

HOUSE BILL No. 4987

July 13, 1989, Introduced by Reps. Hickner, Gnodtke, DeMars and Porreca 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, the
4 first \$45,000.00 of the tax base of every person. This exemption
5 shall be increased by \$12,000.00 for each partner of a partner-
6 ship or shareholder of a subchapter S corporation or professional
7 corporation in excess of 1 who is a full-time employee of the
8 taxpayer, whose business income from that business is at least
9 \$12,000.00, and who owns at least 10% of that business. The
10 total increase in the exemption shall be not more than
11 \$48,000.00. For a taxpayer whose business activity is for a
12 fractional part of a year, the exemption provided in this subdi-
13 vision including the increase in the exemption shall be prorated
14 for the period of the taxpayer's business activity. This exemp-
15 tion shall be reduced by \$2.00 for each \$1.00 that business
16 income exceeds the amount of the exemption. For the purposes of
17 computing the exemption, "business income" means that term as
18 defined in section 3 plus compensation and director's fees of
19 shareholders of a corporation and any carryback or ~~carryforward~~
20 CARRYOVER of a net operating loss or capital loss to the extent
21 deducted in arriving at federal taxable income. In calculating
22 eligibility for the exemption provided in this subdivision, a
23 person who is not a corporation may elect to average its business
24 income for the current year and the previous 4 taxable years.
25 Business income as defined in this subdivision shall not be less
26 than zero. For the purposes of this subdivision, tax base shall
27 be after allocation and apportionment provided in chapter 3 and

1 the adjustments provided in section 23. This subdivision does
2 not apply to an adjusted tax base under section 22a.

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

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

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

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

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

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

26 (e) Before August 3, 1987, that portion of the payroll of a
27 domestic insurer or of a marketing corporation that constitutes

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

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

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

25 (h) That portion of the tax base attributable to the produc-
26 tion of agricultural goods by a person whose primary activity is
27 the production of agricultural goods. "Production of

1 agricultural goods" means commercial farming including, but not
2 limited to, cultivation of the soil; growing and harvesting of an
3 agricultural, horticultural, or floricultural commodity; dairy-
4 ing; raising of livestock, bees, fish, fur-bearing animals, or
5 poultry; or turf or tree farming, but not including the marketing
6 at retail of agricultural goods.

7 (I) A FARMERS' COOPERATIVE CORPORATION ORGANIZED WITHIN THE
8 LIMITATIONS OF SECTION 98 OF ACT NO. 327 OF THE PUBLIC ACTS OF
9 1931, BEING SECTION 450.98 OF THE MICHIGAN COMPILED LAWS, WHICH
10 CORPORATION WAS AT ANY TIME EXEMPT UNDER SUBDIVISION (C) BECAUSE
11 THE CORPORATION WAS EXEMPT FROM FEDERAL INCOME TAXES UNDER SEC-
12 TION 521 OF THE INTERNAL REVENUE CODE AND WHICH CORPORATION WOULD
13 CONTINUE TO BE EXEMPT UNDER SECTION 521 OF THE INTERNAL REVENUE
14 CODE EXCEPT FOR THE CORPORATION'S REPURCHASE FROM NONPRODUCER
15 CUSTOMERS OF PORTIONS OR COMPONENTS OF COMMODITIES THE CORPORA-
16 TION MARKETS TO THOSE NONPRODUCER CUSTOMERS AND THE CORPORATION'S
17 SUBSEQUENT MANUFACTURING OR MARKETING OF THE REPURCHASED PORTIONS
18 OR COMPONENTS OF THE COMMODITIES.

19 (J) THAT PORTION OF THE TAX BASE ATTRIBUTABLE TO THE BAR-
20 GAINING ACTIVITIES OF A FARMERS' COOPERATIVE CORPORATION ORGA-
21 NIZED WITHIN THE LIMITATIONS OF SECTION 98 OF ACT NO. 327 OF THE
22 PUBLIC ACTS OF 1931 IF THOSE BARGAINING ACTIVITIES ARE ON BEHALF
23 OF THE MEMBERS OF THAT CORPORATION FOR PRICE AND OTHER TERMS OF
24 TRADE RELATING TO THE MEMBERS' DIRECT SALE OF THEIR PRODUCTS TO
25 THIRD PARTIES.

26 (2) An affiliated group, a controlled group of corporations
27 as defined by section 1563 of the internal revenue code, or an

1 entity under common control as defined by the internal revenue
2 code ~~shall be~~ IS entitled to only 1 exemption allowed by sub-
3 section (1)(a) whether or not a combined or consolidated return
4 is filed.