

INCOME TAX ACT OF 1967 (EXCERPT)

Act 281 of 1967

CHAPTER 16

206.680 Election to pay tax imposed by Michigan business tax act; duration; taxpayer as member of unitary business group; separate return; annual return; "certificated credit" defined.

Sec. 680. (1) Notwithstanding any other provision of this part, except as otherwise provided in subsection (2) for a certificated credit under section 435 or 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1435 and 208.1437, or in subsection (5) for a certificated credit under section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, a taxpayer that has been approved to receive, has received, or has been assigned a certificated credit that has not been fully claimed or paid prior to January 1, 2012 may, for the taxpayer's first tax year ending after December 31, 2011 only, elect to file a return and pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in lieu of the tax imposed by this part. An election under this subsection shall continue for the period prescribed in section 500(1) of the Michigan business tax act, 2007 PA 36, MCL 208.1500.

(2) A taxpayer with a certificated credit under section 435 or 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1435 and 208.1437, which certificated credit may be claimed in a tax year ending after December 31, 2011 may elect to pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in the tax year in which that certificated credit or any unused carryforward may be claimed in lieu of the tax imposed by this part.

(3) A taxpayer that is a member of a unitary business group and that has a certificated credit under sections 431 and 434(2) and (5) of the Michigan business tax act, 2007 PA 36, MCL 208.1431 and 208.1434, is not required to file a combined return as a unitary business group and may elect to file a separate return and pay the tax, if any, under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(4) A taxpayer that elects to pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, under this section is not required to file an annual return under this part.

(5) A taxpayer that acquires, pursuant to the modification of an existing written agreement approved by a resolution of the Michigan strategic fund board on November 27, 2018 and the subsequent transfer of that written agreement, a certificated credit authorized by the Michigan economic growth authority in 2004 under section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, may, for the first tax year ending after October 1, 2018 only, elect to file the return and pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in lieu of the tax imposed by this part as long as the Michigan economic growth authority or its successor determines that the modification and subsequent transfer of that credit reduces the total amount of the credit. However, if the first tax year ending after October 1, 2018 ends before the effective date of the amendatory act that added this subsection and the taxpayer has already filed a return for that tax year under this part, then the taxpayer may, if within the statute of limitations period prescribed under section 27a of 1941 PA 122, MCL 205.27a, elect under this subsection to file the return and pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for that tax year by filing the necessary amended return under this part and filing an original return as provided under section 505 of the Michigan business tax act, 2007 PA 36, MCL 208.1505. An election under this subsection shall continue for the period prescribed in section 500 of the Michigan business tax act, 2007 PA 36, MCL 208.1500.

(6) As used in this section, "certificated credit" means that term as defined in section 107 of the Michigan business tax act, 2007 PA 36, MCL 208.1107.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2012, Act 70, Imd. Eff. Mar. 29, 2012;—Am. 2019, Act 92, Imd. Eff. Oct. 10, 2019.

Compiler's note: Enacting section 1 of Act 92 of 2019 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years beginning after December 31, 2017."

206.681 Quarterly returns and estimated payments.

Sec. 681. (1) Except as otherwise provided under this section, a taxpayer that reasonably expects liability for the tax year to exceed \$800.00 shall file an estimated return and pay an estimated tax for each quarter of the taxpayer's tax year.

(2) For taxpayers on a calendar year basis, the quarterly returns and estimated payments shall be made by April 15, July 15, October 15, and January 15. Taxpayers not on a calendar year basis shall file quarterly returns and make estimated payments on the appropriate due date which in the taxpayer's fiscal year

corresponds to the calendar year.

(3) Except as otherwise provided under this subsection, the estimated payment made with each quarterly return of each tax year shall be for the estimated tax base that is applicable to the taxpayer under chapter 11, 12, or 13 for the quarter or 25% of the estimated annual liability. The second, third, and fourth estimated payments in each tax year shall include adjustments, if necessary, to correct underpayments or overpayments from previous quarterly payments in the tax year to a revised estimate of the annual tax liability. For a taxpayer that calculates and pays estimated payments for federal income tax purposes pursuant to section 6655(e) of the internal revenue code, that taxpayer may use the same methodology as used to calculate the annualized income installment or the adjusted seasonal installment, whichever is used as the basis for the federal estimated payment, to calculate the estimated payments required each quarter under this section. The interest and penalty provided by this part shall not be assessed if any of the following occur:

(a) If the sum of the estimated payments equals at least 85% of the liability and the amount of each estimated payment reasonably approximates the tax liability incurred during the quarter for which the estimated payment was made.

(b) For the 2013 tax year and each subsequent tax year, if the preceding year's tax liability under this part was \$20,000.00 or less and if the taxpayer submitted 4 equal installments the sum of which equals the immediately preceding tax year's tax liability.

(4) Each estimated return shall be made on a form prescribed by the department and shall include an estimate of the annual tax liability and other information required by the state treasurer. The form prescribed under this subsection may be combined with any other tax reporting form prescribed by the department.

(5) With respect to a taxpayer filing an estimated tax return for the taxpayer's first tax year of less than 12 months, the amounts paid with each return shall be proportional to the number of payments made in the first tax year. A taxpayer with a tax year of less than 4 months is not required to file an estimated tax return or remit estimated payments.

(6) Payments made under this section shall be a credit against the payment required with the annual tax return required in section 685.

(7) If the department considers it necessary to insure payment of the tax or to provide a more efficient administration of the tax, the department may require filing of the returns and payment of the tax for other than quarterly or annual periods.

(8) A taxpayer that elects under the internal revenue code to file an annual federal income tax return by March 1 in the year following the taxpayer's tax year and does not make a quarterly estimate or payment, or does not make a quarterly estimate or payment and files a tentative annual return with a tentative payment by January 15 in the year following the taxpayer's tax year and a final return by April 15 in the year following the taxpayer's tax year, has the same option in filing the estimated and annual returns required by this part.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 186, Eff. Jan. 1, 2012.

206.683 Payment for portion of tax year; computation; methods.

Sec. 683. (1) If a taxpayer's tax year to which this part applies ends before December 31, 2012, then a taxpayer subject to this part may elect to compute the tax imposed by this part for the portion of that tax year to which this part applies in accordance with 1 of the following methods:

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

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

(2) The method chosen by the taxpayer under this section shall be the same as the method used by that same taxpayer when computing the tax imposed under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the other portion of that same tax year.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 190, Eff. Jan. 1, 2012.

206.685 Annual or final return; filing; form and content; remittance of final liability; calculation; extension.

Sec. 685. (1) An annual or final return shall be filed with the department in the form and content prescribed by the department by the last day of the fourth month after the end of the taxpayer's tax year. Any final liability shall be remitted by the annual due date of the taxpayer's annual or final return, excluding any extension of time to file the return as provided under subsections (2) and (3). A taxpayer, other than a

taxpayer subject to the tax imposed under chapter 12 or 13, whose apportioned or allocated gross receipts are less than \$350,000.00 does not need to file a return or pay the tax imposed under this part. The apportioned or allocated gross receipts of a flow-through entity shall be imputed to each of its members based upon the same percentage that each member's proportionate share of distributive income is to the total distributive income of the flow-through entity. A taxpayer whose tax liability under this part is less than or equal to \$100.00 does not need to file a return or pay the tax imposed under this part.

(2) If a taxpayer has apportioned or allocated gross receipts for a tax year of less than 12 months, the threshold amount of \$350,000.00 in subsection (1) shall be multiplied by a fraction, the numerator of which is the number of months in the tax year and the denominator of which is 12.

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

(4) If a taxpayer is granted an extension of time within which to file the federal income tax return for any tax year, the filing of a copy of the request for extension together with a tentative return and payment of an estimated tax with the department by the due date provided in subsection (1) shall automatically extend the due date for the filing of an annual or final return under this part until the last day of the eighth month following the original due date of the return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 184, Eff. Jan. 1, 2012.

206.687 Furnishing copy of return filed under internal revenue code; amended return; partnership audit or adjustment reporting.

Sec. 687. (1) A taxpayer required to file a return under this part may be required to furnish a true and correct copy of any return or portion of any return filed under the provisions of the internal revenue code.

(2) Except as provided in subsection (3), a taxpayer shall file an amended return with the department showing any alteration in or modification of a federal income tax return that affects its tax base under this part. The amended return must be filed within 180 days after the final determination date. This subsection does not apply to the reporting of a final federal adjustment arising from a partnership level audit or an administrative adjustment request required to be reported under chapter 18.

(3) For tax years that begin on and after January 1, 2018, a partnership that is not subject to chapter 18, but has determined that the partners' share of income, deductions, and credits previously reported to its partners and included in a return filed under this part requires adjustment, may, at the discretion of the department, file a report with the department and pay the tax due or claim a refund on behalf of its partners in a manner similar to the process set forth in chapter 18. Any refund issued to the partnership under this subsection is in lieu of any overpayment of taxes that may be claimed by the partners.

(4) A taxpayer that expects to owe additional tax as a result of a pending federal audit may make payments, in a form and manner as prescribed by the department, prior to the final determination date. The department shall credit any payments made under this subsection against any tax liability due on that taxpayer's amended return filed as a result of the federal audit. Payments made under this subsection limit the accrual of any further statutory interest on the amount due. If the department finds that the taxpayer has overpaid the tax due on the amended return, a refund of the overpayment must immediately be made as provided in section 30 of 1941 PA 122, MCL 205.30.

(5) As used in this section:

(a) "Administrative adjustment request", "final federal adjustment", and "partnership level audit" mean those terms as defined in section 721.

(b) "Final determination date" means that term as defined in section 325.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2022, Act 148, Imd. Eff. July 19, 2022.

Compiler's note: Enacting section 1 of Act 148 of 2022 provides:

"Enacting section 1. This amendatory act is retroactive and applies to all tax years that begin on and after January 1, 2018."

206.689 Information return of income paid to others.

Sec. 689. At the request of the department, a taxpayer required by the internal revenue code to file or submit an information return of income paid to others shall, to the extent the information is applicable to residents of this state, at the same time file or submit the information in the form and content prescribed to the department.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.691 Filing of combined return by unitary business group.

Sec. 691. (1) Except as otherwise provided under section 680(3), a unitary business group shall file a combined return that includes each United States person that is included in the unitary business group. Each United States person included in a unitary business group or included in a combined return shall be treated as a single person, and all transactions between those persons included in the unitary business group shall be eliminated from the corporate income tax base, the apportionment formulas, and for purposes of determining exemptions, credits, and the filing threshold under this part. If a United States person included in a unitary business group or included in a combined return is subject to the tax under chapter 12 or 13, any corporate income attributable to that person shall be eliminated from the corporate income tax base and any sales attributable to that person shall be eliminated from the apportionment formula under this part.

(2) A person that is part of an affiliated group may elect without the consent of the department to have all of the persons that are included in that affiliated group to be treated as a unitary business group. A taxpayer that elects to file as a unitary business group pursuant to this subsection shall compute its tax under this part in accordance with all other provisions of this part that apply to a unitary business group. The taxpayer shall make the election under this subsection on a form or in a format as prescribed by the department that is to be filed in a timely manner with the taxpayer's annual return. Each person included in the affiliated group is deemed to have agreed to be bound by the election made under this subsection and any renewal of that election and to have waived any objection to its inclusion in the affiliated group and treatment as a unitary business group. Each person that subsequently enters the affiliated group after the tax year for which the election is made is deemed to have consented to the application of and is bound by the election and to have waived any objection to its inclusion in the affiliated group and treatment as a unitary business group. An election made pursuant to this subsection is irrevocable and binding for and applicable to the tax year for which it is made and for the next 9 tax years. The election shall remain in effect for the time period in which the ownership requirements under this section are met irrespective of whether a federal consolidated group to which the unitary business group belongs discontinues the filing of a federal consolidated return or whether the common parent changes due to a reverse acquisition or acquisition by a related person. Upon the expiration of the election after it has been in effect for 10 tax years, an election may be renewed for another 10 tax years, without the consent of the department; provided however, that in the case of a nonrenewal a new election under this subsection is not permitted in any of the immediately following 3 tax years. The renewal shall be made on a form or in a format as prescribed by the department that is to be filed in a timely manner with the taxpayer's annual return after the completion of a 10-year period for which an election under this subsection was in place.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2012, Act 70, Imd. Eff. Mar. 29, 2012;—Am. 2013, Act 266, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 14, Imd. Eff. Feb. 25, 2014.

Compiler's note: Enacting section 1 of Act 266 of 2013 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2012."

Enacting section 1 of Act 14 of 2014 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2013."

206.693 Administration of tax; conflicting provisions; rules; forms; additional tax liability; statistics detailing distribution of tax receipts.

Sec. 693. (1) The tax imposed by this part shall be administered by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to 205.31, and this part. If a conflict exists between 1941 PA 122, MCL 205.1 to 205.31, and this part, the provisions of this part apply.

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

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

(4) The tax imposed by this part is in addition to all other taxes for which the taxpayer may be liable.

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

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.695 Distribution of revenue.

Sec. 695. (1) Except as otherwise provided under this section, the revenue collected under this part shall be distributed to the general fund. If the amendatory act that added section 51h takes effect before April 18, 2023, then for the 2021-2022 state fiscal year only, from the tax levied under this part, \$800,000,000.00 of the revenue collected is appropriated and must be deposited into the state treasury to the credit of the Michigan taxpayer rebate fund created in section 51h, and the balance of the revenue collected under this part for that state fiscal year shall be deposited to the general fund.

(2) Beginning with the 2022-2023 state fiscal year through the 2024-2025 state fiscal year, from the tax levied under this part, the revenue collected under this part shall be deposited in the following manner:

(a) Up to \$1,200,000,000.00 to the general fund.

(b) After the deposit under subdivision (a), up to \$50,000,000.00, if available, to the Michigan housing and community development fund created in section 58a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1458a.

(c) After the deposits under subdivisions (a) and (b), up to \$50,000,000.00, if available, to the revitalization and placemaking fund created in section 696.

(d) After the deposits under subdivisions (a), (b), and (c), up to \$500,000,000.00, if available, to the strategic outreach and attraction reserve fund created in section 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254.

(e) The balance of any revenue collected under this part after the deposits under subdivisions (a), (b), (c), and (d), to the general fund.

(3) Beginning with the 2025-2026 state fiscal year, from the tax levied under this part, \$50,000,000.00 of the revenue collected under this part shall be deposited to the Michigan housing and community development fund created in section 58a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1458a, and the balance of the revenue collected under this part for that state fiscal year shall be deposited to the general fund.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2023, Act 4, Eff. Feb. 13, 2024.

206.696 Revitalization and placemaking fund.

Sec. 696. (1) The revitalization and placemaking fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the revitalization and placemaking fund. The state treasurer shall direct the investment of the revitalization and placemaking fund. The state treasurer shall credit to the revitalization and placemaking fund interest and earnings from fund investments.

(2) Money in the revitalization and placemaking fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(3) The Michigan strategic fund shall be the administrator of the revitalization and placemaking fund for auditing purposes.

(4) Beginning with the 2022-2023 state fiscal year and each state fiscal year thereafter, the Michigan strategic fund shall expend money from the revitalization and placemaking fund, upon appropriation, only to create and operate the revitalization and placemaking grants program to invest in projects that enable population and tax revenue growth through rehabilitation of vacant and blighted buildings and historic structures, rehabilitation and development of vacant properties, and development of permanent place-based infrastructure associated with social zones and traditional downtowns, outdoor dining, and place-based public spaces. If grant funds are used to support residential projects, those projects must comply with other program guidelines and eligibility as determined by the Michigan strategic fund.

(5) By December 31 annually, the Michigan strategic fund shall prepare and submit to the senate and house appropriations committees a report detailing the amount of revenue received by and expenditures from the revitalization and placemaking fund during the prior state fiscal year and the revitalization and placemaking fund balance at the end of the prior state fiscal year.

History: Add. 2023, Act 4, Eff. Feb. 13, 2024.

206.697 Appropriation; carrying forward unexpended funds.

Sec. 697. There is appropriated to the department for the 2011-2012 state fiscal year the sum of \$1,000,000.00 to begin implementing the requirements of this part. Any portion of this amount under this section that is not expended in the 2011-2012 state fiscal year shall not lapse to the general fund but shall be carried forward in a work project account that is in compliance with section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a, for the following state fiscal year.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.699 Classification as disregarded entity for federal income tax purposes; treatment of certain conversions into a limited liability company.

Sec. 699. Notwithstanding any other provision of this act, both of the following apply:

(a) A person that is a disregarded entity for federal income tax purposes under the internal revenue code is classified as a disregarded entity for purposes of parts 2 and 3 of this act.

(b) A person that converts into a limited liability company under section 7 of 1883 PA 129, MCL 484.7, is treated as a corporation for purposes of parts 2 and 3 of this act unless that converted entity is a disregarded entity for federal income tax filing purposes under the internal revenue code and its regarded owner is treated as a corporation for state and federal income tax purposes.

History: Add. 2011, Act 309, Eff. Jan. 1, 2012;—Am. 2024, Act 177, Imd. Eff. Dec. 23, 2024.