

SENATE BILL No. 478

May 3, 2007, Introduced by Senators JANSEN and HARDIMAN and referred to the Committee on Finance.

A bill to provide for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; and to provide for the interrelation of this act with other acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 1

Sec. 1. This act shall be known and may be cited as the

1 "Michigan business activities tax act".

2 Sec. 2. A term used in this act and not defined differently
3 shall have the same meaning as when used in the laws of the United
4 States relating to federal income taxes in effect for the tax year
5 unless the context clearly requires a different meaning. A
6 reference in this act to the internal revenue code includes other
7 provisions of the laws of the United States relating to federal
8 income taxes.

9 Sec. 3. (1) "Affiliated group" means that term as defined
10 under section 1504 of the internal revenue code.

11 (2) "Agricultural activity" means commercial farming
12 including, but not limited to, cultivation of the soil; growing and
13 harvesting of an agricultural, horticultural, or floricultural
14 commodity; dairying; raising of livestock, bees, fish, fur-bearing
15 animals, or poultry; or turf or tree farming, but not including the
16 marketing at retail of agricultural goods except for sales of
17 nursery stock grown by the seller and sold to a nursery dealer
18 licensed under section 9 of the insect pest and plant disease act,
19 1931 PA 189, MCL 286.209.

20 (3) "Business activity" means any activity that is a trade or
21 business of the taxpayer for federal income tax purposes, but does
22 not include any activity that is a trade or business carried on as
23 an employee.

24 Sec. 4. (1) "Department" means the department of treasury.

25 (2) "Employee" means an employee as defined in section 3401(c)
26 of the internal revenue code. A person who receives remuneration
27 that is required to be reported in a statement pursuant to section

1 6051 of the internal revenue code is presumed to be an employee
2 with respect to services provided by that person for that
3 remuneration.

4 (3) "Employer" means an employer as defined in section 3401(d)
5 of the internal revenue code. A person who pays remuneration that
6 is required be reported in a statement pursuant to section 6051 of
7 the internal revenue code is presumed to be an employer with
8 respect to services received by that person for that remuneration.

9 (4) "Exempt organization" means a person who is exempt from
10 taxation under section 501 of the internal revenue code.

11 Sec. 5. (1) "Financial organization" means a bank, trust
12 company, building and loan or savings and loan association, bank
13 holding company as defined in 12 USC 1841, credit union, or any
14 other person at least 90% of whose assets consist of intangible
15 personal property and at least 90% of whose business receipts
16 consist of dividends or interest or other charges resulting from
17 the use of money or the extension of credit.

18 (2) "Foreign person" means either of the following:

19 (a) An individual who is not a United States resident, whether
20 or not the individual is subject to taxation under the internal
21 revenue code.

22 (b) A person formed under the laws of a foreign country or a
23 political subdivision of a foreign country, whether or not the
24 person is subject to taxation under the internal revenue code.

25 (3) "Insurance company" means an authorized insurer as defined
26 in section 106 of the insurance code of 1956, 1956 PA 218, MCL
27 500.106.

1 (4) "Internal revenue code" means the United States internal
2 revenue code of 1986 in effect on January 1, 2008 or, at the option
3 of the taxpayer, in effect for the tax year.

4 (5) "Michigan business receipts" means the following:

5 (a) Receipts from sale of tangible personal property if the
6 property is shipped or delivered to any purchaser within this state
7 regardless of the free on board point or other conditions of the
8 sales and if personal property is shipped from an office, store,
9 warehouse, factory, or other place of storage in this state and the
10 taxpayer is not taxable in the state of the purchaser. For the
11 purposes of this subdivision only, "state" means any state of the
12 United States, the District of Columbia, the Commonwealth of Puerto
13 Rico, any territory or possession of the United States, or a
14 political subdivision thereof.

15 (b) Receipts from the sale, lease, rental, or licensing of
16 real property located in this state and the lease, rental, or
17 licensing of tangible personal property located in this state.

18 (c) Receipts from the sale of services if the services are
19 provided to a person who is located in this state or the benefit of
20 the services is received by a person who is located in this state.

21 (d) Receipts derived by a mortgage company from the
22 origination or sale of a loan secured by residential real property.
23 For purposes of this subdivision, "mortgage company" means a person
24 who has greater than 70% of its revenues, in the ordinary course of
25 business, from the origination, sale, or servicing of residential
26 mortgage loans. Receipts shall only be included under this
27 subdivision if 1 or more of the following apply:

1 (i) The real property is located in this state.

2 (ii) The real property is located both within this state and 1
3 or more other states and more than 50% of the fair market value of
4 the real property is located within this state.

5 (iii) More than 50% of the real property is not located in any 1
6 state and the borrower is located in this state. For purposes of
7 this subparagraph, a borrower is considered located in this state
8 if the borrower's billing address is in this state.

9 (e) For a taxpayer whose business activities consist of
10 transportation services rendered partly inside and partly outside
11 this state, that portion of the total business receipts of the
12 taxpayer that is equal to the sum of its passenger miles and
13 freight mile fractions, separately computed and individually
14 weighted by the ratio of total business receipts from passenger
15 transportation to total business receipts from all transportation,
16 and by the ratio of total business receipts from freight
17 transportation to total business receipts from all transportation,
18 respectively. If the department determines that the information
19 required for the calculations under this subdivision is not
20 available or cannot be obtained without unreasonable expense to the
21 taxpayer, the department may use other available information that
22 in the opinion of the department will result in an equitable
23 determination of the taxpayer's Michigan business receipts.

24 (f) For a taxpayer whose business activity consists of the
25 transportation of oil by pipeline, the ratio that the barrel miles
26 transported in this state bear to the barrel miles transported by
27 the taxpayer everywhere.

1 (g) For a taxpayer whose business activities consist of the
2 transportation of gas by pipeline, the ratio that the 1,000 cubic
3 feet miles transported in this state bear to the 1,000 cubic feet
4 miles transported by the taxpayer everywhere.

5 (h) For a taxpayer that is a financial organization, either of
6 the following:

7 (i) The total business receipts of a taxpayer whose business
8 activities are confined solely to this state.

9 (ii) For a taxpayer whose business activities are conducted
10 both within and outside of this state, that portion of its total
11 business receipts as its gross business in this state is to its
12 gross business everywhere during the period covered by its return.
13 Gross business is the sum of all of the following:

14 (A) Fees, commissions, or other compensation for financial
15 services.

16 (B) Gross profits from trading in stocks, bonds, or other
17 securities.

18 (C) Interest charged to customers for carrying debit balances
19 of margin accounts, without deduction of any costs incurred in
20 carrying the accounts.

21 (D) Interest and dividends received.

22 (E) Any other gross income resulting from the operation as a
23 financial organization.

24 Sec. 6. (1) "Net business receipts" means business receipts
25 less refunds, returns, and allowances to the extent that those
26 refunds, returns, and allowances were included in the calculation
27 of business receipts and less bad debts to the extent that those

1 debts were included in the calculation of business receipts and
2 were allowed as a deduction for federal income tax purposes.

3 (2) "Person" means that term as defined in section 7701 of the
4 internal revenue code.

5 (3) "Related group" means an affiliated group, a controlled
6 group of corporations as defined in section 1563 of the internal
7 revenue code, or a group of businesses under common control as
8 described in section 414(c) of the internal revenue code.

9 (4) "State" means any state of the United States, the District
10 of Columbia, the Commonwealth of Puerto Rico, any territory or
11 possession of the United States, and any foreign country, or a
12 political subdivision of any of the foregoing.

13 Sec. 7. (1) "Tangible personal property" means tangible
14 personal property purchased or leased for sale or lease to other
15 persons in the ordinary course of business activity and component
16 parts and raw materials purchased for use in the manufacturing of
17 goods for sale or lease to other persons in the ordinary course of
18 business activities.

19 (2) "Tax" means the tax imposed by this act, including
20 interest and penalties under this act, unless the term is given a
21 more limited meaning in the context of this act or a provision of
22 this act.

23 (3) "Tax year" means the taxable year of the taxpayer for
24 federal income tax purposes.

25 (4) "Taxpayer" means a person liable for a tax, interest, or
26 penalty under this act.

27 (5) "Total business receipts" means the total amount received

1 in the ordinary course of the taxpayer's business activities,
2 including the fair market value of any property and services
3 received and any debt transferred or forgiven as consideration.

4 Business receipts do not include any of the following:

5 (a) Amounts received as an agent on behalf of another person
6 in excess of the taxpayer's commission, fee, or other compensation.

7 (b) Amounts realized from the sale or exchange of capital
8 assets, including property described in section 1221(a)(2) of the
9 internal revenue code.

10 (c) Amounts that a taxpayer is required by law or contract to
11 pay over to subcontractors.

12 (d) Amounts received by the taxpayer from another person in
13 the other person's capacity as an equity owner of the taxpayer and
14 amounts received by the taxpayer from another person in the
15 taxpayer's capacity as an equity owner of the other person.

16 (e) Amounts deemed to be income for federal income tax
17 purposes but never actually or constructively received.

18 (f) Amounts received from an insurance policy, settlement of a
19 claim, or judgment in a civil action to the extent excluded from
20 gross income for federal income tax purposes.

21 (g) Principal amounts received in the taxpayer's capacity as
22 borrower or lender.

23 (h) Interest, dividends, and other amounts that, with respect
24 to the taxpayer, are classified as portfolio income for federal
25 income tax purposes.

26 (i) Amounts received on the collection or sale of an account
27 receivable for the sale of goods or services if the sale that

1 generated the account receivable was included in the calculation of
2 the taxpayer's business receipts.

3 (j) Amounts received as deposits that are excluded from gross
4 income for federal income tax purposes.

5 (k) Sales, use, withholding, excise, and other taxes collected
6 or withheld from another person, regardless of the legal incidence
7 of the tax but does not include taxes that are included in the
8 price of goods or services or taxes that are recovered by surcharge
9 or otherwise as part of the cost of service in a regulatory rate
10 base.

11 (6) "United States corporation" means a domestic corporation
12 as that term is defined in section 7701(a)(3) and (4) of the
13 internal revenue code.

14 (7) "Unrelated business activity" means any business activity
15 that is an unrelated trade or business as that term is defined in
16 section 513 of the internal revenue code.

17 Sec. 9. (1) Except as otherwise provided in this act, "tax
18 base" means the taxpayer's total business receipts, less the cost
19 of tangible personal property multiplied by a fraction the
20 numerator of which is the taxpayer's Michigan business receipts and
21 the denominator of which is the taxpayer's total business receipts,
22 or \$350,000.00, whichever is greater. For a taxpayer whose business
23 activity involves the leasing of tangible personal property to
24 other persons, if the taxpayer owns the leased property then the
25 cost of tangible personal property that may be subtracted from that
26 taxpayer's net business receipts is the amount allowable as a
27 deduction for depreciation under the internal revenue code

1 multiplied by a fraction the numerator of which is the taxpayer's
2 Michigan business receipts and the denominator of which is the
3 taxpayer's total business receipts. If the taxpayer does not own
4 the leased property then the cost of tangible personal property
5 that may be subtracted from that taxpayer's net business receipts
6 is the amount allowable as a deduction for rent under the internal
7 revenue code multiplied by a fraction the numerator of which is the
8 taxpayer's Michigan business receipts and the denominator of which
9 is the taxpayer's total business receipts.

10 (2) For a financial organization, tax base means the
11 taxpayer's Michigan business receipts, less the amount allowable as
12 a deduction for interest under the internal revenue code multiplied
13 by a fraction the numerator of which is the taxpayer's Michigan
14 business receipts and the denominator of which is the taxpayer's
15 total business receipts.

16 (3) Except for a taxpayer that pays the tax imposed under
17 chapter 3, the tax base of a foreign person means the taxpayer's
18 Michigan business receipts that are related to United States
19 business activity less the costs of tangible personal property that
20 are related to United States business activity multiplied by a
21 fraction the numerator of which is the taxpayer's Michigan business
22 receipts and the denominator of which is the taxpayer's total
23 business receipts. The tax base of a foreign person is subject to
24 all adjustments and other provisions of this act.

25 (4) The tax base of an exempt organization means the
26 taxpayer's Michigan business receipts that are related to unrelated
27 business activity multiplied by a fraction the numerator of which

1 is the taxpayer's Michigan business receipts and the denominator of
2 which is the taxpayer's total business receipts.

3 CHAPTER 2

4 Sec. 20. (1) Except as otherwise provided in this act, there
5 is levied and imposed a specific tax at a rate of .75% on the tax
6 base of every person with business activity and nexus within this
7 state.

8 (2) The tax levied and imposed under this section is upon the
9 privilege of doing business and not upon income or property.

10 (3) A taxpayer with business receipts apportioned to this
11 state in an amount equal to or less than \$350,000.00 is subject to
12 the tax under this act as follows:

13 (a) A taxpayer with no employees has no tax liability and no
14 filing requirement.

15 (b) A taxpayer with 1 or more employees shall pay a tax in the
16 amount of \$150.00.

17 (4) The first \$10,000,000.00 of the tax base of a taxpayer
18 whose primary business activity is agricultural activity is exempt
19 from the tax imposed by this act. For a taxpayer whose primary
20 business activity is agricultural activity that has a tax base
21 greater than \$10,000,000.00 but less than \$20,000,000.00 may claim
22 a credit against the tax imposed under this act equal to the tax
23 liability multiplied by a fraction the numerator of which is the
24 difference between the taxpayer's tax base and \$20,000,000.00 and
25 the denominator of which is \$10,000,000.00.

26 Sec. 21. (1) The following are exempt from the tax imposed by
27 this act:

1 (a) The United States, this state, other states, and the
2 agencies and political subdivisions of the United States, this
3 state, and other states.

4 (b) A nonprofit cooperative housing corporation. As used in
5 this subdivision, "nonprofit cooperative housing corporation" means
6 a cooperative housing corporation that is engaged in providing
7 housing services to its stockholders and members and that does not
8 pay dividends or interest on stock or membership investment but
9 that does distribute all earnings to its stockholders or members.
10 The exemption under this subdivision does not apply to a business
11 activity of a nonprofit cooperative housing corporation other than
12 providing housing services to its stockholders and members.

13 (c) Except as provided in subsection (2), a farmers'
14 cooperative corporation organized within the limitations of section
15 98 of 1931 PA 327, MCL 450.98, that was at any time exempt under
16 section 501(c)(12), 501(c)(16), or 501(c)(4) of the internal
17 revenue code because the corporation was exempt from federal income
18 taxes under section 521 of the internal revenue code and that would
19 continue to be exempt under section 521 of the internal revenue
20 code except for either of the following activities:

21 (i) The corporation's repurchase from nonproducer customers of
22 portions or components of commodities the corporation markets to
23 those nonproducer customers and the corporation's subsequent
24 manufacturing or marketing of the repurchased portions or
25 components of the commodities.

26 (ii) The corporation's incidental or emergency purchases of
27 commodities from nonproducers to facilitate the manufacturing or

1 marketing of commodities purchased from producers.

2 (d) That portion of the tax base attributable to the direct
3 and indirect marketing activities of a farmers' cooperative
4 corporation organized within the limitations of section 98 of 1931
5 PA 327, MCL 450.98, if those marketing activities are provided on
6 behalf of the members of that corporation and are related to the
7 members' direct sales of their products to third parties or, for
8 livestock, are related to the members' direct or indirect sales of
9 that product to third parties. Marketing activities for a product
10 that is not livestock are not exempt under this subdivision if the
11 farmers' cooperative corporation takes physical possession of the
12 product. As used in this subdivision, "marketing activities" means
13 activities that include, but are not limited to, all of the
14 following:

15 (i) Activities under the agricultural commodities marketing
16 act, 1965 PA 232, MCL 290.651 to 290.674, and the agricultural
17 marketing and bargaining act, 1972 PA 344, MCL 290.701 to 290.726.

18 (ii) Dissemination of market information.

19 (iii) Establishment of price and other terms of trade.

20 (iv) Promotion.

21 (v) Research relating to members' products.

22 (e) That portion of the tax base attributable to the services
23 provided by an attorney-in-fact to a reciprocal insurer pursuant to
24 chapter 72 of the insurance code of 1956, 1956 PA 218, MCL 500.7200
25 to 500.7234.

26 (2) Subsection (1)(c) does not exempt a farmers' cooperative
27 corporation if the total dollar value of the farmers' cooperative

1 corporation's incidental and emergency purchases described in
2 subsection (1)(c)(ii) are equal to or greater than 5% of the
3 corporation's total purchases.

4 (3) Except as otherwise provided in this section, a farmers'
5 cooperative corporation that is structured to allocate net earnings
6 in the form of patronage dividends as defined in section 1388 of
7 the internal revenue code to its farmer or farmer cooperative
8 corporation patrons shall exclude from its adjusted tax base the
9 revenue and expenses attributable to business transacted with its
10 farmer or farmer cooperative corporation patrons.

11 Sec. 22. (1) An out-of-state person has nexus in this state if
12 that person engages in any of the following activities:

13 (a) Has 1 or more employees who are residents of this state
14 conducting business activity in this state.

15 (b) Owns, rents, leases, maintains, or has the right to use
16 and uses tangible personal or real property that is permanently or
17 temporarily physically located in this state.

18 (c) Has employees who own, rent, lease, use, or maintain an
19 office or other establishment in this state.

20 (d) Has agents, representatives, independent contractors,
21 brokers, or others acting on its behalf that own, rent, lease, use,
22 or maintain an office or other establishment in this state, and the
23 office or other establishment is used in the representation of the
24 out-of-state person in this state and is significantly associated
25 with the out-of-state person's ability to establish and maintain a
26 market in this state.

27 (e) Has goods delivered to this state in vehicles it owns,

1 rents, leases, uses, or maintains or has goods delivered by a
2 related party acting as a representative of the out-of-state
3 person.

4 (f) Regularly and systematically conducts business activity in
5 this state through its employees, agents, representatives,
6 independent contractors, brokers, or others acting on its behalf,
7 whether or not these individuals or organizations reside in this
8 state.

9 (2) For purposes of subsection (1)(f), regular and systematic
10 business activity, including, but not limited to, those activities
11 listed under this subsection, exists if at least 10 days of
12 business activity occur in this state during that person's taxable
13 year. If less than 10 days of business activity occur during that
14 person's taxable year, regular and systematic business activity may
15 exist depending on the facts and circumstances of the taxpayer's
16 in-state business activity. Any of the following activities
17 conducted by the taxpayer in this state for 2 or more days within a
18 taxable year will be rebuttably presumed to constitute regular and
19 systematic business activity:

20 (a) Soliciting sales.

21 (b) Making repairs or providing maintenance or service to
22 property sold or to be sold.

23 (c) Collecting current or delinquent accounts related to sales
24 of tangible personal property through assignment or otherwise.

25 (d) Installing or supervising installation at or after
26 shipment or delivery.

27 (e) Conducting training for employees, agents,

1 representatives, independent contractors, brokers, or others acting
2 on its behalf or for customers or potential customers.

3 (f) Providing customers any kind of technical assistance or
4 service, including, but not limited to, engineering assistance,
5 design service, quality control, product inspections, or similar
6 services.

7 (g) Investigating, handling, or otherwise assisting in
8 resolving customer complaints.

9 (h) Providing consulting services.

10 (i) Soliciting, negotiating, or entering into franchising,
11 licensing, or similar agreements.

12 (3) Lawyers, accountants, investment bankers, and other
13 similar professionals in this state who perform services for an
14 out-of-state person in their professional capacity shall not be
15 considered to be conducting in-state business activity on behalf of
16 the out-of-state person.

17 (4) If none of the out-of-state person's business activities
18 in this state fall under the business activities described in
19 subsection (2) and its only contacts with this state are limited to
20 conducting any of the activities listed below, for less than 10
21 days, then those contacts will not be presumed to create nexus. If
22 an activity is listed in subdivisions (a) through (f) below but
23 also is described under subsection (2), then subsection (2) shall
24 control. If an out-of-state person's only in-state business
25 activity is listed in subdivision (g), that activity shall not be
26 considered as solicitation for the purposes of subsection (2).
27 Conducting any of the activities listed below for more than 10 days

1 does not necessarily create nexus. Whether nexus has been created
2 will depend on the facts and circumstances of the following in-
3 state business activities:

4 (a) Meeting with in-state suppliers of goods or services.

5 (b) In-state meeting with government representatives in their
6 official capacity.

7 (c) Attending occasional meetings, including, but not limited
8 to, board meetings, retreats, seminars, and conferences sponsored
9 by others.

10 (d) Holding recruiting or hiring events.

11 (e) Advertising in this state through various media.

12 (f) Renting customer lists to or from an in-state entity.

13 (g) Attending or participating at a trade show at which no
14 orders for goods are taken and no sales are made.

15 (5) Nexus shall be determined on a person-by-person basis. A
16 taxpayer that is a member of a unitary business group or a
17 consolidated taxpayer group not meeting the requirements of
18 subsections (1) through (4) shall not be deemed to have nexus with
19 this state based solely upon the in-state nexus of another member
20 of the taxpayer's unitary business group or consolidated taxpayer
21 group.

22 Sec. 23. (1) Any unused carryforward for any credit under
23 former 1975 PA 228 may be carried forward and applied as an offset
24 to the taxpayer's tax liability under this act in subsequent tax
25 years for 10 tax years or until the carryforward is used up,
26 whichever occurs first.

27 (2) Any business loss carryovers remaining under former 1975

1 PA 228 may be carried forward and deducted from the taxpayer's tax
2 base under this act in subsequent tax years for 10 tax years or
3 until the carryover is used up, whichever occurs first.

4 CHAPTER 3

5 Sec. 30. (1) Each insurance company and each formerly
6 authorized insurance company with respect to premiums received
7 while an insurance company in this state shall pay to the
8 department a tax calculated as the product of .010735 times the
9 insurance company's tax base.

10 (2) The following are exempt from the tax imposed by this
11 section:

12 (a) Beginning January 1, 2008 and after being apportioned
13 under this chapter, the first \$130,000,000.00 of disability
14 insurance premiums written in this state, other than credit
15 insurance and disability income insurance premiums, of each
16 insurance company subject to tax under this act. This exemption
17 shall be reduced by \$2.00 for each \$1.00 by which the insurance
18 company's gross premiums from insurance carrier services in this
19 state and outside this state exceed \$180,000,000.00.

20 (b) That portion of the tax base attributable to the services
21 provided by an attorney-in-fact to a reciprocal insurer pursuant to
22 chapter 72 of the insurance code of 1956, 1956 PA 218, MCL 500.7200
23 to 500.7234.

24 (c) For tax years that begin after December 31, 2006, that
25 portion of the tax base attributable to a multiple employer welfare
26 arrangement that provides dental benefits only and that has a
27 certificate of authority under chapter 70 of the insurance code of

1 1956, 1956 PA 218, MCL 500.7001 to 500.7090.

2 Sec. 31. (1) Except as otherwise provided in this section, the
3 tax base of an insurance company is the insurance company's
4 adjusted receipts as apportioned under subsection (3).

5 (2) The tax calculated on an insurance company under this act
6 is in lieu of all other privilege or franchise fees, income taxes,
7 or other taxes imposed by any other law of this state, except taxes
8 levied on real and personal property and except as otherwise
9 provided in the insurance code of 1956, 1956 PA 218, MCL 500.100 to
10 500.8302.

11 (3) The tax base of an insurance company doing business both
12 within and outside of this state or partly within and outside of
13 this state shall be that portion of the tax base of the taxpayer
14 that the gross direct premiums received for insurance upon property
15 or risk in this state, deducting premiums upon policies not taken
16 and returned premiums on canceled policies from Michigan, bears to
17 the gross direct premiums received for insurance upon property or
18 risk, deducting premiums upon policies not taken and returned
19 premiums on canceled policies, everywhere.

20 (4) As used in this section:

21 (a) "Adjusted receipts" means, except as provided in
22 subdivision (b), the sum of all of the following:

23 (i) Rental and royalty receipts from a person that is not
24 either of the following:

25 (A) An affiliated insurance company.

26 (B) An insurance agent of the taxpayer licensed under chapter
27 12 of the insurance code of 1956, 1956 PA 218, MCL 500.1200 to

1 500.1247.

2 (ii) Gross direct premiums received for insurance on property
3 or risk, deducting premiums on policies not taken and returned
4 premiums on canceled policies.

5 (iii) Receipts from administrative services only contracts with
6 a person who is not an affiliated insurance company or an
7 affiliated nonprofit corporation.

8 (iv) Receipts from business activity other than the business of
9 insurance. As used in this subparagraph, "business of insurance"
10 means any activity related to the sale of insurance, payment of
11 claims, or claims handling, on policies written by the taxpayer.

12 (v) Charges not including interest charges attributable to
13 premiums paid on a deferred or installment basis.

14 (vi) Receipts from servicing carrier fees received from the
15 Michigan auto insurance placement facility pursuant to chapter 33
16 of the insurance code of 1956, 1956 PA 218, MCL 500.3301 to
17 500.3390.

18 (b) Adjusted receipts do not include any of the following:

19 (i) Receipts from interest, dividends, or proceeds from the
20 sale of assets.

21 (ii) Receipts, other than receipts described in subsection
22 (4)(a)(i) or (ii), from an affiliated insurance company, an
23 affiliated nonprofit corporation, an employee of the taxpayer, or
24 an insurance agent of the taxpayer licensed under chapter 12 of the
25 insurance code of 1956, 1956 PA 218, MCL 500.1200 to 500.1247.

26 (iii) Receipts on the sale of annuities.

27 (iv) Receipts on all reinsurance transactions.

1 (c) "Affiliated insurance company" means an insurance company
2 that is a member of an affiliated group with the taxpayer or, if
3 the insurance company does not issue stock, 50% or more of the
4 members of that insurance company's board of directors are members
5 of the taxpayer's board of directors.

6 (d) "Affiliated nonprofit corporation" means a nonprofit
7 corporation, of which 80% or more of the members of the board of
8 directors are members of the taxpayer's board of directors.

9 Sec. 32. (1) An insurance company may claim a credit against
10 the tax imposed under this chapter in the following amounts, but
11 not to exceed the limitations provided in this section:

12 (a) Amounts paid to the Michigan worker's compensation
13 placement facility pursuant to chapter 23 of the insurance code of
14 1956, 1956 PA 218, MCL 500.2301 to 500.2352.

15 (b) Amounts paid to the Michigan basic property insurance
16 association pursuant to chapter 29 of the insurance code of 1956,
17 1956 PA 218, MCL 500.2901 to 500.2954.

18 (c) Amounts paid to the Michigan automobile insurance
19 placement facility pursuant to chapter 33 of the insurance code of
20 1956, 1956 PA 218, MCL 500.3301 to 500.3390.

21 (d) Amounts paid to the property and casualty guaranty
22 association pursuant to chapter 79 of the insurance code of 1956,
23 1956 PA 218, MCL 500.7901 to 500.7949.

24 (e) Amounts paid to the Michigan life and health guaranty
25 association pursuant to chapter 77 of the insurance code of 1956,
26 1956 PA 218, MCL 500.7701 to 500.7780.

27 (2) For each tax year, the total credit provided in subsection

(1) for all insurance companies shall not exceed the product of the remainder obtained by deducting the sum of the statutory amount certified by the director of management and budget in 2007 pursuant to section 22c(3) of former 1975 PA 228, plus the credits allowed under section 33 from the total tax liability of domestic insurance companies under this act but before applying any credits multiplied by a fraction the numerator of which is the total assessments paid by all insurance companies to the associations and facilities described in subsection (1) and the denominator of which is the total assessments paid by domestic insurance companies to the associations and facilities described in subsection (1). The statutory amount certified by the director of management and budget in 2007 pursuant to section 22c(3) of former 1975 PA 228 subtrahend shall be adjusted annually in proportion to the change in total general fund/general purpose revenues for the immediately preceding year, as certified by the director of management and budget.

(3) For each tax year, the credit for each insurance company shall not exceed an amount equal to the product of the total credit limitation calculated under subsection (2) multiplied by a fraction the numerator of which is the insurance company's total assessments paid to the associations and facilities described in subsection (1) and the denominator of which is the total assessments paid by all insurance companies to the associations and facilities described in subsection (1).

(4) The tax liability and assessments of an insurance company from the immediately preceding tax year shall be used in calculating the credits allowed under this section for each tax

1 year.

2 (5) Not later than June 30 of each year after 2007, the state
3 treasurer shall certify the amounts needed to calculate the credits
4 allowed under this section for the insurance company tax year
5 ending in that calendar year.

6 Sec. 33. An insurance company shall be allowed a credit
7 against the tax imposed under this chapter in an amount equal to
8 50% of the examination fees paid by the insurance company during
9 the tax year pursuant to section 224 of the insurance code of 1956,
10 1956 PA 218, MCL 500.224.

11 Sec. 34. (1) For amounts paid pursuant to section 352 of the
12 worker's disability compensation act of 1969, 1969 PA 317, MCL
13 418.352, an insurance company subject to the worker's disability
14 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may
15 claim a credit against the tax imposed under this chapter for the
16 tax year in an amount equal to the amount paid during that tax year
17 by the insurance company pursuant to section 352 of the worker's
18 disability compensation act of 1969, 1969 PA 317, MCL 418.352, as
19 certified by the director of the bureau of worker's disability
20 compensation pursuant to section 391(6) of the worker's disability
21 compensation act of 1969, 1969 PA 317, MCL 418.391.

22 (2) An insurance company claiming a credit under this section
23 may claim a portion of the credit allowed under this section equal
24 to the payments made during a calendar quarter pursuant to section
25 352 of the worker's disability compensation act of 1969, 1969 PA
26 317, MCL 418.352, against the estimated tax payments made under
27 section 40. Any credit in excess of an estimated payment shall be

1 refunded to the insurance company on a quarterly basis within 60
2 calendar days after receipt of a properly completed estimated tax
3 return. Any subsequent increase or decrease in the amount claimed
4 for payments made by the insurance company shall be reflected in
5 the amount of the credit taken for the calendar quarter in which
6 the amount of the adjustment is finalized.

7 (3) The credit under this section is in addition to any other
8 credits the insurance company is eligible for under this act.

9 (4) Any amount of the credit under this section that is in
10 excess of the tax liability of the insurance company for the tax
11 year shall be refunded, without interest, by the department to the
12 insurance company within 60 calendar days of receipt of a properly
13 completed annual return required under this act.

14 Sec. 35. (1) An insurance company is subject to the tax under
15 this chapter or section 476a of the insurance code of 1956, 1956 PA
16 218, MCL 500.476a, if applicable, whichever is greater.

17 (2) An insurance company's tax year is the calendar year.

18 (3) An insurance company shall file the annual return required
19 under this act before the March 2 immediately succeeding the end of
20 the tax year.

21 (4) For the purpose of calculating an estimated payment
22 required under section 40, the greater of the amount of tax imposed
23 on an insurance company under this act or under section 476a of the
24 insurance code of 1956, 1956 PA 218, MCL 500.476a, shall be
25 considered the insurance company's tax liability for the
26 immediately preceding tax year.

27 (5) The requirements of section 28(1)(f) of 1941 PA 122, MCL

1 205.28, that prohibit an employee or authorized representative of,
2 a former employee or authorized representative of, or anyone
3 connected with the department from divulging any facts or
4 information obtained in connection with the administration of a tax
5 do not apply to disclosure of a tax return required under this
6 section.

7 CHAPTER 4

8 Sec. 40. (1) A taxpayer that reasonably expects liability for
9 the tax year to exceed \$2,000.00 shall pay an estimated tax not
10 more than 20 days after the last day of the immediately preceding
11 month.

12 (2) The interest provided by this act shall not be assessed on
13 an underpayment of an estimated tax for a tax year if any of the
14 following occur:

15 (a) If the sum of the estimated payments for the tax year
16 equals at least 85% of the total tax liability for the tax year and
17 the amount of each estimated payment reasonably approximates the
18 tax liability incurred during the month for which the estimated
19 payment was made.

20 (b) If the tax liability for the preceding year was \$20,000.00
21 or less and if the taxpayer submitted 12 equal installments the sum
22 of which equals the tax liability for the preceding year.

23 (3) Each estimated payment shall be made in a manner
24 prescribed by the department.

25 (4) Payments made under this section shall be a credit against
26 the payment required with the annual tax return required in section
27 52.

1 Sec. 41. A taxpayer may elect to compute the tax imposed by
2 this act for the first tax year if that tax year is less than 12
3 months in accordance with 1 of the following methods:

4 (a) The tax may be computed as if this act were effective on
5 the first day of the taxpayer's annual accounting period and the
6 amount computed shall be multiplied by a fraction, the numerator of
7 which is the number of months in the taxpayer's first tax year and
8 the denominator of which is 12.

9 (b) The tax may be computed by determining the tax base in the
10 first tax year in accordance with an accounting method satisfactory
11 to the department that reflects the actual tax base attributable to
12 the period.

13 Sec. 42. (1) Except as otherwise provided in this section, an
14 annual or final return shall be filed with the department in the
15 form and content prescribed by the department by the last day of
16 the fourth month after the end of the taxpayer's tax year. A person
17 required to file an annual or final return under this subsection
18 may file a short form return in a form prescribed by the department
19 if the subtractions allowed in section 9 are not applicable. Any
20 final liability shall be remitted with this return.

21 (2) If a person has Michigan business receipts for a tax year
22 of less than 12 months, the amount in subsection (1) shall be
23 multiplied by a fraction, the numerator of which is the number of
24 months in the tax year and the denominator of which is 12.

25 (3) A person may elect not to file a return as required under
26 this section if the subtractions allowed in section 9 are not
27 applicable and if all business receipts are Michigan business

1 receipts.

2 (4) The department, upon application of the taxpayer and for
3 good cause shown, may extend the date for filing the annual return.
4 Interest at the rate under section 23(2) of 1941 PA 122, MCL
5 205.23, shall be added to the amount of the tax unpaid for the
6 period of the extension. The treasurer shall require with the
7 application payment of the estimated tax liability unpaid for the
8 tax period covered by the extension.

9 (5) If a taxpayer is granted an extension of time within which
10 to file the federal income tax return for any tax year, the due
11 date for the filing of an annual or final return under this act
12 shall be automatically extended until the last day of the eighth
13 month following the original due date of the return. Interest at
14 the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be
15 added to the amount of the tax unpaid for the period of the
16 extension.

17 (6) Members of a related group shall aggregate their business
18 receipts to determine whether the group or 1 or more of the members
19 of the related group are required to pay a tax or file a return as
20 provided under subsection (1). A member of a related group is not
21 required to file a return or pay the tax under this act if that
22 member has Michigan business receipts of less than \$100,000.00.

23 Sec. 43. (1) A taxpayer required to file a return under this
24 act may be required to furnish a true and correct copy of any
25 return or portion of any return filed under the provisions of the
26 internal revenue code.

27 (2) A taxpayer shall file an amended return with the

1 department within 120 days after any amendment or adjustment of the
2 taxpayer's federal income tax return that affects the taxpayer's
3 tax base under this act.

4 Sec. 44. (1) At the request of the department, a person
5 required by the internal revenue code to file or submit an
6 information return of income paid to others shall, to the extent
7 the information is applicable to residents of this state, at the
8 same time file or submit the information to the department in the
9 form and content prescribed by the department.

10 (2) At the request of the department, a taxpayer shall file a
11 copy of any tax return or portion of any tax return that was filed
12 under the provisions of the internal revenue code. The department
13 may prescribe alternate forms of returns.

14 Sec. 45. (1) The tax imposed by this act shall be administered
15 by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to
16 205.31, and this act. If a conflict exists between 1941 PA 122, MCL
17 205.1 to 205.31, and this act, the provisions of this act apply.

18 (2) The department shall promulgate rules to implement this
19 act pursuant to the administrative procedures act of 1969, 1969 PA
20 306, MCL 24.201 to 24.328.

21 (3) A person liable for the tax imposed under this act shall
22 maintain a complete and detailed record of all business receipts.
23 Records may be maintained in paper form or in an electronic or
24 digital form accessible by the department. Records maintained under
25 this subsection shall include all of the following:

26 (a) The complete name and address of each customer.

27 (b) The complete address of each location at which tangible

1 personal property was delivered or where the benefit of services
2 was received.

3 (4) The department shall prescribe forms for use by taxpayers
4 and may promulgate rules in conformity with this act for the
5 maintenance by taxpayers of records, books, and accounts, and for
6 the computation of the tax, the manner and time of changing or
7 electing accounting methods and of exercising the various options
8 contained in this act, the making of returns, and the
9 ascertainment, assessment, and collection of the tax imposed under
10 this act.

11 (5) The tax imposed by this act is in addition to all other
12 taxes for which the taxpayer may be liable.

13 (6) The department shall prepare and publish statistics from
14 the records kept to administer the tax imposed by this act that
15 detail the distribution of tax receipts by type of business, legal
16 form of organization, sources of tax base, timing of tax receipts,
17 and types of deductions. The statistics shall not result in the
18 disclosure of information regarding any specific taxpayer.

19 Sec. 46. (1) In 2008 through 2012, .456% of the revenue
20 collected under this act shall be distributed to each local tax
21 collecting unit in this state and each local tax collecting unit in
22 this state shall distribute revenue received under this subdivision
23 to each local taxing unit at the same time and in the same manner
24 as taxes collected under the general property tax act, 1893 PA 206,
25 MCL 211.1 to 211.157. The balance of the revenue shall be deposited
26 into the general fund.

27 (2) Beginning in 2013, the revenue collected under this act

1 shall be deposited into the general fund.

2 Enacting section 1. This act takes effect January 1, 2008.