

# HOUSE BILL No. 4456

April 15, 2015, Introduced by Reps. Yanez, Love, Durhal, Dillon, Faris, Liberati, Hovey-Wright, Cochran, Gay-Dagnogo, Smiley, Brunner, Irwin, Townsend, Geiss, Garrett and Schor 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 2014 PA 13.

**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%.

1           (2) The corporate income tax base means a taxpayer's business  
2 income subject to the following adjustments, before allocation or  
3 apportionment, and the adjustment in subsection (4) after  
4 allocation or apportionment:

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

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

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

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

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

1 taxpayer can demonstrate that the transaction has a nontax business  
2 purpose, is conducted with arm's-length pricing and rates and terms  
3 as applied in accordance with sections 482 and 1274(d) of the  
4 internal revenue code, and 1 of the following is true:

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

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

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

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

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

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

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

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

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

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

1           (ii) Expenses related to the income deductible under  
2 subparagraph (i) to the extent deducted in arriving at federal  
3 taxable income.

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

7           (i) "ELIGIBLE EXPENSES" MEANS ANY TRADE OR BUSINESS EXPENSES  
8 THAT THE TAXPAYER IS ALLOWED TO CLAIM AS A DEDUCTION UNDER SECTION  
9 162 OF THE INTERNAL REVENUE CODE AND ANY PERMIT AND LICENSE FEES,  
10 LEASE BROKERAGE FEES, EQUIPMENT INSTALLATION COSTS, AND ANY OTHER  
11 SIMILAR EXPENSES.

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

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

24           (4) Deduct any available business loss incurred after December  
25 31, 2011. As used in this subsection, "business loss" means a  
26 negative business income taxable amount after allocation or  
27 apportionment. For purposes of this subsection, a taxpayer that

1 acquires the assets of another corporation in a transaction  
2 described under section 381(a)(1) or (2) of the internal revenue  
3 code may deduct any business loss attributable to that distributor  
4 or transferor corporation. The business loss shall be carried  
5 forward to the year immediately succeeding the loss year as an  
6 offset to the allocated or apportioned corporate income tax base,  
7 then successively to the next 9 taxable years following the loss  
8 year or until the loss is used up, whichever occurs first.

9 (5) As used in this section, "oil and gas" means oil and gas  
10 that is subject to severance tax under 1929 PA 48, MCL 205.301 to  
11 205.317.