

HOUSE BILL No. 4955

September 13, 2011, Introduced by Rep. Walsh and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 625 (MCL 206.625), as added by 2011 PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 625. (1) Except as otherwise provided in this section,
2 the following are exempt from the tax imposed by this part:

3 (a) The United States, this state, other states, and the
4 agencies, political subdivisions, and enterprises of the United
5 States, this state, and other states.

6 (b) A person who is exempt from federal income tax under the
7 internal revenue code except the following:

8 (i) An organization included under section 501(c)(12) or
9 501(c)(16) of the internal revenue code.

10 (ii) An organization exempt under section 501(c)(4) of the

1 internal revenue code that would be exempt under section 501(c)(12)
2 of the internal revenue code except that it failed to meet the
3 requirements in section 501(c)(12) that 85% or more of its income
4 consist of amounts collected from members.

5 (iii) The tax base attributable to unrelated business activities
6 giving rise to the unrelated business taxable income of an exempt
7 person.

8 (c) A foreign person that is domiciled in a member country of
9 the North American free trade agreement is not subject to taxation
10 under this part if the foreign person is domiciled in a subnational
11 jurisdiction that does not impose an income tax on a similarly
12 situated person domiciled in this state whose presence in the
13 foreign country is the same as the foreign person's presence in the
14 United States. If a qualifying foreign person is domiciled in a
15 subnational jurisdiction that does not impose an income tax on
16 businesses, but instead imposes some other type of subnational
17 business tax, that foreign person is not subject to taxation under
18 this part if that subnational business tax is not imposed on a
19 similarly situated person domiciled in this state whose presence in
20 the foreign country is the same as the foreign person's presence in
21 the United States.

22 (2) Notwithstanding any other provision of this part to the
23 contrary, a foreign person subject to tax under this part shall
24 calculate its corporate income tax base under this section. Except
25 as otherwise provided in this section, the corporate income tax
26 base of a foreign person is subject to all adjustments and other
27 provisions of this part. However, the corporate income tax base

1 shall not include ~~proceeds~~ **NET INCOME** from sales **OF TANGIBLE**
2 **PERSONAL PROPERTY** where title passes outside the United States.

3 (3) Except as otherwise provided in this section, the
4 corporate income tax base of a foreign person includes the sum of
5 business income and the adjustments under section 623 that are
6 related to United States business activity.

7 (4) The sales factor for a foreign person is a fraction, the
8 numerator of which is the taxpayer's total sales in this state
9 ~~where title passes inside the United States during the tax year and~~
10 the denominator of which is the taxpayer's total sales in the
11 United States ~~where title passes inside the United States during~~
12 the tax year. **FOR PURPOSES OF THIS SUBSECTION, FOR SALES OF**
13 **TANGIBLE PERSONAL PROPERTY, ONLY THOSE SALES WHERE TITLE PASSES**
14 **INSIDE THE UNITED STATES SHALL BE USED IN THE SALES FACTOR, AND FOR**
15 **SALES OF PROPERTY OTHER THAN TANGIBLE PERSONAL PROPERTY, THOSE**
16 **SALES SHALL BE APPORTIONED IN ACCORDANCE WITH CHAPTER 14.**

17 (5) As used in this section:

18 (a) "Business income" means, for a foreign person, gross
19 income attributable to the taxpayer's United States business
20 activity and gross income derived from sources within the United
21 States minus the deductions allowed under the internal revenue code
22 that are related to that gross income. Gross income includes the
23 proceeds from sales shipped or delivered to any purchaser within
24 the United States and for which title transfers within the United
25 States; proceeds from services performed within the United States;
26 and a pro rata proportion of the proceeds from services performed
27 both within and outside the United States to the extent the

1 recipient receives benefit of the services within the United
2 States.

3 (b) "Domiciled" means the location of the headquarters of the
4 trade or business from which the trade or business of the foreign
5 person is principally managed and directed.

6 (c) "Foreign person" means a person formed under the laws of a
7 foreign country or a political subdivision of a foreign country,
8 whether or not the person is subject to taxation under the internal
9 revenue code.

10 Enacting section 1. This amendatory act takes effect January
11 1, 2012.