



SENATE BILL No. 760

July 20, 1993, Introduced by Senators BOUCHARD and
HOFFMAN and referred to the Committee on Finance.

A bill to amend sections 4 and 9 of Act No. 228 of the
Public Acts of 1975, entitled
"Single business tax act,"
section 4 as amended by Act No. 484 of the Public Acts of 1982
and section 9 as amended by Act No. 169 of the Public Acts of
1991, being sections 208.4 and 208.9 of the Michigan Compiled
Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4 and 9 of Act No. 228 of the Public
2 Acts of 1975, section 4 as amended by Act No. 484 of the Public
3 Acts of 1982 and section 9 as amended by Act No. 169 of the
4 Public Acts of 1991, being sections 208.4 and 208.9 of the
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 4. (1) "Casual transaction" means a transaction made
7 or engaged in other than in the ordinary course of repeated and

1 successive transactions of a like character, except that a
2 transaction made or engaged in by a person ~~which~~ THAT is inci-
3 dental to that person's regular business activity shall be con-
4 sidered to be a business activity within the meaning of this
5 act.

6 (2) "Commissioner" means the state commissioner of revenue.

7 (3) "Compensation" means all wages, salaries, fees, bonuses,
8 commissions, or other payments made in the taxable year on behalf
9 of or for the benefit of employees, officers, or directors of the
10 taxpayers and subject to or specifically exempt from withholding
11 under ~~section~~ CHAPTER 24, SECTIONS 3401 TO 3406 of the internal
12 revenue code. Compensation includes, on a cash or accrual basis
13 consistent with the taxpayer's method of accounting for federal
14 income tax purposes, payments to state and federal unemployment
15 compensation funds, payments under the federal insurance contri-
16 bution act and similar social insurance programs, payments,
17 including self-insurance, for ~~workmen's~~ WORKER'S compensation
18 insurance, payments to individuals not currently working, pay-
19 ments to dependents and heirs of individuals because of current
20 or former labor services rendered by those individuals, payments
21 to a pension, retirement, or profit sharing plan, and payments
22 for insurance for which employees are the beneficiaries, includ-
23 ing payments under health and welfare and noninsured benefit
24 plans and payments of fees for the administration of health and
25 welfare and noninsured benefit plans. Compensation does not
26 include discounts on the price of the taxpayer's merchandise or
27 services sold to the taxpayer's employees, officers, or directors

1 ~~which~~ THAT are not available to other customers or payments to
2 an independent contractor. FOR THE 1993 TAX YEAR AND TAX YEARS
3 AFTER THE 1993 TAX YEAR, COMPENSATION DOES NOT INCLUDE ANY AMOUNT
4 PAID IN THE TAX YEAR TO AN EMPLOYEE AS REIMBURSEMENT FOR EDUCA-
5 TIONAL EXPENSES PAID BY THE EMPLOYEE.

6 (4) "Department" means the revenue division of the depart-
7 ment of treasury.

8 Sec. 9. (1) "Tax base" means business income, before appor-
9 tionment or allocation as provided in chapter 3, even if zero or
10 negative, subject to the adjustments in subsections (2) to ~~(9)~~
11 (10).

12 (2) Add gross interest income and dividends derived from
13 obligations or securities of states other than Michigan, in the
14 same amount that was excluded from federal taxable income, less
15 related portion of expenses not deducted in computing federal
16 taxable income because of sections 265 and 291 of the internal
17 revenue code.

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

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

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

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

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

1 (d) A dividend paid or accrued except a dividend that
2 represents a reduction of premiums to policyholders of insurance
3 companies.

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

11 (f) All interest including amounts paid, credited, or
12 reserved by insurance companies as amounts necessary to fulfill
13 the policy and other contract liability requirements of sections
14 805 and 809 of the internal revenue code. For tax years begin-
15 ning after December 31, 1984, interest does not include payments
16 or credits made to or on behalf of a taxpayer by a manufacturer,
17 distributor, or supplier of inventory to defray any part of the
18 taxpayer's floor plan interest, if these payments are used by the
19 taxpayer to reduce interest expense in determining federal tax-
20 able income. For purposes of this section, "floor plan interest"
21 means interest paid that finances any part of the taxpayer's pur-
22 chase of automobile inventory from a manufacturer, distributor,
23 or supplier. However, amounts attributable to any invoiced items
24 used to provide more favorable floor plan assistance to a tax-
25 payer than to a person who is not a taxpayer is considered inter-
26 est paid by a manufacturer, distributor, or supplier.

1 (g) All royalties except for the following:

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

5 (ii) Cable television franchise fees as defined in section
6 622 of part III of title VI of the communications act of 1934, 47
7 U.S.C. 542.

8 (iii) Except as provided in subparagraph (iv), for the tax
9 years 1986 and after 1986, a franchise fee as defined by section
10 3 of the franchise investment law, Act No. 269 of the Public Acts
11 of 1974, being section 445.1503 of the Michigan Compiled Laws, in
12 the following amounts:

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

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

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

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

24 (h) A deduction for rent attributable to a lease back that
25 continues in effect under the former provisions of section
26 168(f)(8) of the internal revenue code as that section provided
27 immediately before the tax reform act of 1986, Public Law 99-514,

1 became effective or to a lease back of property to which the
2 amendments made by the tax reform act of 1986 do not apply as
3 provided in section 204 of the tax reform act of 1986.

4 (5) Add compensation.

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

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

10 (a) A dividend received or considered received, including
11 the foreign dividend gross-up provided for in the internal reve-
12 nue code.

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

17 (c) All royalties except for the following:

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

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

25 (A) For the tax years 1986, 1987, and 1988, 20% of the fran-
26 chise 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 (iii) 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 (d) Rent attributable to a lease back that continues in
11 effect under the former provisions of section 168(f)(8) of the
12 internal revenue code as that section provided immediately before
13 the tax reform act of 1986, Public Law 99-514, became effective
14 or to a lease back of property to which the amendments made by
15 the tax reform act of 1986 do not apply as provided in section
16 204 of the tax reform act of 1986.

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

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

24 (10) FOR THE 1993 TAX YEAR AND TAX YEARS AFTER THE 1993 TAX
25 YEAR, DEDUCT, TO THE EXTENT INCLUDED IN FEDERAL TAXABLE INCOME,
26 THE AMOUNT PAID BY THE TAXPAYER DURING THE TAX YEAR TO EMPLOYEES

1 AS REIMBURSEMENT FOR EDUCATIONAL EXPENSES PAID BY THOSE
2 EMPLOYEES.