

SENATE BILL No. 386

April 27, 1989, Introduced by Senators CARL, POSTHUMUS, NICHOLS, WELBORN, DILLINGHAM, EHLERS, CRUCE, GEAKE, BINSFELD, GAST, SHINKLE and ENGLER and referred to the Committee on Finance.

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. IF A FINANCIAL ORGANIZATION,
14 TO WHICH SECTION 593 OF THE INTERNAL REVENUE CODE APPLIES, HAS A
15 LOSS CARRYBACK; IF FEDERAL LAW REQUIRES THE FINANCIAL ORGANI-
16 ZATION TO RECOMPUTE, SOLELY BECAUSE OF THE LOSS CARRYBACK, THE
17 ALLOWABLE ADDITION TO THE RESERVE FOR BAD DEBTS UNDER SECTION
18 593(B)(2) OF THE INTERNAL REVENUE CODE; AND IF THE RECOMPUTATION
19 RESULTS IN AN ADDITION TO BUSINESS INCOME, THE FINANCIAL ORGANI-
20 ZATION SHALL DEDUCT THE AMOUNT OF THE ADDITION TO BUSINESS INCOME
21 FROM THE LOSS CARRYBACK BEFORE ADDING THE LOSS CARRYBACK TO THE
22 TAX BASE AS REQUIRED BY THIS SUBDIVISION. THE FINANCIAL ORGANI-
23 ZATION SHALL ADD THE AMOUNT OF THE ADDITION TO BUSINESS INCOME
24 RESULTING FROM THE RECOMPUTATION DESCRIBED IN THIS SUBDIVISION TO
25 THE FINANCIAL ORGANIZATION'S TAX BASE FOR THE TAX YEAR IN WHICH
26 THE FINANCIAL ORGANIZATION SUSTAINS THE LOSS RESULTING IN THE
27 LOSS CARRYBACK FOR FEDERAL INCOME TAX PURPOSES.

1 (b) ~~Any carry back or carry forward~~ A CARRYBACK OR
2 CARRYOVER of a capital loss. IF A FINANCIAL ORGANIZATION, TO
3 WHICH SECTION 593 OF THE INTERNAL REVENUE CODE APPLIES, HAS A
4 LOSS CARRYBACK; IF FEDERAL LAW REQUIRES THE FINANCIAL ORGANI-
5 ZATION TO RECOMPUTE, SOLELY BECAUSE OF THE LOSS CARRYBACK, THE
6 ALLOWABLE ADDITION TO THE RESERVE FOR BAD DEBTS UNDER SECTION
7 593(B)(2) OF THE INTERNAL REVENUE CODE; AND IF THE RECOMPUTATION
8 RESULTS IN AN ADDITION TO BUSINESS INCOME, THE FINANCIAL ORGANI-
9 ZATION SHALL DEDUCT THE AMOUNT OF THE ADDITION TO BUSINESS INCOME
10 FROM THE LOSS CARRYBACK BEFORE ADDING THE LOSS CARRYBACK TO THE
11 TAX BASE AS REQUIRED BY THIS SUBDIVISION. THE FINANCIAL ORGANI-
12 ZATION SHALL ADD THE AMOUNT OF THE ADDITION TO BUSINESS INCOME
13 RESULTING FROM THE RECOMPUTATION DESCRIBED IN THIS SUBDIVISION TO
14 THE FINANCIAL ORGANIZATION'S TAX BASE FOR THE TAX YEAR IN WHICH
15 THE FINANCIAL ORGANIZATION SUSTAINS THE LOSS RESULTING IN THE
16 LOSS CARRYBACK FOR FEDERAL INCOME TAX PURPOSES.

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

25 (d) ~~Any dividends~~ A DIVIDEND paid or accrued except
26 ~~dividends that represent~~ A DIVIDEND THAT REPRESENTS A reduction
27 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 (8) Deduct ~~any~~ A capital loss not deducted in arriving at
19 federal taxable income in the year the loss occurred.

20 (9) To the extent included in federal taxable income, add
21 the loss or subtract the gain from the tax base that is attribut-
22 able to another entity whose business activities are taxable
23 under this act or would be taxable under this act if the business
24 activities were in this state.