



SENATE BILL No. 880

February 27, 1996, Introduced by Senator EMMONS and referred to the Committee on Finance.

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 (2) Add gross interest income and dividends derived from
9 obligations or securities of states other than Michigan, in the

1 same amount that was excluded from federal taxable income, less
2 the related portion of expenses not deducted in computing federal
3 taxable income because of sections 265 and 291 of the internal
4 revenue code.

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

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

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

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

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

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

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

24 (f) All interest including amounts paid, credited, or
25 reserved by insurance companies as amounts necessary to fulfill
26 the policy and other contract liability requirements of sections
27 805 and 809 of the internal revenue code. Interest does not

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

13 (g) All royalties except for the following:

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

17 (ii) Cable television franchise fees described in section
18 622 of part III of title VI of the communications act of 1934, 47
19 U.S.C. 542.

20 (iii) Except as provided in subparagraph (iv), for the tax
21 years 1986 and after 1986, a franchise fee as defined by section
22 3 of the franchise investment law, Act No. 269 of the Public Acts
23 of 1974, being section 445.1503 of the Michigan Compiled Laws, in
24 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 (iv) 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 (v) Film rental OR ROYALTY payments ~~made~~ PAID by a theater
11 owner to a film distributor OR A FILM PRODUCER.

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

15 (vii) ROYALTIES, FEES, CHARGES, OR OTHER PAYMENTS OR CONSID-
16 ERATION PAID BY A FILM DISTRIBUTOR FOR COPYRIGHTED MOTION PICTURE
17 FILMS, PROGRAM MATTER, OR SIGNALS TO A FILM PRODUCER.

18 (h) A deduction for rent attributable to a lease back that
19 continues in effect under the former provisions of section
20 168(f)(8) of the internal revenue code OF 1954 as that section
21 provided immediately before the tax reform act of 1986, Public
22 Law 99-514, became effective or to a lease back of property to
23 which the amendments made by the tax reform act of 1986 do not
24 apply as provided in section 204 of the tax reform act of 1986.

25 (5) Add compensation.

1 (6) Add a capital gain related to business activity of
2 individuals to the extent excluded in arriving at federal taxable
3 income.

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

6 (a) A dividend received or considered received, including
7 the foreign dividend gross-up provided for in the internal reve-
8 nue code.

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

13 (c) All royalties except for the following:

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

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

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

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

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

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

6 (iv) Film rental OR ROYALTY payments ~~made~~ PAID by a the-
 7 ater owner to a film distributor OR A FILM PRODUCER.

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

11 (vi) ROYALTIES, FEES, CHARGES, OR OTHER PAYMENTS OR CONSID-
 12 ERATION PAID BY A DISTRIBUTOR FOR COPYRIGHTED MOTION PICTURE
 13 FILMS, PROGRAM MATTER, OR SIGNALS TO A FILM PRODUCER.

14 (d) Rent attributable to a lease back that continues in
 15 effect under the former provisions of section 168(f)(8) of the
 16 internal revenue code OF 1954 as that section provided immedi-
 17 ately before the tax reform act of 1986, Public Law 99-514,
 18 became effective or to a lease back of property to which the
 19 amendments made by the tax reform act of 1986 do not apply as
 20 provided in section 204 of the tax reform act of 1986.

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

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

1 Section 2. This amendatory act is retroactive and effective
2 on July 15, 1993.