



# HOUSE BILL No. 4082

January 11, 1995, Introduced by Reps. Rocca, Perricone, Hill, Horton, Bush, Gernaat, Cropsey, Bullard, Kaza, London and Goschka and referred to the Committee on Tax Policy.

A bill to amend sections 1 and 2 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,"

being sections 205.131 and 205.132 of the Michigan Compiled  
Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1 and 2 of Act No. 301 of the Public  
2 Acts of 1939, being sections 205.131 and 205.132 of the Michigan  
3 Compiled Laws, are amended to read as follows:

1       Sec. 1. ~~When~~ AS used in this act:

2       (a) "Person" means an individual, firm, copartnership, joint  
3 ~~adventure~~ VENTURE, association, corporation, company, LIMITED  
4 LIABILITY COMPANY, estate, or any other group or combination  
5 acting as a unit, and the plural as well as the singular number,  
6 unless the intention to give a more limited meaning is disclosed  
7 by the context. Person does not include public corporations.

8       (b) "Intangible personal property" means ~~moneys~~ MONEY on  
9 hand, ~~or~~ on deposit, or in transit, shares of stock, and other  
10 units of interest, in corporations, joint stock companies, and  
11 other associations conducted for profit, not, ~~however,~~  
12 including, HOWEVER, the interest of a partner under a partnership  
13 agreement; securities ~~which~~ THAT constitute a part of an issue  
14 of similar securities, such as bonds, certificates of indebted-  
15 ness, debentures, notes, and certificates of deposit; ~~therefor,~~  
16 annuities; accounts and notes receivable, land contracts receiv-  
17 able, real estate and chattel mortgages receivable, conditional  
18 sale contracts receivable, and other obligations for the payment  
19 of money; equitable interest in any of the foregoing classes of  
20 intangible personal property, including interest of beneficiaries  
21 under trust whether created inter vivos or by will; and any and  
22 all other credits and evidences of indebtedness whether secured  
23 or unsecured.

24       (c) "Annuities" includes: ~~—~~

25       (i) ~~(+)~~ Contracts for the periodic payment of sums of  
26 money the consideration for which is the payment of money either  
27 in a lump sum or in installments by the recipient or another,

1 ~~when~~ IF the periodic payments extend over a fixed period in  
 2 excess of 1 year ~~or~~ or the periodic payments extend during the  
 3 lifetime of the recipient or another.

4 (ii) ~~(2)~~ Contracts for similar consideration whether des-  
 5 ignated insurance or otherwise containing the provision for the  
 6 conversion of the payments to be received into periodic payments  
 7 for a fixed period or for the life of the recipient or another.  
 8 Such a contract shall not be ~~deemed~~ CONSIDERED an annuity until  
 9 actually converted. The face value of an annuity shall be its  
 10 cash reserve value as carried on the books of the obligor.  
 11 However, ~~the taxpayer~~ after once establishing the cash reserve  
 12 value, ~~as above stated~~, THE TAXPAYER may ~~thereafter~~ THEN be  
 13 entitled to compute that value annually ~~or~~ upon the assumption  
 14 that of amounts received, all excess over the applicable interest  
 15 rate guaranteed was return of principal, deductible from the face  
 16 value. ~~and if~~ IF the interest rate is not guaranteed, then  
 17 computation shall be based on an interest assumption of 3% per  
 18 annum. "Annuities" ~~shall~~ DOES not include annuity contracts  
 19 pending the payment of benefits to the annuitants, ~~nor shall it~~  
 20 include OR so-called "annuities" ~~which~~ THAT are in fact  
 21 deferred compensation for services rendered payable under old age  
 22 retirement or pension provisions of a public authority or private  
 23 employer.

24 (D) ~~(c) The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVI-  
 25 SION, THE "situs" of intangible personal property for the purpose  
 26 of taxation under this act shall be the domicile of the owner.  
 27 ~~thereof, except that any intangible~~ INTANGIBLE personal

1 property, not otherwise exempt under the laws of this state,  
 2 owned by a person having his OR HER domicile outside of this  
 3 state ~~—~~ AND placed in the hands of a manager or agent in this  
 4 state, to the extent that the intangible personal property is  
 5 invested in a course of repeated transactions in obligations of  
 6 persons residing in this state or secured by property located in  
 7 this state, shall be ~~deemed~~ CONSIDERED to have a situs where  
 8 the manager or agent resides within this state. ~~—, and except~~  
 9 ~~that intangible~~ INTANGIBLE personal property owned by a person  
 10 domiciled in this state ~~—~~ AND placed in the hands of a manager  
 11 or agent outside of this state, to the extent that the property  
 12 is invested in a course of repeated transactions in obligations  
 13 of persons residing outside of this state or secured by property  
 14 located outside of this state, shall be ~~deemed~~ CONSIDERED not  
 15 to have a situs in this state.

16 (E) ~~(d)~~ "Income" includes: ~~(1) interest received upon~~  
 17 ~~intangible personal property, (2) dividends~~

18 (i) DIVIDENDS and other distributions EXCLUDING INTEREST,  
 19 whether in the form of cash or property, to the extent that they  
 20 represent the yield of intangible personal property not includ-  
 21 ing, however, a distribution of stock by reason of an order of  
 22 divestment under the antitrust laws ~~which~~ THAT is considered a  
 23 return of capital ~~in section 1111 of the United States~~ PURSUANT  
 24 TO THE internal revenue code. ~~as enacted in Public Law 87-403~~  
 25 ~~of the eighty seventh congress of the United States, and (3) all~~

26 (ii) ALL other earnings or yield EXCLUDING INTEREST of  
 27 intangible personal property regardless of the name by which

1 designated. For the purpose of computing the tax imposed under  
 2 this act, the gross income, including taxes, charges, and other  
 3 deductions ~~which~~ THAT may be made ~~therefrom~~ FROM GROSS  
 4 INCOME, shall be the basis upon which the tax shall be measured.

5 (F) ~~(e)~~ "Tax year" or "taxable year" means the calendar  
 6 year, or the taxpayer's fiscal year when permission is obtained  
 7 by the taxpayer from the department to use a fiscal year as the  
 8 tax period in lieu of the calendar year.

9 (G) ~~(f)~~ "Commission" or "department" means the revenue  
 10 division of the department of treasury.

11 (H) ~~(g)~~ "Taxpayer" means a person liable for ~~any~~ A tax  
 12 ~~hereunder~~ UNDER THIS ACT.

13 (I) ~~(h)~~ "Tax" means all taxes, interest, or penalties  
 14 levied under this act.

15 (J) ~~(i)~~ "Owner" means a person who: ~~(i) has~~

16 (i) HAS both the entire legal and equitable interest in  
 17 intangible personal property or both a legal and equitable estate  
 18 ~~therein which~~ IN THE PROPERTY THAT entitles him OR HER to the  
 19 present enjoyment ~~thereof, (2) holds~~ OF THE INTANGIBLE PERSONAL  
 20 PROPERTY.

21 (ii) HOLDS intangible personal property as an administrator,  
 22 executor, receiver, trustee in bankruptcy, or assignee for the  
 23 benefit of creditors. ~~;(3) is~~

24 (iii) IS engaged in the business of receiving ~~moneys~~ MONEY  
 25 for deposit or savings subject to check or other withdrawal. ~~;(4) is~~  
 26 ~~(4) is~~

1 (iv) IS the beneficiary of an inter vivos or testamentary  
 2 trust, but only to the extent that the trust embraces intangible  
 3 personal property. ~~Where~~ IF there is more than 1 beneficiary,  
 4 the person who is entitled to the present enjoyment of the trust  
 5 property ~~shall be deemed~~ IS CONSIDERED to be the "owner".  
 6 ~~Where~~ IF more than 1 beneficiary is entitled to the present  
 7 enjoyment of the trust property, all beneficiaries so entitled  
 8 ~~shall be deemed~~ ARE CONSIDERED to be the "owners" according to  
 9 their respective interests. ~~Where~~ IF there is more than 1 ben-  
 10 eficiary, only some of which are entitled to the present enjoy-  
 11 ment of the trust property, those beneficiaries who are so enti-  
 12 tled ~~shall be deemed~~ ARE CONSIDERED to be the "owners".  
 13 ~~Where~~ IF a trustee of a trust ~~, as hereinbefore mentioned,~~  
 14 ~~must~~ IS REQUIRED TO, or in his OR HER discretion may, accumulate  
 15 the income ~~thereof~~ FROM THE TRUST, the trustee ~~shall be~~  
 16 ~~deemed~~ IS CONSIDERED to be the "owner" to the extent that the  
 17 income is so accumulated. A beneficiary OF TRUST PROPERTY domi-  
 18 ciled in this state ~~shall be~~ IS taxable irrespective of the  
 19 state or other jurisdiction of the creation or administration of  
 20 the trust.

21 (K) ~~(j)~~ "Face value" means the amount appearing on the  
 22 face of the instrument or other written record evidencing the  
 23 intangible personal property, or ~~in case~~ IF there is ~~no~~ NOT  
 24 AN instrument or other written record, then the amount shall be  
 25 determined by other evidence satisfactory to the commission,  
 26 reduced by payments, if any, ~~which~~ THAT have been made.

1       Sec. 2. (1) ~~(a)~~ For the calendar year 1976, ~~and any~~ FOR  
2 A fiscal year ending after June 30, 1976, and for each year  
3 ~~thereafter~~ or portion ~~thereof~~ OF A YEAR AFTER 1976, there is  
4 levied upon each resident or nonresident owner of intangible per-  
5 sonal property not ~~hereinafter~~ exempted BY THIS ACT having a  
6 situs within this state, and there shall be collected from ~~such~~  
7 THE owner an annual specific tax on the privilege of ownership of  
8 each item of intangible personal property owned by him OR HER.  
9 Except as ~~hereinafter~~ OTHERWISE provided IN THIS ACT, the tax  
10 on ~~income-producing~~ intangible personal property shall be AS  
11 FOLLOWS:

12       (A) FROM THE CALENDAR YEAR 1976 THROUGH THE CALENDAR YEAR  
13 1994 AND FROM A FISCAL YEAR ENDING AFTER JUNE 30, 1976 THROUGH  
14 SEPTEMBER 30, 1995, THE TAX ON INCOME PRODUCING INTANGIBLE PER-  
15 SONAL PROPERTY SHALL BE 3-1/2% of the income but not less than  
16 1/10 of 1% of the face or par value of each item.

17       (B) BEGINNING WITH THE CALENDAR YEAR 1995, A FISCAL YEAR  
18 ENDING AFTER SEPTEMBER 30, 1995 AND EACH YEAR OR PORTION OF A  
19 YEAR AFTER 1995, THE TAX ON INCOME PRODUCING INTANGIBLE PERSONAL  
20 PROPERTY SHALL BE 1.0% OF THE INCOME BUT NOT LESS THAN 1/10 OF 1%  
21 OF THE FACE OR PAR VALUE OF EACH ITEM.

22       (2) For the purposes of this act, corporate stock or other  
23 evidence of corporate ownership having no par or face value  
24 ~~shall be deemed~~ IS CONSIDERED to have a face or par value of  
25 \$1.00 per share or per unit of other evidence of corporate  
26 ownership. Except as ~~hereinafter~~ OTHERWISE provided IN THIS  
27 SECTION the tax on nonincome producing intangible personal

1 property shall be 1/10 of 1% of the face or par value. The tax  
 2 on ~~moneys~~ MONEY on hand or in transit shall be at the rate of  
 3 20 cents per \$1,000.00 of the face value ~~thereof~~ OF THE MONEY  
 4 ON HAND OR IN TRANSIT.

5 (3) ~~(b)~~ For the calendar year 1976 and for each year  
 6 ~~thereafter~~ or portion ~~thereof~~ OF A YEAR AFTER 1976 there is  
 7 ~~hereby~~ levied upon each bank, ~~doing business in this state and~~  
 8 ~~upon each~~ building and loan, or savings and loan association  
 9 doing business in this state an annual tax on the ~~moneys~~ MONEY  
 10 on deposit in the bank, ~~or the savings in a~~ building and loan,  
 11 or savings and loan association less the amount of deposit  
 12 liabilities or share liabilities owing to the federal government  
 13 or ~~any~~ AN agency or instrumentality ~~thereof~~ OF THE FEDERAL  
 14 GOVERNMENT, to this state or ~~any~~ A political subdivision,  
 15 instrumentality, or agency ~~thereof~~ OF THIS STATE, or to any  
 16 other bank, ~~or~~ building and loan, or savings and loan associa-  
 17 tion, and the ~~banks~~ BANK'S own items of issue. The tax shall  
 18 be at the rate of 20 cents per \$1,000.00 of the face value of the  
 19 deposits in the bank and at the rate of 20 cents per \$1,000.00 of  
 20 the paid-in value of the share in the building and loan or sav-  
 21 ings and loan association.

22 (4) ~~(c) The face value, for the purpose~~ FOR PURPOSES of  
 23 this section, ~~or any~~ IF THE FACE VALUE OF AN item of property  
 24 ~~the face value of which~~ changes during the tax year, THE FACE  
 25 VALUE shall be the average value to be computed under rules the  
 26 department may adopt. ~~, and if any~~ IF AN item of intangible  
 27 personal property subject to tax under this section is owned by

1 the taxpayer for only a portion of the tax year, the tax levied  
2 ~~hereunder~~ shall be reduced in proportion. The department, at  
3 or about the close of each calendar year, shall retroactively fix  
4 a date ~~which~~ THAT shall be the last day of ~~any~~ A month or  
5 other accounting period during the year ~~which~~ THAT may be used  
6 by a taxpayer as the date for the determination of taxable intan-  
7 gible personal property subject to tax under this section ~~of~~  
8 ~~which~~ OWNED BY the taxpayer ~~is the owner,~~ and as the date for  
9 the determination of the face value ~~thereof~~ OF THE PROPERTY,  
10 irrespective of ~~any~~ A change in the face value of an item or  
11 items of ~~such~~ property IF the value ~~of which~~ changes during  
12 the tax year and irrespective of acquisitions and dispositions of  
13 that property during the tax year if that date is the only date  
14 which can be used for the determination in ~~any~~ A year of the  
15 amount of ~~moneys~~ MONEY on hand, ~~or~~ in transit, or on deposit  
16 in a bank or of the paid-in value of shares of stock in building  
17 and loan or savings and loan associations of a taxpayer. If the  
18 taxpayer elects to use ~~the date so~~ THAT fixed DATE, he ~~shall~~  
19 OR SHE, for the purpose of determining the tax imposed by this  
20 section, ~~be deemed~~ IS CONSIDERED to have been the owner for the  
21 entire tax year of the taxable intangible personal property of  
22 which he OR SHE is the owner on that date and to have received  
23 the income ~~therefrom~~ FROM THE PROPERTY, if any, for the entire  
24 period. The taxpayer may, in lieu of the foregoing retroactive  
25 date method, use a true average method, but once having made an  
26 election as to either method, the taxpayer shall not change his  
27 OR HER method except upon application to and approval by the

1 department. A change of election shall not become effective  
2 until the next tax year succeeding the filing of the  
3 application.

4 (5) ~~(d) where~~ IF, due to death or change of domicile  
5 during the tax year, the intangible personal property owned by a  
6 taxpayer is subject to the tax ~~hereby~~ levied UNDER THIS ACT for  
7 only a part of a tax year, the tax shall be computed in the same  
8 manner as though the property had been subject to tax for the  
9 entire tax year and shall then be reduced in proportion.  
10 However, ~~where an executor or administrator~~ IF A PERSONAL  
11 REPRESENTATIVE appointed and qualified in Michigan succeeds to  
12 the ownership of intangible personal property previously subject  
13 to THE tax ~~hereunder to~~ LEVIED UNDER THIS ACT AND the decedent  
14 for whose estate the ~~executor or administrator~~ PERSONAL  
15 REPRESENTATIVE is appointed and qualified WAS THE OWNER OF THAT  
16 PROPERTY, for the purpose of the computation of the tax, ~~hereby~~  
17 ~~levied~~ the combined ownership of the decedent and the ~~executor~~  
18 ~~or administrator~~ PERSONAL REPRESENTATIVE during the tax year  
19 shall be regarded as the continuous ownership of a single owner,  
20 and the ~~executor or administrator shall be deemed~~ PERSONAL REP-  
21 RESENTATIVE IS CONSIDERED to have been the owner during the  
22 entire period.

23 (6) ~~(e)~~ Intangible personal property subject to tax under  
24 this act or expressly exempt from the tax ~~hereunder shall be~~  
25 UNDER THIS ACT IS exempt from all general property taxes under  
26 the laws of this state.