

# HOUSE BILL No. 4563

April 16, 2013, Introduced by Reps. Yanez, Darany, Slavens, Brinks, Hovey-Wright, Geiss, Schor, Kandrevas, Knezek, LaVoy, Dillon, Barnett, Tlaib, Cochran, Switalski, Faris, Smiley, Stanley, McCann, Brunner, Brown, Kosowski, Lane, Ananich, Haugh, Abed, Lamonte, Driskell, Cavanagh, Roberts, Lipton, Segal and Dianda and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 623 (MCL 206.623), as amended by 2012 PA 414.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 623. (1) Except as otherwise provided in this part, there  
2       is levied and imposed a corporate income tax on every taxpayer with  
3       business activity within this state or ownership interest or  
4       beneficial interest in a flow-through entity that has business  
5       activity in this state unless prohibited by 15 USC 381 to 384. The  
6       corporate income tax is imposed on the corporate income tax base,  
7       after allocation or apportionment to this state, at the rate of  
8       6.0%.

9       (2) The corporate income tax base means a taxpayer's business

1 income subject to the following adjustments, before allocation or  
2 apportionment, and the adjustment in subsection (4) after  
3 allocation or apportionment:

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

10 (b) Add all taxes on or measured by net income including the  
11 tax imposed under this part to the extent that the taxes were  
12 deducted in arriving at federal taxable income.

13 (c) Add any carryback or carryover of a net operating loss to  
14 the extent deducted in arriving at federal taxable income.

15 (d) To the extent included in federal taxable income, deduct  
16 dividends and royalties received from persons other than United  
17 States persons and foreign operating entities, including, but not  
18 limited to, amounts determined under section 78 of the internal  
19 revenue code or sections 951 to 964 of the internal revenue code.

20 (e) Except as otherwise provided under this subdivision, to  
21 the extent deducted in arriving at federal taxable income, add any  
22 royalty, interest, or other expense paid to a person related to the  
23 taxpayer by ownership or control for the use of an intangible asset  
24 if the person is not included in the taxpayer's unitary business  
25 group. The addition of any royalty, interest, or other expense  
26 described under this subdivision is not required to be added if the  
27 taxpayer can demonstrate that the transaction has a nontax business

1 purpose, is conducted with arm's-length pricing and rates and terms  
2 as applied in accordance with sections 482 and 1274(d) of the  
3 internal revenue code, and 1 of the following is true:

4 (i) The transaction is a pass through of another transaction  
5 between a third party and the related person with comparable rates  
6 and terms.

7 (ii) An addition would result in double taxation. For purposes  
8 of this subparagraph, double taxation exists if the transaction is  
9 subject to tax in another jurisdiction.

10 (iii) An addition would be unreasonable as determined by the  
11 state treasurer.

12 (iv) The related person recipient of the transaction is  
13 organized under the laws of a foreign nation which has in force a  
14 comprehensive income tax treaty with the United States.

15 (f) To the extent included in federal taxable income, deduct  
16 interest income derived from United States obligations.

17 (g) For tax years beginning after December 31, 2011, eliminate  
18 all of the following:

19 (i) Income from producing oil and gas to the extent included in  
20 federal taxable income.

21 (ii) Expenses of producing oil and gas to the extent deducted  
22 in arriving at federal taxable income.

23 (h) For tax years beginning after December 31, 2012, for a  
24 qualified taxpayer, eliminate all of the following:

25 (i) Income derived from a mineral to the extent included in  
26 federal taxable income.

27 (ii) Expenses related to the income deductible under

subparagraph (i) to the extent deducted in arriving at federal taxable income.

(I) TO THE EXTENT DEDUCTED IN ARRIVING AT FEDERAL TAXABLE INCOME, ADD ANY SPECIFIED OUTSOURCING EXPENSES. FOR PURPOSES OF THIS SUBDIVISION:

(i) "ELIGIBLE EXPENSES" MEANS ANY TRADE OR BUSINESS EXPENSES THAT THE TAXPAYER IS ALLOWED TO CLAIM AS A DEDUCTION UNDER SECTION 162 OF THE INTERNAL REVENUE CODE AND ANY PERMIT AND LICENSE FEES, LEASE BROKERAGE FEES, EQUIPMENT INSTALLATION COSTS, AND ANY OTHER SIMILAR EXPENSES.

(ii) "SPECIFIED OUTSOURCING EXPENSES" MEANS ANY ELIGIBLE EXPENSES PAID OR INCURRED BY THE TAXPAYER AND ATTRIBUTABLE TO THE ELIMINATION OF ANY TRADE OR BUSINESS OF THE TAXPAYER THAT WAS LOCATED IN THIS STATE AND ANY ELIGIBLE EXPENSES PAID OR INCURRED BY THE TAXPAYER AND ATTRIBUTABLE TO THE RELOCATION OF ANY TRADE OR BUSINESS OF THE TAXPAYER THAT WAS PREVIOUSLY LOCATED IN THIS STATE AND SUBSEQUENTLY REESTABLISHED OUTSIDE OF THIS STATE.

(3) For purposes of subsection (2), the business income of a unitary business group is the sum of the business income of each person included in the unitary business group less any items of income and related deductions arising from transactions including dividends between persons included in the unitary business group.

(4) Deduct any available business loss incurred after December 31, 2011. As used in this subsection, "business loss" means a negative business income taxable amount after allocation or apportionment. The business loss shall be carried forward to the year immediately succeeding the loss year as an offset to the

1 allocated or apportioned corporate income tax base, then  
2 successively to the next 9 taxable years following the loss year or  
3 until the loss is used up, whichever occurs first.

4 (5) As used in this section, "oil and gas" means oil and gas  
5 that is subject to severance tax under 1929 PA 48, MCL 205.301 to  
6 205.317.