

SENATE BILL No. 598

October 11, 1989, Introduced by Senators SCHWARZ, SHINKLE, POSTHUMUS, DINGELL, V. SMITH and CARL and referred to the Committee on Finance.

A bill to amend section 36 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 208.36 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 36 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 208.36 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 36. (1) As used in this section:

6 (a) "Active shareholder" means a shareholder who receives at
7 least \$10,000.00 in compensation, director's fees, or dividends
8 from the business, and who owns at least 5% of the outstanding
9 stock.

1 (b) "Officer" means an officer of a corporation other than a
2 corporation electing taxation under subchapter S of chapter 1 of
3 subtitle A of the internal revenue code, sections 1361 to 1379 of
4 the internal revenue code, including the chairperson of the
5 board, president, vice-president, secretary, and treasurer, or
6 persons performing similar duties.

7 (c) "Adjusted business income" means business income as
8 defined in section 3 ~~plus~~ WITH all of the following
9 ADJUSTMENTS:

10 (i) ~~Compensation~~ ADD COMPENSATION and director's fees of
11 active shareholders of a corporation.

12 (ii) ~~The~~ MAKE THE adjustments provided in section 9(4)(a)
13 and (b).

14 (iii) ~~Compensation~~ ADD COMPENSATION and director's fees of
15 officers of a corporation.

16 (iv) IF, AFTER THE ADJUSTMENTS UNDER SUBPARAGRAPHS (i),
17 (ii), AND (iii), ADJUSTED BUSINESS INCOME IS MORE THAN ZERO, SUB-
18 TRACT THE AMOUNT BY WHICH ADJUSTED BUSINESS INCOME WAS LESS THAN
19 ZERO IN ANY OF THE 5 TAX YEARS IMMEDIATELY PRECEDING THE TAX YEAR
20 FOR WHICH ADJUSTED BUSINESS INCOME IS BEING CALCULATED, BUT NOT
21 MORE THAN THE ADJUSTED BUSINESS INCOME AMOUNT ARRIVED AT AFTER
22 THE ADJUSTMENTS UNDER SUBPARAGRAPHS (i), (ii), AND (iii). A TAX-
23 PAYER SHALL NOT SUBTRACT A NEGATIVE ADJUSTED BUSINESS INCOME
24 AMOUNT SUBTRACTED UNDER THIS SUBPARAGRAPH IN A PREVIOUS TAX YEAR.

25 (d) "Shareholder" means a person who owns outstanding stock
26 in the business. An individual is considered as the owner of the

1 stock owned, directly or indirectly, by or for family members as
2 defined by section 318(a)(1) of the internal revenue code.

3 (2) The credit provided in this section shall be taken
4 before any other credit under this act, and is available to any
5 person whose gross receipts do not exceed \$6,000,000.00 for tax
6 years commencing on or after January 1, 1984 and before January
7 1, 1989; \$7,000,000.00 for tax years commencing in 1989;
8 \$7,250,000.00 for tax years commencing in 1990; or \$7,500,000.00
9 for tax years commencing after 1990, and whose adjusted business
10 income does not exceed \$475,000.00 for tax years commencing on or
11 after January 1, 1985, subject to the following:

12 (a) An individual, a partnership, or a subchapter S corpora-
13 tion is disqualified if the individual, any 1 partner of the
14 partnership, or any 1 shareholder of the subchapter S corporation
15 receives more than \$95,000.00 for tax years commencing on or
16 after January 1, 1985 as a distributive share of the adjusted
17 business income of the individual, the partnership, or the sub-
18 chapter S corporation.

19 (b) A corporation other than a subchapter S corporation is
20 disqualified if either of the following occur for the respective
21 tax year:

22 (i) Compensation and director's fees of a shareholder or
23 officer exceed \$95,000.00 for tax years commencing on or after
24 January 1, 1985.

25 (ii) The sum of the following amounts exceeds \$95,000.00 for
26 tax years commencing on or after January 1, 1985:

1 (A) Compensation and director's fees of a shareholder.

2 (B) The sum of business income and the adjustments provided
3 in section 9(4)(a) and (b) times the percentage of outstanding
4 stock owned by that shareholder.

5 (3) For the purposes of determining disqualification under
6 subsection (2), an active shareholder's share of business income
7 shall not be attributed to another active shareholder.

8 (4) A person who qualifies pursuant to subsection (2) is
9 allowed a credit against the tax imposed by section 31. For tax
10 years commencing before January 1, 1989, the credit is a percen-
11 tage reduction in tax liability. For tax years commencing on and
12 after January 1, 1989, the credit is the greater of the amount by
13 which the tax imposed by section 31 exceeds 4% of adjusted busi-
14 ness income or a percentage reduction in tax liability.

15 (5) The percentage reduction provided in subsection (3) is
16 calculated by subtracting from 100% the percentage computed by
17 dividing adjusted business income by 45% of tax base.

18 (6) If gross receipts exceed \$5,000,000.00 for tax years
19 commencing on or after January 1, 1984 and before January 1,
20 1989; \$6,000,000.00 for tax years commencing in 1989;
21 \$6,250,000.00 for tax years commencing in 1990; or \$6,500,000.00
22 for tax years commencing after 1990, the credit shall be reduced
23 by a fraction, the numerator of which is the amount of gross
24 receipts over \$5,000,000.00 for tax years commencing on or after
25 January 1, 1984 and before January 1, 1989; \$6,000,000.00 for tax
26 years commencing in 1989; \$6,250,000.00 for tax years commencing
27 in 1990; or \$6,500,000.00 for tax years commencing after 1990,

1 and the denominator of which is \$1,000,000.00. The credit shall
2 not exceed 50% for tax years commencing before January 1, 1984;
3 90% for tax years commencing on or after January 1, 1984 and
4 before January 1, 1988; or 100% for tax years commencing on and
5 after January 1, 1988 of the tax liability imposed by
6 section 31.

7 (7) An affiliated group as defined in this act and a con-
8 trolled group of corporations or an entity under common control
9 as defined by the internal revenue code shall not take the credit
10 allowed by this section unless the business activities of the
11 entities are consolidated.

12 (8) The department shall permit a taxpayer who elects to
13 claim the credit allowed by this section based on the amount by
14 which the tax imposed by section 31 exceeds 4% of adjusted busi-
15 ness income, and who is not required to reduce the credit pursu-
16 ant to subsection (6), to file and pay the tax imposed by this
17 act without computing the tax imposed under section 31.