districts, commu-  
17 nity college districts, vocational education, and special educa-  
18 tion districts shall not be included under ~~the provisions of~~  
19 this chapter.

20 (4) PAYMENTS SHALL NOT BE MADE UNDER THIS SECTION AFTER  
21 SEPTEMBER 30, 1994.

22 Section 2. Section 39a of Act No. 228 of the Public Acts of  
23 1975, being section 208.39a of the Michigan Compiled Laws, is  
24 repealed.