

HOUSE BILL No. 6066

September 16, 1998, Introduced by Rep. Profit and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending sections 9 and 73 (MCL 208.9 and 208.73), section 9
as amended by 1996 PA 347 and section 73 as amended by 1995 PA
80.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

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

10 (d) A dividend paid or accrued except a dividend that repre-
11 sents a reduction of premiums to policyholders of insurance
12 companies.

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

20 (f) All interest including amounts paid, credited, or
21 reserved by insurance companies as amounts necessary to fulfill
22 the policy and other contract liability requirements of sections
23 805 and 809 of the internal revenue code. Interest does not
24 include payments or credits made to or on behalf of a taxpayer by
25 a manufacturer, distributor, or supplier of inventory to defray
26 any part of the taxpayer's floor plan interest, if these payments
27 are used by the taxpayer to reduce interest expense in

1 determining federal taxable income. For purposes of this
2 section, "floor plan interest" means interest paid that finances
3 any part of the taxpayer's purchase of automobile inventory from
4 a manufacturer, distributor, or supplier. However, amounts
5 attributable to any invoiced items used to provide more favorable
6 floor plan assistance to a taxpayer than to a person who is not a
7 taxpayer is considered interest paid by a manufacturer, distribu-
8 tor, or supplier.

9 (g) All royalties except for the following:

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

13 (ii) Cable television franchise fees described in section
14 622 of part III of title VI of the communications act of 1934, 47
15 U.S.C. 542.

16 (iii) Except as provided in subparagraph (iv), for the tax
17 years 1986 and after 1986, 100% OF a franchise fee as defined by
18 section 3 of the franchise investment law, 1974 PA 269, MCL
19 445.1503. ~~Act No. 269 of the Public Acts of 1974, being section~~
20 ~~445.1503 of the Michigan Compiled Laws, in the following~~
21 ~~amounts:-~~

22 ~~(A) For the tax years 1986, 1987, and 1988, 20% of the~~
23 ~~franchise fee.~~

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

26 ~~(C) For the tax years 1991 and after 1991, 100% of the~~
27 ~~franchise fee.~~

1 (iv) 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 (v) Film rental or royalty payments paid by a theater owner
7 to a film distributor, a film producer, or a film distributor and
8 producer.

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

12 (vii) Royalties, fees, charges, or other payments or consid-
13 eration paid by a film distributor for copyrighted motion picture
14 films, program matter, or signals to a film producer.

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

22 (5) ~~Add~~ EXCEPT FOR A TAXPAYER WHO FILES A SIMPLIFIED
23 ANNUAL RETURN AS PROVIDED IN SECTION 73(6), ADD compensation.

24 (6) Add a capital gain related to business activity of indi-
25 viduals to the extent excluded in arriving at federal taxable
26 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, 100% OF a franchise fee as
16 defined in section 3 of THE FRANCHISE INVESTMENT LAW, 1974 PA
17 269, MCL 445.1503. ~~Act No. 269 of the Public Acts of 1974, in~~
18 ~~the following amounts:~~

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

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

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

25 (iii) For the tax years ending before 1991, this subdivision
26 does not apply to a fee for services paid by a franchisee that,
27 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 or royalty payments paid by a theater owner
4 to a film distributor, a film producer, or a film distributor and
5 producer.

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

9 (vi) Royalties, fees, charges, or other payments or consid-
10 eration paid by a film distributor for copyrighted motion picture
11 films, program matter, or signals to a film producer.

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

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

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

26 Sec. 73. (1) An annual or final return shall be filed with
27 the department in the form and content prescribed by the

1 department by the last day of the fourth month after the end of
2 the taxpayer's tax year. Any final liability shall be remitted
3 with this return. A person whose apportioned or allocated gross
4 receipts plus the adjustments provided in section 23b(a) ~~—, (b),~~
5 ~~and (c)~~ TO (G) are less than the following amount for the appro-
6 priate year ~~—need—~~ IS not REQUIRED TO file a return or pay the
7 tax provided under this act:

8 (a) \$40,000.00 for tax years beginning before January 1,
9 1991.

10 (b) \$60,000.00 for tax years beginning after December 31,
11 1990 and before January 1, 1992.

12 (c) \$100,000.00 for tax years beginning after December 31,
13 1991 and before January 1, 1994.

14 (d) \$137,500.00 for tax years beginning after December 31,
15 1993 and before January 1, 1995.

16 (e) \$250,000.00 for tax years beginning after December 31,
17 1994.

18 (2) For a person whose apportioned or allocated gross
19 receipts plus the adjustments provided in section 23b(a) ~~—, (b),~~
20 ~~and (c)~~, TO (G) are for a tax year less than 12 months, the
21 amount in subsection (1) shall be multiplied by a fraction, the
22 numerator of which is the number of months in the tax year and
23 the denominator of which is 12.

24 (3) The commissioner upon application of the taxpayer and
25 for good cause shown may extend the date for filing the annual
26 return. Interest at the rate of 9% per annum shall be added to
27 the amount of the tax unpaid for the period of the extension.

1 The commissioner shall require a tentative return and payment of
2 an estimated tax.

3 (4) If a taxpayer is granted an extension of time within
4 which to file the federal income tax return for any taxable year,
5 the filing of a copy of the request for extension together with a
6 tentative return and payment of an estimated tax with the commis-
7 sioner by the due date provided in subsection (1) shall automati-
8 cally extend the due date for the filing of a final return under
9 this act for an equivalent period plus 60 days. Interest at the
10 rate of 9% per annum shall be added to the amount of the tax
11 unpaid for the period of the extension.

12 (5) For tax years that end after July 6, 1994, an affiliated
13 group as defined in this act, a controlled group of corporations
14 as defined in section 1563 of the internal revenue code and fur-
15 ther described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to
16 1.414(c)-5, or an entity under common control as defined in the
17 internal revenue code shall consolidate the gross receipts of the
18 members of the affiliated group, member corporations of the con-
19 trolled group, or entities under common control that have appor-
20 tioned or allocated gross receipts, plus the adjustments provided
21 in section 23b(a) ~~—, (b), and (c)—~~ TO (G), of \$100,000.00 or more
22 to determine if the group or entity shall pay a tax or file a
23 return as provided under subsection (1). An individual member of
24 an affiliated group or controlled group of corporations or an
25 entity under common control is not required to file a return or
26 pay the tax under this act if that member or entity has
27 apportioned or allocated gross receipts, plus the adjustments

1 provided in section 23b(a) ~~—, (b), and (c)~~ TO (G), of less than
2 \$100,000.00.

3 (6) THE DEPARTMENT SHALL DEVELOP A SIMPLIFIED ANNUAL RETURN
4 FORM THAT MAY BE FILED FOR A TAX YEAR BY A TAXPAYER THAT MEETS
5 ALL OF THE FOLLOWING CRITERIA:

6 (A) DOES NOT CLAIM A DEDUCTION UNDER SECTION 23 FOR THE TAX
7 YEAR AND IS NOT REQUIRED TO MAKE AN ADJUSTMENT UNDER SECTION 23B
8 FOR THE TAX YEAR. THE VALUE OF A DEDUCTION UNDER SECTION 23 THAT
9 WOULD OTHERWISE HAVE BEEN AVAILABLE TO THE TAXPAYER IN A TAX YEAR
10 FOR WHICH THE TAXPAYER FILES THE SIMPLIFIED ANNUAL RETURN FORM
11 UNDER THIS SUBSECTION SHALL NOT BE CARRIED FORWARD.

12 (B) HAS GROSS RECEIPTS OF LESS THAN \$1,000,000.00 FOR THE
13 TAX YEAR.

14 (C) HAS ADJUSTED BUSINESS INCOME OF LESS THAN \$475,000.00
15 FOR THE TAX YEAR.

16 (D) IS NOT A MEMBER OF A CONTROLLED GROUP OF CORPORATIONS
17 THAT FILES A CONSOLIDATED RETURN UNDER THIS ACT.

18 (E) DOES NOT ADD COMPENSATION TO THE TAX BASE FOR THE TAX
19 YEAR AS REQUIRED BY SECTION 9.