



SENATE BILL No. 915

October 21, 1993, Introduced by Senator POSTHUMUS and
referred to the Committee on School Finance Reform

A bill to provide for the imposition, levy, computation, collection, and assessment 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 provide exemptions, credits, and refunds and to repeal certain acts on a specific date

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Sec 1 This act shall be known and may be cited as the
2 "gross receipts tax act"

3 Sec 2 As used in this act

4 (a) "Affiliated group of corporations" means 2 or more cor-
5 porations that constitute an affiliated group of corporations as
6 defined in section 1504(a) of the internal revenue code

1 (b) "Bulk sale" means any sale, transfer, or assignment in
2 bulk of any part or the whole of business assets, other than in
3 the ordinary course of business

4 (c) "Business activity" means a transfer of legal or equita-
5 ble title to or a rental of property, whether real, personal, or
6 mixed, tangible or intangible, or the performance of services, or
7 a combination thereof, made or engaged in, or caused to be made
8 or engaged in, within this state, whether in intrastate, inter-
9 state, or foreign commerce, with the object of gain, benefit, or
10 advantage, whether direct or indirect, to the taxpayer or
11 others Business activity includes the services rendered by an
12 employee to his or her employer, services as a director of a cor-
13 poration, or a casual transaction Although an activity of a
14 taxpayer may be incidental to another or others of his or her
15 business activities, each activity shall be considered to be
16 business activity engaged in within the meaning of this act

17 (d) "Casual transaction" means a transaction made or engaged
18 in other than in the ordinary course of repeated and successive
19 transactions of a like character except for a transaction made
20 or engaged in by a person that is incidental to that person's
21 regular business activity

22 (e) "Computer software" means a set of statements or
23 instructions that when incorporated in a machine usable medium is
24 capable of causing a machine or device having information pro-
25 cessing capabilities to indicate perform, or achieve a particu-
26 lar function, task, or result

1 (f) "Farmer" means a person who cultivates land or crops or
2 raises livestock and includes a person that sells the by-product
3 of livestock that the person owns including, but not limited to,
4 milk or eggs

5 (g) "Financial institution" means a bank, trust company,
6 savings bank, industrial bank, land bank, safe deposit company,
7 private banker, savings and loan association, credit union, coop-
8 erative bank, small loan company, sales finance company, invest-
9 ment company, real estate investment trust, or brokerage
10 company

11 (h) "Gross receipts" means, except as provided in subdivi-
12 sions (i) and (j), all revenue received by a person including,
13 but not limited to, receipts from any of the following

14 (i) Trades, businesses, or commerce

15 (ii) Admission fees or charges

16 (iii) The sale, transfer, or exchange of property, real or
17 personal, tangible or intangible

18 (iv) The performance of contracts

19 (v) Prizes or premiums

20 (vi) Insurance policies

21 (vii) Rentals, bonuses fees, or commissions

22 (viii) The sale or licensing of computer software

23 (ix) Any other source

24 (i) "Gross receipts" means all of the following for an
25 insurance company or financial institution

26 (i) Fees, commissions, or other compensation for financial
27 services rendered within this state

1 (11) Gross profits from trading in stocks bonds, or other
2 securities managed within this state

3 (111) Interest received within this state, other than inter-
4 est from loans secured by mortgages, deeds of trust, or other
5 liens upon real or tangible personal property located outside of
6 this state, and dividends received within this state

7 (1v) Interest charged to customers at places of business
8 maintained within this state for carrying debit balances of
9 margin accounts, without deduction of any costs incurred in car-
10 rying such accounts

11 (v) Interest, fees, commissions, or other charges or gains
12 from loans secured by mortgages, deeds of trust, or other liens
13 upon real or tangible personal property located in this state or
14 from installment sale agreements originally executed by the tax-
15 payer or his or her agent to sell real or tangible personal prop-
16 erty located in this state

17 (v1) Rents from real or tangible personal property located
18 in this state

19 (v11) Any other income, including other interest, resulting
20 from the operation as a financial institution or insurance com-
21 pany within this state

22 (j) "Gross receipts" does not include

23 (1) Receipts or repayment of borrowed money

24 (11) Receipts from the issuance or redemption of bonds

25 (111) Amounts received as payment of the principal amount of
26 a note

1 (1v) Amounts received in payment of or from the sale of a
2 promissory note

3 (v) Withdrawal of deposits to the extent the withdrawn
4 amount constitutes principal

5 (v1) Gross receipts received by corporations incorporated
6 under the laws of this state from a trade or business located and
7 regularly carried on outside this state if the corporation is not
8 engaged in business activity in this state

9 (v11) That part of a commission or bonus received that is
10 paid to another or reimbursements from a contractor to a subcon-
11 tractor under a binding agreement or contract within 20 business
12 days of the receipt of the commission or bonus

13 (v111) Amounts received as the corpus of an outright gift,
14 devise, or bequest

15 (1x) Cash discounts allowed and taken on sales

16 (x) Goods, wares, or merchandise, or the value of goods,
17 wares, or merchandise, returned by customers if the sale price is
18 refunded to the customer in cash or by credit

19 (x1) Judgments for income that are not taxable under this
20 act

21 (x11) Capital received by a corporation, partnership firm,
22 limited liability company, or joint venture from the sale of
23 stock or shares in the corporation, partnership, firm, limited
24 liability company, or joint venture, or contributions to the cap-
25 ital of a corporation, partnership, firm, limited liability com-
26 pany, or joint venture

1 (x1111) Gross receipts represented by the value of real or
2 tangible personal property received in reciprocal exchange for
3 real or tangible personal property of like kind by and between
4 the owners of the property to the extent of the value of the
5 property or the interest in the property of which title is
6 surrendered

7 (x1v) Gross receipts represented by the value of stock of a
8 corporation or association received in a reciprocal exchange by
9 and between the owners of the stock, including the issuing corpo-
10 ration or association, for stock in the same corporation or asso-
11 ciation to the extent of the value of the stock or the interest
12 in the stock of which title is surrendered

13 (xv) Gross receipts represented by the value of bonds or
14 similar securities issued by a corporation or association
15 received in a reciprocal exchange by and between the owners of
16 the bonds or securities, including the issuing corporation or
17 association for bonds or similar securities issued by the same
18 corporation or association to the extent of the value of the
19 bonds or similar securities or the interest in the bonds or simi-
20 lar securities of which title is surrendered

21 (xv1) Gross receipts represented by the value of stock,
22 bonds, or other securities received in a reciprocal exchange by
23 and between the owners of the stocks, bonds, or other securities
24 to the extent title is surrendered if the exchange is made in the
25 course of a consolidation, merger, or other reorganization and
26 the stock, bonds, or other securities received are issued by 1 or

1 more corporations or associations that are each a party to the
2 reorganization

3 (xv11) Gross receipts represented by the value of stocks,
4 bonds, or other securities received in a reciprocal exchange by
5 and between the owners of the stocks, bonds, or other securities
6 of substantially all of the assets of another corporation if the
7 exchange is made in the course of a consolidation, merger, or
8 other reorganization and the stocks, bonds, or other securities
9 received are issued by 1 or more corporations or associations
10 that are each a party to the reorganization

11 (xv111) Dividends

12 (x1x) Interest

13 (xx) Royalties

14 (xx1) Voluntary tips to the extent they are paid to
15 employees

16 (xx11) Security deposits unless they are retained

17 (xx111) Capital gains

18 (xx1v) Receipts of any organization exempt from federal tax
19 under section 501(c) of the internal revenue code, 26 U S C 501,
20 except for gross receipts attributable to unrelated business
21 income as that term is defined in the internal revenue code

22 (xxv) A transaction exempt from federal tax under the inter-
23 nal revenue code

24 (xxvi) All receipts of a domestic international sales corpo-
25 ration or any like special classification, the purpose of which
26 is to reduce or postpone federal income tax liability

1 (xxv11) All receipts of a corporation described in
2 section 936 of the internal revenue code, 26 U S C 936

3 (xxv111) Bulk sales or casual sales

4 (xx1x) Receipts of this state and its political subdivisions
5 except for receipts for the sale of goods or services, the sale
6 of which is in direct competition with sales in the private
7 sector

8 (k) "Insurance company" means an authorized insurer as
9 defined in section 106 of the insurance code of 1956, Act No 218
10 of the Public Acts of 1956, being section 500 106 of the Michigan
11 Compiled Laws

12 (l) "Internal revenue code" means the United States internal
13 revenue code of 1986 in effect on January 1, 1987, or at the
14 option of the taxpayer, in effect for the taxable year

15 (m) "Manufacturer" means a person that engages in
16 manufacturing

17 (n) "Manufacturing" means any processing working develop-
18 ment, change, conditioning, or reconditioning of raw materials or
19 products into products of a different character, finished or
20 unfinished, or effecting any combination or composition of mate-
21 rials, the inherent nature of which is changed

22 (o) "Person" means an individual, partnership, corporation,
23 limited liability company, association, governmental entity, or
24 other legal entity

25 (p) "Private line" means dedicated nontraffic sensitive
26 service for a single customer that entitles the customer to
27 exclusive or priority use of a communications channel or group of

1 channels, from 1 or more specified locations to 1 or more other
2 specified locations

3 (q) "Retailer" means a person that makes a sale at retail

4 (r) "Sale at retail" means, except as provided in subdivi-
5 sion (s), all of the following

6 (1) A transaction by which the ownership of tangible per-
7 sonal property is transferred for consideration if the transfer
8 is made in the ordinary course of the transferor's business and
9 is made to a transferee for consumption or use, or for any pur-
10 pose other than for resale

11 (11) The sale of tangible personal property to persons
12 directly engaged in the business of constructing, altering,
13 repairing, or improving real estate

14 (111) A conditional sale, installment lease sale, or other
15 transfer of property if title is retained as security for the
16 purchase price but it is intended that title will be transferred
17 later

18 (1v) Computer software offered for general sale to the
19 public or software modified or adapted to the user's needs or
20 equipment by the seller only if the software is available for
21 sale from a seller of software on an as-is basis or as an end
22 product without modification or adaption Sale at retail does
23 not include specific charges for technical support or for adapt-
24 ing or modifying prewritten, standard, or canned computer soft-
25 ware programs to a purchaser's needs or equipment if those
26 charges are separately stated and identified Sale at retail

1 does not include computer software originally designed for the
2 exclusive use and special needs of the purchaser

3 (s) "Sale at retail" does not include the sale of electrici-
4 ty, natural or artificial gas, or steam if the sale is made to
5 the consumer or user for consumption or use

6 (t) "Sale at wholesale" means the sale of tangible personal
7 property not intended to be consumed or used by the immediate
8 purchaser but intended to be resold in the regular course of
9 business by the purchaser

10 (u) "Taxable gross receipts" or "tax base" means gross
11 receipts after exclusions and exemptions as provided in section 6
12 and apportionment pursuant to this act

13 (v) "Taxpayer" means a person, group of persons, or any com-
14 bination of persons acting as a unit liable for a tax, interest,
15 or penalty under this act

16 (w) "Telecommunications" includes all of the following

17 (i) Messages or information transmitted through use of
18 local, toll, and wide area telephone services

19 (ii) Private line services

20 (iii) Channel services

21 (iv) Telegraph and teletypewriter services

22 (v) Computer exchange services

23 (vi) Cellular mobile telecommunications services and spe-
24 cialized mobile radio services

25 (vii) Stationary 2-way radio, paging services, and any other
26 form of mobile and portable 1-way or 2-way communications

1 (viii) Any other transmission of messages or information by
2 electronic or similar means, between or among points by wire,
3 cable, fiber optics, laser, microwave, radio, satellite, or simi-
4 lar facilities

5 (x) "Wholesaler" means a person that makes a sale for the
6 purposes of resale

7 Sec 3 A term used in this act and not defined in this act
8 has the same meaning as that term has in a comparable context in
9 the laws of the United States relating to federal income taxes in
10 effect for the tax year unless a different meaning is clearly
11 required A reference in this act to the internal revenue code
12 includes other provisions of the laws of the United States relat-
13 ing to federal income taxes

14 Sec 4 There is hereby levied and imposed a tax on the
15 taxable gross receipts of every person conducting business activ-
16 ity in this state as prescribed in section 5 The tax levied and
17 imposed under this act is upon the privilege of conducting busi-
18 ness activity and is not a tax upon net income or an ad valorem
19 tax on real estate or tangible personal property

20 Sec 5 (1) There is hereby levied and imposed a tax at the
21 rate of 0 40% on the taxable gross receipts of all retailers,
22 wholesalers, and farmers conducting business activity in this
23 state obtained from making sales at retail or wholesale or sales
24 by farmers All other gross receipts of retailers, wholesalers,
25 and farmers shall be taxed at the rate specified in
26 subsection (2) or (3)

1 (2) There is hereby levied and imposed a tax at the rate of
2 0 60% on the taxable gross receipts of all financial
3 institutions

4 (3) There is hereby levied and imposed a tax at the rate of
5 0 80% on all other taxable gross receipts of a person conducting
6 business activity in this state

7 Sec 6 (1) A taxpayer may exclude from total gross
8 receipts \$125,000 00 for the tax year before computing the tax
9 under this act

10 (2) For a taxpayer with business activity for only a portion
11 of a tax year, the exclusion allowed under subsection (1) shall
12 be prorated based upon the number of days the taxpayer had busi-
13 ness activity in the tax year

14 (3) If a taxpayer has gross receipts subject to different
15 rates of tax, the taxpayer may allocate the exclusion allowed
16 under subsection (1) as it so chooses

17 (4) The exclusion allowed under subsection (1) shall be
18 adjusted for inflation on an annual basis using the Detroit area
19 consumer price index

20 (5) A taxpayer may exclude a bad debt to the extent that the
21 gross receipts from which the bad debt arose were previously
22 taxed under this act This exclusion is allowed for the same
23 period allowable for the exclusion of a bad debt under the inter-
24 nal revenue code If as a result of applying this exclusion the
25 taxpayer's taxable gross receipts are negative, the portion of
26 the exclusion that exceeds the gross receipts shall be refunded

1 (6) If any taxpayer is a member of an affiliated group of
2 corporations of which any other member is also a taxpayer under
3 this act, or has at least an 80% ownership interest in another
4 entity that is a taxpayer under this act, all gross receipts
5 attributable to transactions between the taxpayers shall be
6 excluded in determining the tax liability of each taxpayer under
7 this act

8 (7) A taxpayer may exclude interest or other earnings paid
9 upon bonds or other securities issued by the United States gov-
10 ernment that this state is prohibited by federal law from
11 taxing

12 (8) A taxpayer may exclude gross receipts derived from sales
13 to the United States government that this state is prohibited by
14 federal law from taxing

15 (9) A taxpayer may exclude interest or other earnings paid
16 on bonds or other securities issued by this state or a political
17 subdivision of this state

18 (10) A deduction is not allowed for return of capital
19 invested, cost of property sold, cost of materials used, labor
20 costs, interest, discounts, commissions paid or credited, losses,
21 or any other expense paid or credited

22 Sec 7 (1) Except as provided in subsection (2), the gross
23 receipts of an insurance company for the purpose of computing its
24 tax on the activity of selling insurance or reinsurance for a tax
25 year shall be apportioned to this state by multiplying the tax-
26 able gross receipts by a fraction, the numerator of which is the
27 direct premiums written for insurance on properties and risks in

1 this state and the denominator of which is the direct premiums
2 written for insurance on properties and risks within this state
3 and outside of this state As used in this section, "direct pre-
4 miums written" means the total amount of direct premiums written,
5 assessments, and annuity considerations, as reported for the tax
6 year on the annual statement filed by the company with the com-
7 missioner of insurance in the form approved by the commissioner
8 of insurance

9 (2) If the principal source of premiums written by an insur-
10 ance company consists of premiums for reinsurance accepted by the
11 insurance company, the taxable gross receipts of the company
12 shall be apportioned to this state by multiplying the taxable
13 gross receipts by a fraction, the numerator of which is the sum
14 of the direct premiums written for insurance on properties and
15 risks in this state added to premiums written for reinsurance
16 accepted in respect to properties and risks in this state and the
17 denominator of which is the sum of direct premiums written for
18 insurance on properties and risks within this state and outside
19 of this state added to premiums written for reinsurance accepted
20 in respect to properties and risks within this state and outside
21 of this state For purposes of this subsection, premiums written
22 for reinsurance accepted in respect to properties and risks in
23 this state, whether or not otherwise determinable, may, at the
24 election of the taxpayer, be determined using either of the fol-
25 lowing methods

26 (a) On the basis of the proportion that premiums written for
27 reinsurance accepted from companies resident in or having a

1 regional home office in this state bears to premiums written for
2 reinsurance accepted from all sources

3 (b) On the basis of the proportion that the sum of the
4 direct premiums written for insurance on properties and risks in
5 this state by each ceding company from which reinsurance is
6 accepted bears to the sum of the total direct premiums written by
7 each ceding company for the tax year

8 (3) Taxable gross receipts of a taxpayer that furnishes
9 transportation services shall be apportioned to this state using
10 the following methods for the appropriate type of revenue

11 (a) Passenger revenue multiplied by a fraction, the numera-
12 tor of which is the total number of embarkations and disembarka-
13 tions within this state and the denominator of which is the total
14 number of embarkations and disembarkations within this state and
15 outside of this state

16 (b) Freight revenue multiplied by a fraction, the numerator
17 of which is the total number of tons of freight that are picked
18 up or delivered within this state and the denominator of which is
19 the total number of tons of freight picked up or delivered within
20 this state and outside of this state

21 (c) Pipeline transportation revenue multiplied by a fraction
22 the numerator of which is the revenue miles of the taxpayer
23 within this state and the denominator of which is the revenue
24 miles of the taxpayer within this state and outside of this
25 state A revenue mile is the transportation by pipeline of 1
26 barrel of oil, 1,000 cubic feet of gas, or any specified quantity

1 of any other substance the distance of 1 mile for a
2 consideration

3 (4) The gross receipts generated by the broadcasting of
4 radio or television programs or commercial messages by antenna
5 under a license granted by the federal communications commission
6 shall be attributed to this state according to the ratio of the
7 number of the listeners or viewers in this state to the total
8 number of listeners or viewers within this state and outside of
9 this state

10 (5) The gross receipts generated from the act or privilege
11 of originating or receiving telecommunications in this state
12 shall be attributed to this state if the billing address of the
13 customer is in this state If the telecommunication is origi-
14 nated and received in this state, all of the gross receipts shall
15 be attributed to this state If the gross receipts of a telecom-
16 munications taxpayer are subjected to a gross receipts tax in
17 another state the taxpayer shall receive a credit for the taxes
18 paid up to the amount of tax that would have been paid if the
19 gross receipts were subject to this act

20 Sec 8 Taxable gross receipts from the following transac-
21 tions shall be allocated to this state

22 (a) When a sale of tangible personal property occurs in this
23 state if the property is delivered or shipped to a purchaser
24 within this state, regardless of the shipping point, other condi-
25 tions of the sale, or the ultimate destination of the property

1 (b) When a sale of a service occurs in this state if more
2 than 50% of the cost of performance of the service is rendered in
3 this state

4 (c) When rentals of real or personal property occur in this
5 state if the property is located in this state The rental of
6 mobile property shall be allocated to this state based upon a
7 ratio of the total time the property is rented within this state
8 to the total time it is rented within this state and outside of
9 this state

10 (d) When fees, commissions, or other compensation for busi-
11 ness activities performed in this state is collected

12 Sec 9 (1) The tax imposed by this act shall be adminis-
13 tered by the revenue commissioner pursuant to Act No 122 of the
14 Public Acts of 1941, being sections 205 1 to 205 30 of the
15 Michigan Compiled Laws In case of conflict between Act No 122
16 of the Public Acts of 1941 and this act, this act applies

17 (2) Rules shall be promulgated under this act pursuant to
18 the administrative procedures act of 1969, Act No 306 of the
19 Public Acts of 1969 being sections 24 201 to 24 328 of the
20 Michigan Compiled Laws

21 (3) The department shall prescribe forms for use by taxpay-
22 ers and shall promulgate rules pursuant to the administrative
23 procedures act of 1969, Act No 306 of the Public Acts of 1969,
24 being sections 24 201 to 24 328 of the Michigan Compiled Laws,
25 for the maintenance by taxpayers of records, books, and accounts,
26 and for the computation of the tax, the manner and time of
27 changing or electing accounting methods and of exercising the

1 various options contained in this act, the making of returns, and
2 the ascertainment, assessment, and collection of the tax imposed
3 under this act

4 (4) The tax imposed by this act is in addition to all other
5 taxes for which the taxpayer may be liable The proceeds derived
6 from the tax shall be credited to the general fund of the state
7 to be allocated and distributed as provided by this act

8 (5) The department shall prepare and publish statistics from
9 the records kept to administer the tax imposed by this act,
10 detailing the distribution of tax receipts by type of business,
11 legal form of organization, sources of tax base, timing of tax
12 receipts, and types of deductions The statistics shall not
13 result in the disclosure of information regarding any specific
14 taxpayer

15 Sec 10 The following acts are repealed effective
16 January 1, 1994

17 (a) Act No 301 of the Public Acts of 1939 being
18 sections 205 131 to 205 147 of the Michigan Compiled Laws

19 (b) Act No 228 of the Public Acts of 1975, being
20 sections 208 1 to 208 145 of the Michigan Compiled Laws

21 Sec 11 This act shall take effect January 1, 1994