



HOUSE BILL No. 5882

May 9, 1996, Introduced by Reps. Kukuk, Green, Weeks, Gernaat, Jamian, Olshove, Rocca, Walberg and Galloway and referred to the Committee on Tax Policy.

A bill to amend section 9 of Act No. 228 of the Public Acts of 1975, entitled

"Single business tax act,"

as amended by Act No. 105 of the Public Acts of 1993, being section 208.9 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 9 of Act No. 228 of the Public Acts of
2 1975, as amended by Act No. 105 of the Public Acts of 1993, being
3 section 208.9 of the Michigan Compiled Laws, is amended to read
4 as follows:

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

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

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

10 (4) Add the following, to the extent deducted in arriving at
11 federal taxable income:

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

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

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

16 (d) A dividend paid or accrued except a dividend that repre-
17 sents a reduction of premiums to policyholders of insurance
18 companies.

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

26 (f) All interest including amounts paid, credited, or
27 reserved by insurance companies as amounts necessary to fulfill

1 the policy and other contract liability requirements of sections
2 805 and 809 of the internal revenue code. Interest does not
3 include payments or credits made to or on behalf of a taxpayer by
4 a manufacturer, distributor, or supplier of inventory to defray
5 any part of the taxpayer's floor plan interest, if these payments
6 are used by the taxpayer to reduce interest expense in determin-
7 ing federal taxable income. For purposes of this section, "floor
8 plan interest" means interest paid that finances any part of the
9 taxpayer's purchase of automobile inventory from a manufacturer,
10 distributor, or supplier. However, amounts attributable to any
11 invoiced items used to provide more favorable floor plan assist-
12 ance to a taxpayer than to a person who is not a taxpayer is con-
13 sidered interest paid by a manufacturer, distributor, or
14 supplier.

15 (g) All royalties except for the following:

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

19 (ii) Cable television franchise fees described in section
20 622 of part III of title VI of the communications act of 1934, 47
21 U.S.C. 542.

22 (iii) Except as provided in subparagraph (iv), for the tax
23 years 1986 and after 1986, a franchise fee as defined by section
24 3 of the franchise investment law, Act No. 269 of the Public Acts
25 of 1974, being section 445.1503 of the Michigan Compiled Laws, in
26 the following amounts:

1 (A) For the tax years 1986, 1987, and 1988, 20% of the
2 franchise fee.

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

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

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

12 (v) Film rental payments made by a theater owner to a film
13 distributor.

14 (vi) Royalties, fees, charges, or other payments or consid-
15 eration paid or incurred by radio or television broadcasters for
16 program matter or signals.

17 (h) A deduction for rent attributable to a lease back that
18 continues in effect under the former provisions of section
19 168(f)(8) of the internal revenue code as that section provided
20 immediately before the tax reform act of 1986, Public Law 99-514,
21 became effective or to a lease back of property to which the
22 amendments made by the tax reform act of 1986 do not apply as
23 provided in section 204 of the tax reform act of 1986.

24 (5) Add compensation.

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

1 (7) Deduct the following, to the extent included in arriving
2 at federal taxable income:

3 (a) A dividend received or considered received, including
4 the foreign dividend gross-up provided for in the internal reve-
5 nue code.

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

10 (c) All royalties except for the following:

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

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

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

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

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

24 (iii) For the tax years ending before 1991, this subdivision
25 does not apply to a fee for services paid by a franchisee that,
26 with respect to a specific provision of a franchise agreement, a

1 court of competent jurisdiction, before June 5, 1985, has
2 determined is not a royalty payment under this act.

3 (iv) Film rental payments made by a theater owner to a film
4 distributor.

5 (v) Royalties, fees, charges, or other payments or consider-
6 ation paid or incurred by radio or television broadcasters for
7 program matter or signals.

8 (d) Rent attributable to a lease back that continues in
9 effect under the former provisions of section 168(f)(8) of the
10 internal revenue code as that section provided immediately before
11 the tax reform act of 1986, Public Law 99-514, became effective
12 or to a lease back of property to which the amendments made by
13 the tax reform act of 1986 do not apply as provided in section
14 204 of the tax reform act of 1986.

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

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

22 (10) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 1996, A
23 TAXPAYER WITH BUSINESS ACTIVITY BASED ON THE OPERATION OF A CON-
24 STRUCTION COMPANY MAY DEDUCT AN AMOUNT EQUAL TO 10% OF THE COM-
25 PENSATION PAID IN THE TAX YEAR THAT IS ATTRIBUTABLE TO EMPLOYEES
26 OF THAT CONSTRUCTION COMPANY WHO ARE RESIDENTS OF THIS STATE. AS
27 USED IN THIS SUBSECTION, "CONSTRUCTION COMPANY" MEANS A PERSON

1 LICENSED OR REQUIRED TO BE LICENSED AS A RESIDENTIAL BUILDER OR
2 RESIDENTIAL MAINTENANCE AND ALTERATION CONTRACTOR UNDER THE OCCU-
3 PATIONAL CODE, ACT NO. 299 OF THE PUBLIC ACTS OF 1980, BEING SEC-
4 TIONS 339.101 TO 339.2721 OF THE MICHIGAN COMPILED LAWS.