



HOUSE BILL No. 5751

September 14, 1994, Introduced by Reps Profit Bullard Dobb and Alley and referred to the Committee on Taxation

A bill to amend sections 3, 3a, 4, and 4a of Act No 301 of the Public Acts of 1939, entitled as amended

"An act to provide for the imposition and the collection of a specific tax upon the privilege of ownership of intangible personal property and on certain enterprises having possession of intangible personal property of another to define owners of intangible personal property to provide for the disposition of the proceeds thereof to prescribe the powers and duties of the department of revenue with respect thereto to prescribe penalties to make an appropriation to carry out the provisions of this act and to repeal all acts and parts of acts inconsistent with the provisions of this act, '

section 3a as added by Act No 465 of the Public Acts of 1988 being sections 205 133, 205 133a, 205 134, and 205 134a of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 3 3a 4, and 4a of Act No 301 of the
2 Public Acts of 1939, section 3a as added by Act No 465 of the
3 Public Acts of 1988, being sections 205 133 205 133a 205 134

1 and 205 134a of the Michigan Compiled Laws are amended to read
2 as follows

3 Sec 3 ~~(a)~~ (1) In computing the tax imposed under this
4 act for a tax year, the following deductions may be made

5 (A) ~~(1)~~ Beginning with the calendar year 1973 AND THROUGH
6 THE CALENDAR YEAR 1994, or a fiscal year ending after June 30,
7 1973 AND BEFORE OCTOBER 1, 1995 from the total tax as computed
8 ~~in accordance with~~ UNDER section 2, the sum of \$175 00 The
9 total deduction from the tax by a husband and wife filing a joint
10 return BEGINNING WITH THE CALENDAR YEAR 1973 AND THROUGH THE CAL-
11 ENDAR YEAR 1994 OR A FISCAL YEAR ENDING AFTER JUNE 30, 1973 AND
12 BEFORE OCTOBER 1, 1995 shall not exceed \$350 00 FOR CALENDAR
13 YEAR 1995, OR A FISCAL YEAR ENDING AFTER SEPTEMBER 30, 1995 AND
14 BEFORE OCTOBER 1, 1996, FROM THE TOTAL TAX AS COMPUTED UNDER
15 SECTION 2, THE SUM OF \$550 00 THE TOTAL DEDUCTION FROM THE TAX
16 BY A HUSBAND AND WIFE FILING A JOINT RETURN FOR CALENDAR YEAR
17 1995, OR A FISCAL YEAR ENDING AFTER SEPTEMBER 30, 1995 AND BEFORE
18 OCTOBER 1, 1996, SHALL NOT EXCEED \$1,110 00 BEGINNING WITH CAL-
19 ENDAR YEAR 1996, OR A FISCAL YEAR ENDING AFTER SEPTEMBER 30
20 1996, THE DEDUCTIONS FOR INDIVIDUAL AND JOINT RETURNS UNDER THIS
21 SUBDIVISION SHALL BE ADJUSTED ANNUALLY TO REFLECT THE ANNUAL
22 AVERAGE PERCENTAGE INCREASE OR DECREASE IN THE GENERAL PRICE
23 LEVEL IN THE IMMEDIATELY PRECEDING TAX YEAR THE ADJUSTMENT
24 SHALL BE MADE BY MULTIPLYING THE ANNUAL AVERAGE PERCENTAGE
25 INCREASE OR DECREASE IN THE GENERAL PRICE LEVEL FOR THE IMMEDI-
26 ATELY PRECEDING CALENDAR YEAR BY THE DEDUCTION ALLOWED UNDER THIS
27 SUBDIVISION IN THE IMMEDIATELY PRECEDING TAX YEAR THE RESULTANT

1 PRODUCT SHALL BE ADDED TO THE MAXIMUM DOLLAR AMOUNT OF THE
 2 DEDUCTION ALLOWED UNDER THIS SUBDIVISION IN THE IMMEDIATELY PRE-
 3 CEDING TAX YEAR AND THEN ROUNDED OFF TO THE NEAREST WHOLE NUMBER,
 4 WHICH SHALL BE THE DEDUCTION UNDER THIS SUBDIVISION FOR THE CUR-
 5 RENT YEAR AS USED IN THIS SUBSECTION "GENERAL PRICE LEVEL"
 6 MEANS THAT TERM AS DEFINED IN SECTION 33 OF ARTICLE IX OF THE
 7 STATE CONSTITUTION OF 1963 For a tax return covering a period of
 8 less than 1 year the deduction shall be reduced

9 proportionately The deduction ~~shall~~ IS not ~~be~~ allowed in
 10 connection with the tax imposed under this act on ~~moneys~~ MONEY
 11 on hand, ~~or~~ in transit, or on deposit in a bank or shares of
 12 stock in building and loan or savings and loan associations

13 (B) ~~(2)~~ From real estate mortgages receivable and land
 14 contracts receivable, mortgages payable and land contracts pay-
 15 able on the same property covered by the mortgage or land con-
 16 tract receivable

17 (2) ~~(b)~~ The ALL OF THE following ~~shall be~~ ARE exempt
 18 from the tax imposed by this act

19 (A) ~~(1)~~ Mortgages and land contracts and the evidences of
 20 indebtedness secured thereby upon which the specific tax imposed
 21 by FORMER Act No 91 of the Public Acts of 1911 ~~, as amended,~~
 22 ~~being sections 3640 to 3649 of the Compiled Laws of 1929, has~~
 23 ~~been~~ WAS paid before September 29, 1939 ~~, or a~~

24 (B) A debt or obligation ~~which is~~ secured by a mortgage
 25 upon the real estate ~~as may be~~ owned and occupied by A library,
 26 AN armory, OR A benevolent, charitable, educational ~~and~~ OR
 27 scientific ~~institutions~~ INSTITUTION, incorporated under the

1 laws of this state with the buildings and other property
2 ~~thereon~~ ON THE REAL ESTATE while occupied by ~~them~~ THE
3 LIBRARY, ARMORY, OR BENEVOLENT, CHARITABLE EDUCATIONAL OR SCI-
4 ENTIFIC INSTITUTION solely for the purposes for which they were
5 incorporated ~~or~~

6 (C) A DEBT OR OBLIGATION secured by a mortgage upon a house
7 of public worship with the land on which ~~it~~ THE HOUSE OF PUBLIC
8 WORSHIP stands the furniture ~~therein~~ IN THE HOUSE OF PUBLIC
9 WORSHIP, or ~~any~~ A parsonage owned and occupied as a parsonage
10 by ~~any~~ A regularly organized religious society of this state

11 (D) ~~(2)~~ Bonds, notes, debts, or written or printed obliga-
12 tions upon which the specific tax imposed by FORMER Act No 142
13 of the Public Acts of 1913, ~~as amended, being sections 3654 to~~
14 ~~3658 of the Compiled Laws of 1929,~~ was paid before September 29,
15 1939

16 (E) ~~(3)~~ Bonds or other similar obligations of ~~the~~ THIS
17 state or of a political subdivision of ~~the~~ THIS state

18 (F) ~~(4)~~ Obligations of the United States or guaranteed as
19 to principal or interest by the United States, ~~which~~ THAT are
20 exempt from taxation by reason of AN act of congress The term
21 'United States' includes a possession, agency, or instrumentality
22 of the United States

23 (G) ~~(5)~~ Bonds, mortgages, ~~and~~ OR other certificates of
24 indebtedness made and issued by a municipality organization or
25 private individual for the purpose of erecting armories in this
26 state

1 (H) ~~-(6)-~~ Intangible personal property belonging to
 2 benevolent, charitable, religious, educational ~~and~~ OR
 3 nonprofit scientific institutions incorporated under the laws of
 4 this state This exemption ~~shall~~ DOES not apply to secret or
 5 fraternal societies, — but the intangible personal property of
 6 charitable homes of those societies ~~shall be~~ IS exempt

7 (I) ~~-(7)-~~ Intangible personal property belonging to posts of
 8 the Grand Army of the Republic sons of veterans' unions ~~and~~
 9 ~~of~~ OR the women's relief corps connected ~~therewith~~ WITH THEM
 10 of all young men's Christian associations young women s
 11 Christian associations, women's Christian temperance union asso-
 12 ciations, young people's Christian unions, ~~and~~ OR other similar
 13 associations

14 (J) ~~-(8)-~~ Pensions, including ~~so called "annuities"~~
 15 ANNUITIES payable under old age, retirement or pension provi-
 16 sions of a public authority or private employer, irrespective of
 17 the source of contributions ~~thereto~~ TO THE PENSIONS ~~All~~
 18 ~~intangible~~

19 (K) INTANGIBLE personal property comprising all or a part of
 20 the assets of stock bonus pension, or profit sharing plans or
 21 trusts ~~which~~ THAT qualify for exemption from federal income
 22 taxes under the internal revenue code ~~cash~~

23 (L) CASH surrender values and loan values of insurance
 24 policies ~~annuities~~

25 (M) ANNUITIES before the time when the periodic payments
 26 ~~thereunder shall actually~~ OF THE ANNUITIES commence ~~and~~
 27 ~~royalties~~

1 (N) ROYALTIES

2 (O) ~~(9)~~ Intangible personal property belonging to domestic
3 ~~and~~ OR foreign insurance companies ~~and~~ OR annuity companies
4 lawfully doing business in this state

5 (P) ~~(10)~~ Intangible personal property belonging to rail-
6 road companies, union station and depot companies, telegraph com-
7 panies, telephone companies, sleeping car companies, express com-
8 panies car loaning companies, stock car companies refrigerator
9 car companies, fast freight LINE companies, ~~and all~~ OR other
10 companies paying the tax assessed and levied under Act No 282 of
11 the Public Acts of 1905, as amended, being sections 207 1 to
12 207 21 of the Michigan Compiled Laws

13 (Q) ~~(11)~~ Intangible personal property belonging to ~~banks,~~
14 ~~national~~ 1 OR MORE OF THE FOLLOWING ENTITIES DOING BUSINESS IN
15 THIS STATE UNDER WHATEVER AUTHORITY ORGANIZED

16 (i) BANKS

17 (ii) NATIONAL banking associations ~~, savings~~

18 (iii) SAVINGS and loan associations ~~, savings~~

19 (iv) SAVINGS and loan holding companies as defined in ~~+2~~
20 ~~U S C 1730a, which pursuant to that section controls a savings~~
21 ~~and loan association subsidiary located in this state, trust~~

22 SECTION 10(a)(1)(D) OF THE HOME OWNERS LOAN ACT, 12

23 U S C 1467a

24 (v) TRUST companies ~~, and incorporated~~

25 (vi) INCORPORATED bank holding companies as defined in
26 SECTION 2 OF THE BANK HOLDING COMPANY ACT OF 1956, CHAPTER 240,
27 70 STAT 133, 12 U S C 1841 which pursuant to ~~that~~ section 2

1 OF THE BANK HOLDING COMPANY ACT OF 1956 control a bank national
 2 banking association trust company or industrial bank subsidiary
 3 located in this state ~~, doing business in this state under~~
 4 ~~whatever authority organized~~

5 (R) ~~(+2)~~ Intangible personal property owned by or compris-
 6 ing the assets of a person ~~or business enterprise~~ engaged in
 7 business activity as defined by section 3 of THE SINGLE BUSINESS
 8 TAX ACT, Act No 228 of the Public Acts of 1975, as amended,
 9 being section 208 3 of the Michigan Compiled Laws, if ~~were~~
 10 ANY income received from ~~such~~ THAT intangible personal property
 11 ~~it~~ would be considered, even if deducted or excluded, in
 12 determining the amount even if zero or negative of business
 13 income as defined by section 3 of ~~that act~~ ACT NO 228 OF THE
 14 PUBLIC ACTS OF 1975

15 (S) ~~(+2a)~~ Intangible personal property belonging to credit
 16 unions doing business in this state ~~under whatever authority~~
 17 ~~organized~~ PURSUANT TO ACT NO 285 OF THE PUBLIC ACTS OF 1925,
 18 BEING SECTIONS 490 1 TO 490 31 OF THE MICHIGAN COMPILED LAWS

19 (T) ~~(+3)~~ Intangible personal property ~~which~~ THAT repre-
 20 sents other property taxed under this act or other laws of this
 21 state and is so closely identified ~~therewith~~ WITH THAT PROPERTY
 22 that to impose an additional tax under this act would be uncon-
 23 stitutional as double taxation

24 (U) ~~(+4)~~ Shares of stock in banks, trust companies, and
 25 national banking associations

26 Sec 3a (1) As used in this section

1 (a) S corporation means a small business corporation as
2 defined in section 1361 of the internal revenue code of 1986
3 that has not terminated an election made under section 1362 of
4 the internal revenue code of 1986

5 (b) "Taxpayer's share of S corporation income" means the
6 taxpayer's pro rata share, as determined under section 1377(a) of
7 the internal revenue code OF 1986 of the S corporation's taxable
8 income as computed under section 1363(b) of the internal revenue
9 code OF 1986

10 (2) A taxpayer who, with respect to an S corporation is
11 required to determine federal income tax liability based on
12 section 1366 of the internal revenue code OF 1986, may claim a
13 deduction from income equal to the lesser of the amount includ-
14 able as income due to a distribution by an S corporation or 1 of
15 the following amounts

16 (a) For tax years ending in 1988 10% of the taxpayer's
17 share of the S corporation income

18 (b) For tax years ending in 1989, 15% of the taxpayer's
19 share of the S corporation income

20 (c) For tax years ending ~~after 1989~~ IN 1990 THROUGH 1993
21 20% of the taxpayer's share of the S corporation income

22 (D) FOR TAX YEARS ENDING AFTER 1993, 44% OF THE TAXPAYER'S
23 SHARE OF THE S CORPORATION INCOME

24 (3) FOR TAX YEARS BEGINNING AFTER 1993, UPON ELECTION BY THE
25 S CORPORATION AND ITS STOCKHOLDERS IN A TIME AND MANNER PRE-
26 SCRIBED BY THE REVENUE COMMISSIONER FOR PURPOSES OF DETERMINING
27 THE AMOUNT INCLUDABLE AS INCOME DUE TO A DISTRIBUTION BY AN

1 S CORPORATION IN SUBSECTION (2) DISTRIBUTIONS TO THE TAXPAYER
 2 FROM AN S CORPORATION ATTRIBUTABLE TO A TAXABLE YEAR THAT WERE
 3 MADE AFTER THE END OF THE TAXABLE YEAR BUT ON OR BEFORE THE DUE
 4 DATE FOR THE FILING OF THE TAXPAYER'S ANNUAL RETURN FOR THAT TAX-
 5 ABLE YEAR, INCLUDING ANY EXTENSIONS OF THE TAXPAYER'S TAX RETURN
 6 FILING DATE ALLOWED BY THE REVENUE COMMISSIONER, SHALL BE CONSID-
 7 ERED AS HAVING BEEN PAID ON THE LAST DAY OF THE TAXABLE YEAR

8 Sec 4 (1) On or before the last day of the fourth month
 9 following the end of the tax year, each person owning intangible
 10 personal property subject to tax under this act IN WHICH THAT TAX
 11 EXCEEDS THE AMOUNT OF THE CREDIT PROVIDED IN SECTION 3 shall make
 12 a return in form and content as prescribed by the department →
 13 ~~showing~~ THE RETURN SHALL SHOW the personal property subject to
 14 taxation ~~hereunder~~ UNDER THIS ACT for the preceding tax year
 15 and ~~showing~~ ALSO SHOW the face, par, or contribution value of
 16 each item of ~~such~~ THAT property ~~He~~ A PERSON REQUIRED TO
 17 FILE A RETURN UNDER THIS ACT shall transmit the return to the
 18 department with his OR HER remittance covering the tax payable by
 19 him OR HER for the preceding tax year The department for good
 20 cause shown ~~may~~ AND on the application of any taxpayer, MAY
 21 extend the time by not more than 90 days for making the annual
 22 return but interest at 3/4 of 1% per month shall be added to the
 23 amount of tax due for the period of ~~such~~ ANY extension

24 (2) In collecting the tax levied under this act, the depart-
 25 ment may in special circumstances prescribe a return form differ-
 26 ent than ~~hereinbefore prescribed~~ THE FORM DESCRIBED IN
 27 SUBSECTION (1)

1 (3) In the annual return each person shall also list
2 separately and in the name of his OR HER principal, all intangi-
3 ble personal property held by him OR HER for investment or rein-
4 vestment as agent, trustee, manager, or attorney, or on account
5 of any other person, and credits due him OR HER

6 Sec 4a Every person domiciled in or carrying on or trans-
7 acting business in Michigan as trustee or agent for another
8 ~~having~~ WHO HAS in his OR HER custody any taxable intangible
9 personal property of another for investment or collection SUBJECT
10 TO TAX UNDER THIS ACT IN WHICH THAT TAX EXCEEDS THE AMOUNT OF THE
11 CREDIT PROVIDED IN SECTION 3, shall file an information return in
12 ~~such~~ THE form as may be prescribed by the department of revenue
13 on or before the last day of the fourth month following the end
14 of the tax year