

SUBSTITUTE FOR
HOUSE BILL NO. 5108

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending sections 4a, 31, and 36 (MCL 208.4a, 208.31, and
208.36), section 4a as added by 2003 PA 241, section 31 as amended
by 1999 PA 115, and section 36 as amended by 1995 PA 284.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4a. (1) For tax years that begin after December 31, 2006
2 **AND BEFORE JANUARY 1, 2008**, compensation for purposes of section
3 4(3) does not include 50% of payments under health and welfare and
4 noninsured benefit plans for the benefit of persons who are
5 residents of this state and payments of fees for the administration
6 of health and welfare and noninsured benefit plans for the benefit
7 of persons who are residents of this state paid by the taxpayer in

1 the tax year.

2 (2) FOR PURPOSES OF SECTION 4(3), COMPENSATION DOES NOT
3 INCLUDE THE FOLLOWING PERCENTAGES OF PAYMENTS UNDER HEALTH AND
4 WELFARE AND NONINSURED BENEFIT PLANS FOR THE BENEFIT OF PERSONS WHO
5 ARE RESIDENTS OF THIS STATE AND PAYMENTS OF FEES FOR THE
6 ADMINISTRATION OF HEALTH AND WELFARE AND NONINSURED BENEFIT PLANS
7 FOR THE BENEFIT OF PERSONS WHO ARE RESIDENTS OF THIS STATE PAID BY
8 THE TAXPAYER FOR THE SPECIFIED TAX YEARS:

9 (A) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2007 AND
10 BEFORE JANUARY 1, 2009, 62.5%.

11 (B) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2008 AND
12 BEFORE JANUARY 1, 2010, 75%.

13 (C) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2009 AND
14 BEFORE JANUARY 1, 2011, 87.5%.

15 (D) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2010, 100%.

16 Sec. 31. (1) Except as provided in subsections (5) and (6),
17 there is levied and imposed a specific tax upon the adjusted tax
18 base of every person with business activity in this state that is
19 allocated or apportioned to this state at the following rates for
20 the specified periods:

21 (a) Before October 1, 1994, 2.35%.

22 (b) After September 30, 1994 and before January 1, 1999,
23 2.30%.

24 (c) Beginning January 1, 1999 and each January 1 after 1999,
25 the rate under this subsection shall be reduced as provided in
26 subsection (5).

27 (D) ON JANUARY 1, 2007 AND JANUARY 1, 2008, THE RATE UNDER

1 THIS SUBSECTION SHALL BE REDUCED AS PROVIDED IN SUBSECTION (6).

2 (E) ON JANUARY 1, 2009, THE RATE IN EFFECT PURSUANT TO
3 SUBSECTION (6)(B) SHALL BE REDUCED AS PROVIDED IN SUBSECTIONS (5)
4 AND (7).

5 (F) BEGINNING JANUARY 1, 2010 AND EACH JANUARY 1 AFTER 2010,
6 THE RATE IN EFFECT FOR THE IMMEDIATELY PRECEDING TAX YEAR UNDER
7 THIS SECTION SHALL BE REDUCED AS PROVIDED IN SUBSECTIONS (5) AND
8 (7).

9 (2) As used in this section, "adjusted tax base" means the tax
10 base allocated or apportioned to this state pursuant to chapter 3
11 with the adjustments prescribed by sections 23 and 23b and the
12 exemptions prescribed by section 35. ~~If the adjusted tax base~~
13 ~~exceeds 50% of the sum of gross receipts plus the adjustments~~
14 ~~provided in section 23b(a) to (g), apportioned or allocated to~~
15 ~~Michigan with the apportionment fraction calculated pursuant to~~
16 ~~chapter 3, the adjusted tax base may, at the option of the~~
17 ~~taxpayer, be reduced by that excess.~~ If a taxpayer reduces the
18 adjusted tax base under this subsection, the taxpayer is not
19 entitled to the adjustment provided in subsection (4) for the same
20 taxable year. This subsection does not apply to an adjusted tax
21 base under section 22a. **FOR THE SPECIFIED YEARS AND EXCEPT AS**
22 **OTHERWISE PROVIDED IN SUBSECTION (8), IF THE ADJUSTED TAX BASE**
23 **EXCEEDS THE FOLLOWING PERCENTAGES OF THE SUM OF GROSS RECEIPTS PLUS**
24 **THE ADJUSTMENTS PROVIDED IN SECTION 23B(A) TO (G), APPORTIONED OR**
25 **ALLOCATED TO MICHIGAN WITH THE APPORTIONMENT FRACTION CALCULATED**
26 **PURSUANT TO CHAPTER 3, THE ADJUSTED TAX BASE MAY, AT THE OPTION OF**
27 **THE TAXPAYER, BE REDUCED BY THAT EXCESS:**

1 (A) FOR TAX YEARS THAT BEGIN BEFORE JANUARY 1, 2007, 50.0%.

2 (B) FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2007 AND
3 BEFORE JANUARY 1, 2008, 52.7%.

4 (C) FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2008,
5 56%.

6 (3) The tax levied under this section and imposed is upon the
7 privilege of doing business and not upon income.

8 (4) In lieu of the reduction provided in subsection (2), a
9 person may elect to reduce the adjusted tax base ~~by the percentage~~
10 ~~that the compensation divided by the tax base exceeds 63%. The~~
11 ~~deduction shall not exceed 37% of the adjusted tax base.~~ **PURSUANT**
12 **TO THIS SUBSECTION.** For purposes of computing the deduction allowed
13 by this subsection, as effective for the respective tax year,
14 compensation does not include amounts of compensation exempt from
15 tax under section 35(1)(e). This subsection does not apply to an
16 adjusted tax base under section 22a. **EXCEPT AS OTHERWISE PROVIDED IN**
17 **SUBSECTION (8), A PERSON MAY ELECT TO REDUCE THE ADJUSTED TAX BASE**
18 **BY THE PERCENTAGE THAT THE COMPENSATION DIVIDED BY THE TAX BASE**
19 **EXCEEDS THE FOLLOWING PERCENTAGES FOR THE SPECIFIED YEARS AND THE**
20 **DEDUCTION SHALL NOT EXCEED THE FOLLOWING PERCENTAGES OF THE**
21 **ADJUSTED TAX BASE:**

22 (A) FOR TAX YEARS THAT BEGIN BEFORE JANUARY 1, 2007, THE
23 PERCENTAGE THAT COMPENSATION DIVIDED BY THE TAX BASE EXCEEDS 63%
24 AND THE DEDUCTION SHALL NOT EXCEED 37% OF ADJUSTED TAX BASE.

25 (B) FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2007 AND
26 BEFORE JANUARY 1, 2008, THE PERCENTAGE THAT COMPENSATION DIVIDED BY
27 THE TAX BASE EXCEEDS 66% AND THE DEDUCTION SHALL NOT EXCEED 34% OF

1 ADJUSTED TAX BASE.

2 (C) FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2008, THE
3 PERCENTAGE THAT COMPENSATION DIVIDED BY THE TAX BASE EXCEEDS 70%
4 AND THE DEDUCTION SHALL NOT EXCEED 30% OF ADJUSTED TAX BASE.

5 (5) If the comprehensive annual financial report of this state
6 for a state fiscal year, published pursuant to section 494 of the
7 management and budget act, 1984 PA 431, MCL 18.1494, reports an
8 ending balance of more than \$250,000,000.00 in the countercyclical
9 budget and economic stabilization fund created under section 351 of
10 the management and budget act, 1984 PA 431, MCL 18.1351, for that
11 state fiscal year, the tax rate under this section shall be reduced
12 by 0.1 percentage point on the January 1 following the end of the
13 state fiscal year for which the report was issued.

14 (6) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8), THE RATE
15 UNDER THIS SECTION, AFTER APPLICATION OF SUBSECTION (5), SHALL BE
16 REDUCED AS FOLLOWS AND THE RESULTING RATE SHALL BE THE RATE FOR THE
17 SPECIFIED TAX YEARS:

18 (A) ON JANUARY 1, 2007, THE RATE AS DETERMINED UNDER
19 SUBSECTION (1) AND REDUCED, IF APPLICABLE, UNDER SUBSECTION (5),
20 SHALL BE FURTHER REDUCED BY 0.1 PERCENTAGE POINT.

21 (B) ON JANUARY 1, 2008, THE RATE DETERMINED UNDER SUBDIVISION
22 (A) SHALL BE REDUCED, IF APPLICABLE, UNDER SUBSECTION (5) AND THEN
23 FURTHER REDUCED BY 0.1 PERCENTAGE POINT.

24 (7) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, BEGINNING
25 IN CALENDAR YEAR 2009 AND EACH CALENDAR YEAR AFTER 2009 IF THE
26 REVENUE ESTIMATING CONFERENCE THAT MEETS IN MAY, AS PROVIDED IN
27 SECTION 367B OF THE MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL

1 18.1367B, DETERMINES THAT THE AMOUNT ESTIMATED BY THAT REVENUE
2 ESTIMATING CONFERENCE FOR REVENUES UNDER THIS ACT FOR THAT STATE
3 FISCAL YEAR EXCEEDS THE REVENUES UNDER THIS ACT FOR THE STATE
4 FISCAL YEAR IMMEDIATELY PRECEDING THE STATE FISCAL YEAR IN WHICH
5 THE REVENUE ESTIMATING CONFERENCE MEETS BY \$80,000,000.00 OR MORE,
6 THE TAX RATE UNDER THIS SECTION SHALL BE REDUCED BY 0.05 PERCENTAGE
7 POINT ON THE JANUARY 1 IMMEDIATELY PRECEDING THE MAY IN WHICH THE
8 REVENUE ESTIMATING CONFERENCE MET. A REDUCTION UNDER THIS
9 SUBSECTION SHALL BE MADE AFTER THE APPLICATION OF SUBSECTION (5)
10 FOR THE SAME JANUARY 1. A MAXIMUM OF 4 REDUCTIONS UNDER THIS
11 SUBSECTION IS ALLOWED.

12 (8) ALL OF THE FOLLOWING APPLY FOR TAX YEARS BEGINNING ON AND
13 AFTER JANUARY 1, 2007:

14 (A) A TAXPAYER MAY ELECT TO REDUCE ITS TAX BASE USING THE
15 PERCENTAGE ALLOWED UNDER SUBSECTION (2)(A) IF THE TAXPAYER
16 CALCULATES TAX LIABILITY USING THE RATE DETERMINED PURSUANT TO
17 SUBSECTION (1)(C).

18 (B) A TAXPAYER MAY ELECT TO REDUCE ITS TAX BASE AND CLAIM A
19 DEDUCTION USING THE PERCENTAGES ALLOWED UNDER SUBSECTION (4)(A) IF
20 THE TAXPAYER CALCULATES TAX LIABILITY USING THE RATE DETERMINED
21 PURSUANT TO SUBSECTION (1)(C).

22 (9) ~~—(6)—~~ The department shall annualize the rate under this
23 section as necessary, and the applicable annualized rate shall be
24 imposed.

25 Sec. 36. (1) As used in this section:

26 (a) "Active shareholder" means a shareholder who receives at
27 least \$10,000.00 in compensation, director's fees, or dividends

1 from the business, and who owns at least 5% of the outstanding
2 stock.

3 (b) "Officer" means an officer of a corporation other than a
4 subchapter S corporation including the chairperson of the board,
5 president, vice-president, secretary, and treasurer, or persons
6 performing similar duties.

7 (c) "Adjusted business income" means business income as
8 defined in section 3 with all of the following adjustments:

9 (i) Add compensation and director's fees of active shareholders
10 of a corporation.

11 (ii) Make the adjustments provided in section 9(4)(a) and (b).

12 (iii) Add compensation and director's fees of officers of a
13 corporation.

14 (d) "Shareholder" means a person who owns outstanding stock in
15 the business **OR FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1,**
16 **2007, A MEMBER OF A BUSINESS ENTITY THAT FILES AS A CORPORATION FOR**
17 **FEDERAL TAX PURPOSES.** An individual is considered as the owner of
18 the stock owned, directly or indirectly, by or for family members
19 as defined by section 318(a)(1) of the internal revenue code.

20 (e) "Loss adjustment" means the amount by which adjusted
21 business income was less than zero in any of the 5 tax years
22 immediately preceding the tax year for which eligibility for the
23 credit provided by this section is being determined. In determining
24 the loss adjustment for a tax year, a taxpayer is not required to
25 use more of the taxpayer's total negative adjusted business income
26 than the amount needed to qualify the taxpayer for the credit under
27 this section. A taxpayer shall not be considered to have used any

1 portion of the taxpayer's negative adjusted business income amount
2 unless the portion used is necessary to qualify for the credit
3 under this section. A taxpayer shall not reuse a negative adjusted
4 business income amount used as a loss adjustment in a previous tax
5 year or use a negative adjusted business income amount from a year
6 in which the taxpayer did not receive the credit under this
7 section.

8 (f) "Subchapter S corporation" means a corporation electing
9 taxation under subchapter S of chapter 1 of subtitle A of the
10 internal revenue code, sections 1361 to 1379 of the internal
11 revenue code.

12 (2) The credit provided in this section shall be taken before
13 any other credit under this act, and is available to any person
14 whose gross receipts do not exceed \$6,000,000.00 for tax years
15 commencing on or after January 1, 1984 and before January 1, 1989;
16 \$7,000,000.00 for tax years commencing in 1989; \$7,250,000.00 for
17 tax years commencing in 1990; \$7,500,000.00 for tax years
18 commencing in 1991; or \$10,000,000.00 for tax years commencing
19 after 1991, and whose adjusted business income minus the loss
20 adjustment does not exceed \$475,000.00 for tax years commencing on
21 or after January 1, 1985, subject to the following:

22 (a) An individual, a partnership, ~~or~~ a subchapter S
23 corporation, **OR, FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1,**
24 **2007, A BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL TAX**
25 **PURPOSES** is disqualified if the individual, any 1 partner of the
26 partnership, ~~or~~ any 1 shareholder of the subchapter S
27 corporation, **OR, FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1,**

2007, ANY 1 MEMBER OF A BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL TAX PURPOSES receives more than \$95,000.00 for tax years commencing on or after January 1, 1985 and before January 1, 1998 or more than \$115,000.00 for tax years commencing after December 31, 1997 AND BEFORE JANUARY 1, 2007, OR MORE THAN \$175,000.00 AS ADJUSTED UNDER SUBSECTION (9) FOR TAX YEARS COMMENCING AFTER DECEMBER 31, 2006 as a distributive share of the adjusted business income minus the loss adjustment of the individual, the partnership, or the subchapter S corporation.

(b) A corporation other than a subchapter S corporation is disqualified if either of the following occur for the respective tax year:

(i) Compensation and director's fees of a shareholder or officer exceed \$95,000.00 for tax years commencing on or after January 1, 1985 and before January 1, 1998 or exceed \$115,000.00 for tax years commencing after December 31, 1997 AND BEFORE JANUARY 1, 2007, OR EXCEED \$175,000.00 AS ADJUSTED UNDER SUBSECTION (9) FOR TAX YEARS COMMENCING AFTER DECEMBER 31, 2006.

(ii) The sum of the following amounts exceeds \$95,000.00 for tax years commencing on or after January 1, 1985 and before January 1, 1998 or exceeds \$115,000.00 for tax years commencing after December 31, 1997 AND BEFORE JANUARY 1, 2007, OR EXCEED \$175,000.00 AS ADJUSTED UNDER SUBSECTION (9) FOR TAX YEARS COMMENCING AFTER DECEMBER 31, 2006:

(A) Compensation and director's fees of a shareholder.

(B) The product of the percentage of outstanding stock owned by that shareholder multiplied by the difference between the sum of

1 business income and the adjustments provided in section 9(4)(a) and
 2 (b) minus the loss adjustment.

3 (c) Subject to section 36d, for a taxpayer that is eligible
 4 for the credit under this subsection for tax years beginning after
 5 December 31, 1997, the credit determined under this subsection
 6 shall be reduced by the following percentages in the following
 7 circumstances:

8 (i) If an individual, any 1 partner of the partnership, ~~or~~
 9 any 1 shareholder of the subchapter S corporation, **OR, FOR TAX**
 10 **YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2007, ANY 1 MEMBER OF A**
 11 **BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL TAX**
 12 **PURPOSES** receives as a distributive share of adjusted gross income
 13 minus the loss adjustment of the individual, partnership, ~~or~~
 14 subchapter S corporation, **OR, FOR TAX YEARS THAT BEGIN ON AND AFTER**
 15 **JANUARY 1, 2007, BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR**
 16 **FEDERAL TAX PURPOSES**; if compensation and directors' fees of a
 17 shareholder or officer of a corporation other than a subchapter S
 18 corporation are; or if the sum of the amounts in subdivision
 19 (b)(ii)(A) and (B) is more than \$95,000.00 but less than
 20 \$100,000.00, the credit is reduced by 20%.

21 (ii) If an individual, any 1 partner of the partnership, ~~or~~
 22 any 1 shareholder of the subchapter S corporation, **OR, FOR TAX**
 23 **YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2007, ANY 1 MEMBER OF A**
 24 **BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL TAX**
 25 **PURPOSES** receives as a distributive share of adjusted gross income
 26 minus the loss adjustment of the individual, partnership, ~~or~~
 27 subchapter S corporation, **OR, FOR TAX YEARS THAT BEGIN ON AND AFTER**

1 JANUARY 1, 2007, BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR
 2 FEDERAL TAX PURPOSES; if compensation and directors' fees of a
 3 shareholder or officer of a corporation other than a subchapter S
 4 corporation are; or if the sum of the amounts in subdivision
 5 (b)(ii)(A) and (B) is \$100,000.00 or more but less than \$105,000.00,
 6 the credit is reduced by 40%.

7 (iii) If an individual, any 1 partner of the partnership, ~~or~~
 8 any 1 shareholder of the subchapter S corporation, OR, FOR TAX
 9 YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2007, ANY 1 MEMBER OF A
 10 BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL TAX
 11 PURPOSES receives as a distributive share of adjusted gross income
 12 minus the loss adjustment of the individual, partnership, ~~or~~
 13 subchapter S corporation, OR, FOR TAX YEARS THAT BEGIN ON AND AFTER
 14 JANUARY 1, 2007, BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR
 15 FEDERAL TAX PURPOSES; if compensation and directors' fees of a
 16 shareholder or officer of a corporation other than a subchapter S
 17 corporation are; or if the sum of the amounts in subdivision
 18 (b)(ii)(A) and (B) is \$105,000.00 or more but less than \$110,000.00,
 19 the credit is reduced by 60%.

20 (iv) If an individual, any 1 partner of the partnership, ~~or~~
 21 any 1 shareholder of the subchapter S corporation, OR, FOR TAX
 22 YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2007, ANY 1 MEMBER OF A
 23 BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL TAX
 24 PURPOSES receives as a distributive share of adjusted gross income
 25 minus the loss adjustment of the individual, partnership, ~~or~~
 26 subchapter S corporation, OR, FOR TAX YEARS THAT BEGIN ON AND AFTER
 27 JANUARY 1, 2007, BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR

1 **FEDERAL TAX PURPOSES;** if compensation and directors' fees of a
2 shareholder or officer of a corporation other than a subchapter S
3 corporation are; or if the sum of the amounts in subdivision
4 (b)(ii)(A) and (B) is \$110,000.00 or more but less than \$115,000.00,
5 the credit is reduced by 80%.

6 (3) For the purposes of determining disqualification under
7 subsection (2), an active shareholder's share of business income
8 shall not be attributed to another active shareholder.

9 (4) A person who qualifies pursuant to subsection (2) is
10 allowed a credit against the tax imposed by section 31. For tax
11 years commencing before January 1, 1989, the credit is a percentage
12 reduction in tax liability. ~~For tax years commencing on and after~~
13 ~~January 1, 1989 and through tax years commencing in 1991, the~~
14 ~~credit is the greater of the amount by which the tax imposed by~~
15 ~~section 31 exceeds 4% of adjusted business income or 3% of adjusted~~
16 ~~business income for tax years commencing after 1991 or a percentage~~
17 ~~reduction in tax liability. However, beginning October 1, 1994, the~~
18 ~~percentage of adjusted business income shall be 2%. The department~~
19 shall annualize the rates provided under this subsection as
20 necessary for tax years that end after September 30, 1994 and the
21 applicable annualized rate shall be imposed for those tax years.

22 **THE CREDIT UNDER THIS SUBSECTION IS THE GREATER OF THE AMOUNT BY**
23 **WHICH THE TAX IMPOSED BY SECTION 31 EXCEEDS THE FOLLOWING**
24 **PERCENTAGE OF ADJUSTED BUSINESS INCOME FOR THE SPECIFIED TAX YEARS**
25 **OR A PERCENTAGE REDUCTION IN TAX LIABILITY:**

26 (A) **FOR TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 1989 AND**
27 **THROUGH TAX YEARS COMMENCING IN 1991, 4%.**

1 (B) FOR TAX YEARS COMMENCING AFTER 1991 AND BEFORE OCTOBER 1,
2 1994, 3%.

3 (C) BEGINNING OCTOBER 1, 1994 AND BEFORE JANUARY 1, 2008, 2%.

4 (D) BEGINNING JANUARY 1, 2008 AND BEFORE JANUARY 1, 2009,
5 1.8%.

6 (E) BEGINNING JANUARY 1, 2009 AND BEFORE JANUARY 1, 2010,
7 1.6%.

8 (F) BEGINNING JANUARY 1, 2010, 1.4%.

9 (5) The percentage reduction provided in subsection (4) is
10 calculated by subtracting from 100% the percentage computed by
11 dividing adjusted business income by 45% of tax base.

12 (6) If gross receipts exceed \$5,000,000.00 for tax years
13 commencing on or after January 1, 1984 and before January 1, 1989;
14 \$6,000,000.00 for tax years commencing in 1989; \$6,250,000.00 for
15 tax years commencing in 1990; \$6,500,000.00 for tax years
16 commencing in 1991; or \$9,000,000.00 for tax years commencing after
17 1991, the credit shall be reduced by a fraction, the numerator of
18 which is the amount of gross receipts over \$5,000,000.00 for tax
19 years commencing on or after January 1, 1984 and before January 1,
20 1989; \$6,000,000.00 for tax years commencing in 1989; \$6,250,000.00
21 for tax years commencing in 1990; \$6,500,000.00 for tax years
22 commencing in 1991; or \$9,000,000.00 for tax years commencing after
23 1991, and the denominator of which is \$1,000,000.00. The credit
24 shall not exceed 50% for tax years commencing before January 1,
25 1984; 90% for tax years commencing on or after January 1, 1984 and
26 before January 1, 1988; or 100% for tax years commencing on and
27 after January 1, 1988 of the tax liability imposed by section 31.

1 (7) An affiliated group as defined in this act, a controlled
2 group of corporations as defined in section 1563 of the internal
3 revenue code and further described in 26 C.F.R. 1.414(b)-1 and
4 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
5 defined by the internal revenue code shall not take the credit
6 allowed by this section unless the business activities of the
7 entities are consolidated. **FOR PURPOSES OF THIS SUBSECTION,**
8 **BUSINESS ACTIVITIES INCLUDE ALL ACTIVITIES WITHIN AND OUTSIDE OF**
9 **THIS STATE.**

10 (8) The department shall permit a taxpayer who elects to claim
11 the credit allowed by this section based on the amount by which the
12 tax imposed by section 31 exceeds the percentage of adjusted
13 business income for the tax year as determined under subsection
14 (4), and who is not required to reduce the credit pursuant to
15 subsection (2) or (6), to file and pay the tax imposed by this act
16 without computing the tax imposed under section 31.

17 (9) **FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2007, THE**
18 **MAXIMUM AMOUNT UNDER SUBSECTION (2)(A), (B)(i), (B)(ii), AND (C)(iv)**
19 **SHALL BE ADJUSTED BY THE PERCENTAGE INCREASE IN THE RATE OF**
20 **PERSONAL INCOME GROWTH AS REPORTED BY THE FEDERAL GOVERNMENT FOR**
21 **THE IMMEDIATELY PRECEDING CALENDAR YEAR.**

22 (10) **AS USED IN THIS SECTION, THE TERM "CORPORATION" INCLUDES**
23 **A BUSINESS ENTITY THAT FILES AS A CORPORATION FOR FEDERAL TAX**
24 **PURPOSES.**

25 Enacting section 1. This amendatory act does not take effect
26 unless all of the following bills of the 93rd Legislature are
27 enacted into law:

- 1 (a) House Bill No. 4972.
- 2 (b) House Bill No. 4973.
- 3 (c) House Bill No. 4980.
- 4 (d) House Bill No. 5095.
- 5 (e) House Bill No. 5096.
- 6 (f) House Bill No. 5097.
- 7 (g) House Bill No. 5098.
- 8 (h) House Bill No. 5106.
- 9 (i) House Bill No. 5107.