

# HOUSE BILL No. 4600

April 12, 1989, Introduced by Rep. Bryant and referred to the Committee on Taxation.

A bill to amend section 9 of Act No. 228 of the Public Acts of 1975, entitled,

"Single business tax act,"

as amended by Act No. 80 of the Public Acts of 1985, being section 208.9 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 9 of Act No. 228 of the Public Acts of  
2 1975, as amended by Act No. 80 of the Public Acts of 1985, being  
3 section 208.9 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5       Sec. 9. (1) "Tax base" means business income, before appor-  
6 tionment ~~—~~ or allocation as provided in chapter 3, even if zero  
7 or negative, subject to the adjustments in subsections (2) to  
8 (9).

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

7 (3) Add all taxes on or measured by net income and the tax  
8 imposed by this act to the extent the taxes were deducted in  
9 arriving at federal taxable income.

10 (4) Add, to the extent deducted in arriving at federal tax-  
11 able income:

12 (a) ~~Any carry back or carry forward~~ A CARRYBACK OR  
13 CARRYOVER of a net operating loss.

14 (b) ~~Any carry back or carry forward~~ A CARRYBACK OR  
15 CARRYOVER of a capital loss.

16 (c) ~~Any~~ A deduction for depreciation, amortization, or  
17 immediate or accelerated write-off related to the cost of tangi-  
18 ble assets. ~~for which a capital acquisition deduction was~~  
19 ~~claimed in any tax year pursuant to section 23, and for the 1976~~  
20 ~~tax year, 72%, and for the 1977 tax year and subsequent tax years~~  
21 ~~+00% of any deduction for other depreciation, amortization, or~~  
22 ~~immediate or accelerated write off related to the cost of tangi-~~  
23 ~~ble assets.~~

24 (d) ~~Any dividends~~ A DIVIDEND paid or accrued except  
25 ~~dividends that represent~~ A DIVIDEND THAT REPRESENTS A reduction  
26 of premiums to policyholders of insurance companies.

1 (e) ~~Any~~ A deduction or exclusion by a taxpayer due to a  
2 classification as, or the payment of commissions or other fees  
3 to, a domestic international sales corporation or any like spe-  
4 cial classification the purpose of which is to reduce or postpone  
5 the federal income tax liability. This subdivision shall not  
6 apply to the special provisions of sections 805, 809, AND  
7 815(c)(2)(A) ~~, 823(c), and 824(a)~~ of the internal revenue  
8 code.

9 (f) All interest including amounts paid, credited, or  
10 reserved by insurance companies as amounts necessary to fulfill  
11 the policy and other contract liability requirements of sections  
12 805 and 809 of the internal revenue code. For tax years begin-  
13 ning after December 31, 1978 and ending on or before December 31,  
14 1984, interest ~~shall~~ DOES not include payments or credits made  
15 to or on behalf of a taxpayer by a manufacturer, distributor, or  
16 supplier of inventory to defray any part of the taxpayer's floor  
17 plan interest, if these payments are not deducted as interest  
18 expense in determining federal taxable income. For purposes of  
19 this section, "floor plan interest" means interest paid to any  
20 financial organization ~~which~~ THAT finances any part of the  
21 taxpayer's purchase of automobile inventory from a manufacturer,  
22 distributor, or supplier.

23 (g) All royalties except for the following:

24 (i) ~~Commencing~~ ON AND AFTER July 1, 1985, ~~and~~  
25 ~~thereafter,~~ oil and gas royalties ~~which~~ THAT are excluded in  
26 the depletion deduction calculation under the internal revenue  
27 code.

1 (ii) Cable television franchise fees as defined ~~by~~ IN  
2 section 622 of ~~Public Law 98-549~~ PART III OF TITLE VI OF THE  
3 COMMUNICATIONS ACT OF 1934, 47 U.S.C. ~~622~~ 542.

4 (iii) Except as provided in subparagraph (iv), for the TAX  
5 YEARS 1986 ~~tax year and thereafter~~ AND AFTER 1986, a franchise  
6 fee as defined by section ~~2(3) or 3(1)~~ 3 of Act No. 269 of the  
7 Public Acts of 1974, being ~~sections 445.1502 and~~ SECTION  
8 445.1503 of the Michigan Compiled Laws, in the following  
9 amounts:

10 (A) For the tax years 1986, 1987, and 1988, 20% of the fran-  
11 chise fee.

12 (B) For the tax years 1989 and 1990, 50% of the franchise  
13 fee.

14 (C) For the tax years 1991 and ~~thereafter~~ AND AFTER 1991,  
15 100% OF THE FRANCHISE FEE.

16 (iv) For the tax years ending before 1991, this subdivision  
17 ~~shall~~ DOES not apply to a fee for services paid by a franchisee  
18 ~~which~~ THAT, with respect to a specific provision of a franchise  
19 agreement, a court of competent jurisdiction, ~~has, prior to the~~  
20 ~~effective date of this amendatory act,~~ BEFORE JUNE 5, 1985, HAS  
21 determined is not a royalty payment under this act.

22 (h) ~~Any~~ A deduction for rent attributable to a lease back  
23 THAT CONTINUES IN EFFECT under THE FORMER PROVISIONS OF section  
24 168(f)(8) of the internal revenue code AS THAT SECTION PROVIDED  
25 IMMEDIATELY BEFORE THE ENACTMENT OF THE TAX REFORM ACT OF 1986,  
26 PUBLIC LAW 99-514, OR TO A LEASE BACK OF PROPERTY TO WHICH THE

1 AMENDMENTS MADE BY THE TAX REFORM ACT OF 1986 DO NOT APPLY AS  
2 PROVIDED IN SECTION 204 OF THE TAX REFORM ACT OF 1986.

3 (5) Add compensation as defined in section ~~4(3)~~ 4.

4 (6) Add ~~any~~ A capital ~~gains~~ GAIN related to business  
5 activity of individuals to the extent excluded in arriving at  
6 federal taxable income.

7 (7) Deduct, to the extent included in arriving at federal  
8 taxable income:

9 (a) ~~Dividends~~ A DIVIDEND received or ~~deemed~~ CONSIDERED  
10 received, including the foreign dividend gross-up provided for in  
11 the internal revenue code.

12 (b) All interest except amounts paid, credited, or reserved  
13 by AN insurance ~~companies~~ COMPANY as amounts necessary to ful-  
14 fill the policy and other contract liability requirements of sec-  
15 tions 805 and 809 of the internal revenue code.

16 (c) All royalties except for the following:

17 (i) ~~Commencing~~ ON AND AFTER July 1, 1985, ~~and~~  
18 ~~thereafter~~, oil and gas royalties ~~which~~ THAT are included in  
19 the depletion deduction calculation under the internal revenue  
20 code.

21 (ii) Except as provided in subparagraph (iii), for the 1986  
22 tax year and ~~thereafter~~ AFTER THE 1986 TAX YEAR, a franchise  
23 fee as defined in section ~~2(3) or 3(1)~~ 3 of Act No. 269 of the  
24 Public Acts of 1974, ~~being sections 445.1502 and 445.1503 of the~~  
25 ~~Michigan Compiled Laws~~, in the following amounts:

26 (A) For the tax years 1986, 1987, and 1988, 20% of the  
27 franchise fee.

1 (B) For the tax years 1989 and 1990, 50% of the franchise  
2 fee.

3 (C) For the tax years 1991 and ~~thereafter~~ AFTER 1991, 100%  
4 of the franchise fee.

5 (iii) For the tax years ending before 1991, this subdivision  
6 ~~shall~~ DOES not apply to a fee for services paid by a franchisee  
7 ~~which~~ THAT, with respect to a specific provision of a franchise  
8 agreement, a court of competent jurisdiction, ~~has, prior to the~~  
9 ~~effective date of this amendatory act,~~ BEFORE JUNE 5, 1985, HAS  
10 determined is not a royalty payment under this act.

11 (d) Rent attributable to a lease BACK THAT CONTINUES IN  
12 EFFECT under THE FORMER PROVISIONS OF section 168(f)(8) of the  
13 internal revenue code AS THAT SECTION PROVIDED IMMEDIATELY BEFORE  
14 THE ENACTMENT OF THE TAX REFORM ACT OF 1986, PUBLIC LAW 99-514,  
15 OR TO A LEASE BACK OF PROPERTY TO WHICH THE AMENDMENTS MADE BY  
16 THE TAX REFORM ACT OF 1986 DO NOT APPLY AS PROVIDED IN SECTION  
17 204 OF THE TAX REFORM ACT OF 1986.

18 (E) FOR THE 1989 TAX YEAR AND EACH TAX YEAR AFTER THE 1989  
19 TAX YEAR, SALES OF GOODS OR SERVICES TO PUBLIC OR PRIVATE NON-  
20 PROFIT HEALTH SERVICE DELIVERY ENTITIES, IF THE DEPARTMENT DETER-  
21 MINES THAT THERE EXIST PUBLIC OR PRIVATE NONPROFIT ENTITIES IN  
22 THE STATE ENGAGED IN THE SAME OR SUBSTANTIALLY THE SAME PROVISION  
23 OF GOODS OR SERVICES IN DIRECT COMPETITION WITH THE TAXPAYER  
24 CLAIMING THE DEDUCTION UNDER THIS SUBDIVISION.

25 (8) Deduct ~~any~~ A capital loss not deducted in arriving at  
26 federal taxable income in the year the loss occurred.

1 (9) To the extent included in federal taxable income, add  
2 the loss or subtract the gain from the tax base that is  
3 attributable to another entity whose business activities are tax-  
4 able under this act or would be taxable under this act if the  
5 business activities were in this state.