

HOUSE BILL No. 4625

April 13, 1989, Introduced by Reps. Willis Bullard, Krause, Munsell, Emmons, Honigman, Stacey, Jaye, DeLange, Giese, Strand, Law, Walberg, O'Connor, Ouwinga, Wartner, DeMars, Johnson, Gilmer, Martin, Miller, Muxlow, Weeks, Pridnia, Bartnik, Gnodtke, Middaugh, Dunaskiss, Crandall, Bandstra, Camp, Power, Bender, Bankes, London, Runco, Allen, Hillegonds, Hoekman, Sparks, Van Regenmorter, Trim, Sikkema, Ostling, Kosteva, Rocca and Van Singel and referred to the Committee on Taxation.

A bill to amend section 35 of Act No. 228 of the Public Acts of 1975, entitled

"Single business tax act,"

as amended by Act No. 390 of the Public Acts of 1988, being section 208.35 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 35 of Act No. 228 of the Public Acts of
2 1975, as amended by Act No. 390 of the Public Acts of 1988, being
3 section 208.35 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 35. (1) The following are exempt from the tax imposed
6 by this act:

7 (a) For ~~the 1977 tax year and~~ tax years beginning AFTER
8 1976 AND before January 1, 1989, the first \$40,000.00 ~~for tax~~
9 ~~years beginning in 1989, the first \$41,000.00, for tax years~~

1 ~~beginning in 1990, the first \$42,000.00, for tax years beginning~~
2 ~~in 1991, the first \$43,000.00, for tax years beginning in 1992,~~
3 ~~the first \$44,000.00,~~ and for tax years beginning after ~~1992~~
4 1988, the first ~~\$45,000.00~~ \$100,000.00 of the tax base of every
5 person. This exemption shall be increased by ~~\$12,000.00~~
6 \$20,000.00 for each partner of a partnership or shareholder of a
7 subchapter S corporation or professional corporation in excess of
8 1 who is a full-time employee of the taxpayer, whose business
9 income from that business is at least ~~\$12,000.00~~ \$20,000.00,
10 and who owns at least 10% of that business. The total increase
11 in the exemption shall be not more than ~~\$48,000.00~~
12 \$100,000.00. For a taxpayer whose business activity is for a
13 fractional part of a year, the exemption provided in this subdi-
14 vision including the increase in the exemption shall be prorated
15 for the period of the taxpayer's business activity. This exemp-
16 tion shall be reduced by \$2.00 for each \$1.00 that business
17 income exceeds the amount of the exemption. For the purposes of
18 computing the exemption, "business income" means that term as
19 defined in section 3 plus compensation and director's fees of
20 shareholders of a corporation and any carryback or ~~carryforward~~
21 CARRYOVER of a net operating loss or capital loss to the extent
22 deducted in arriving at federal taxable income. In calculating
23 eligibility for the exemption provided in this subdivision, a
24 person who is not a corporation may elect to average its business
25 income for the current year and the previous 4 taxable years.
26 Business income as defined in this subdivision shall not be less
27 than zero. For the purposes of this subdivision, tax base shall

1 be after allocation and apportionment provided in chapter 3 and
2 the adjustments provided in section 23. This subdivision does
3 not apply to an adjusted tax base under section 22a.

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

6 (c) A person who is exempt from federal income tax pursuant
7 to the provisions of the internal revenue code except the
8 following:

9 (i) An organization included under section 501(c)(12) or
10 501(c)(16) of the internal revenue code.

11 (ii) An organization exempt under section 501(c)(4) of the
12 internal revenue code that would be exempt under section
13 501(c)(12) of the internal revenue code but for its failure to
14 meet the requirements in section 501(c)(12) that 85% or more of
15 its income must consist of amounts collected from members.

16 (iii) The adjusted tax base attributable to the activities
17 giving rise to the unrelated taxable business income of an exempt
18 person.

19 (d) Before August 3, 1987, a foreign or alien insurance com-
20 pany subject to the provisions of the premium tax under sections
21 440 to 446 of Act No. 218 of the Public Acts of 1956, as
22 ~~amended, being sections 500.440 to 500.446 of the Michigan~~
23 ~~Compiled Laws~~ THOSE SECTIONS WERE IN EFFECT ON DECEMBER 27,
24 1987. This exemption ~~shall~~ DOES not apply to the tax base
25 derived from a business activity other than insurance carrier
26 services.

1 (e) Before August 3, 1987, that portion of the payroll of a
2 domestic insurer or of a marketing corporation that constitutes
3 insurance sales commissions paid to employees and salaries of
4 employees primarily concerned with the adjustment of claims.
5 This exemption does not apply to a marketing corporation that is
6 not controlled, directly or indirectly, by stock ownership or
7 common management, by the domestic insurer or insurers from which
8 it derives all or substantially all of its gross income, exclu-
9 sive of income from investments.

10 (f) Beginning August 3, 1987 and before being apportioned
11 under section 62, the first \$130,000,000.00 of disability insur-
12 ance premiums, other than credit insurance and disability income
13 insurance premiums, of each insurer subject to tax under this
14 act. This exemption shall be reduced by \$2.00 for each \$1.00 by
15 which the insurer's gross premiums from insurance carrier serv-
16 ices in this state and outside this state exceed
17 \$180,000,000.00.

18 (g) A nonprofit cooperative housing corporation. As used in
19 this subdivision, "nonprofit cooperative housing corporation"
20 means a cooperative housing corporation that is engaged in pro-
21 viding housing services to its stockholders and members and that
22 does not pay dividends or interest upon stock or membership
23 investment but that does distribute all earnings to its stock-
24 holders or members. This exemption does not apply to a business
25 activity of a nonprofit cooperative housing corporation other
26 than providing housing services to its stockholders and members.

1 (h) That portion of the tax base attributable to the
2 production of agricultural goods by a person whose primary
3 activity is the production of agricultural goods. "Production of
4 agricultural goods" means commercial farming including, but not
5 limited to, cultivation of the soil; growing and harvesting of an
6 agricultural, horticultural, or floricultural commodity; dairy-
7 ing; raising of livestock, bees, fish, fur-bearing animals, or
8 poultry; or turf or tree farming, but not including the marketing
9 at retail of agricultural goods.

10 (2) An affiliated group, a controlled group of corporations
11 as defined by section 1563 of the internal revenue code, or an
12 entity under common control as defined by the internal revenue
13 code ~~shall be~~ IS entitled to only 1 exemption allowed by sub-
14 section (1)(a) whether or not a combined or consolidated return
15 is filed.