

Act No. 216
Public Acts of 2005
Approved by the Governor
November 21, 2005
Filed with the Secretary of State
November 21, 2005

NO EFFECTIVE DATE: Tie-barred to bill which was vetoed by the Governor

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005**

Introduced by Senator Cassis

ENROLLED SENATE BILL No. 633

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 31 (MCL 208.31), as amended by 1999 PA 115.

The People of the State of Michigan enact:

Sec. 31. (1) Except as provided in subsections (5) and (6), there is levied and imposed a specific tax upon the adjusted tax base of every person with business activity in this state that is allocated or apportioned to this state at the following rates for the specified periods:

(a) Before October 1, 1994, 2.35%.

(b) After September 30, 1994 and before January 1, 1999, 2.30%.

(c) Beginning January 1, 1999 and each January 1 after 1999, the rate under this subsection shall be reduced as provided in subsection (5).

(d) Beginning January 1, 2009, the rate under this subsection shall be 1.85%.

(2) As used in this section, "adjusted tax base" means the tax base allocated or apportioned to this state pursuant to chapter 3 with the adjustments prescribed by sections 23 and 23b and the exemptions prescribed by section 35. If a taxpayer reduces the adjusted tax base under this subsection, the taxpayer is not entitled to the adjustment provided in subsection (4) for the same taxable year. This subsection does not apply to an adjusted tax base under section 22a. For the specified years and except as otherwise provided in subsection (6), if the adjusted tax base exceeds the following percentages of the sum of gross receipts plus the adjustments provided in section 23b(a) to (g), apportioned or allocated to Michigan with the apportionment fraction calculated pursuant to chapter 3, the adjusted tax base may, at the option of the taxpayer, be reduced by that excess:

(a) Before January 1, 2009, 50.0%.

(b) Beginning on and after January 1, 2009, 51.4%.

(3) The tax levied under this section and imposed is upon the privilege of doing business and not upon income.

(4) In lieu of the reduction provided in subsection (2), a person may elect to reduce the adjusted tax base pursuant to this subsection. For purposes of computing the deduction allowed by this subsection, as effective for the respective tax year, compensation does not include amounts of compensation exempt from tax under section 35(1)(e). This subsection does not apply to an adjusted tax base under section 22a. Except as otherwise provided in subsection (6), a person may elect to reduce the adjusted tax base by the percentage that the compensation divided by the tax base

exceeds the following percentages for the specified years and the deduction shall not exceed the following percentages of the adjusted tax base:

(a) Before January 1, 2009, the percentage that compensation divided by the tax base exceeds 63% and the deduction shall not exceed 37% of adjusted tax base.

(b) Beginning on and after January 1, 2009, the percentage that compensation divided by the tax base exceeds 64.7% and the deduction shall not exceed 35.3% of adjusted tax base.

(5) If the comprehensive annual financial report of this state for a state fiscal year, published pursuant to section 494 of the management and budget act, 1984 PA 431, MCL 18.1494, reports an ending balance of more than \$250,000,000.00 in the countercyclical budget and economic stabilization fund created under section 351 of the management and budget act, 1984 PA 431, MCL 18.1351, for that state fiscal year, the tax rate under this section shall be reduced by 0.1 percentage point on the January 1 following the end of the state fiscal year for which the report was issued.

(6) All of the following apply for tax years beginning on and after January 1, 2009:

(a) A taxpayer may elect to reduce its tax base using the percentage allowed under subsection (2)(a) if the taxpayer calculates tax liability using the rate determined pursuant to subsection (1)(c).

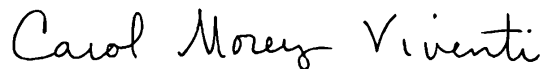
(b) A taxpayer may elect to reduce its tax base and claim a deduction using the percentages allowed under subsection (4)(a) if the taxpayer calculates tax liability using the rate determined pursuant to subsection (1)(c).

(7) The department shall annualize the rate under this section as necessary, and the applicable annualized rate shall be imposed.

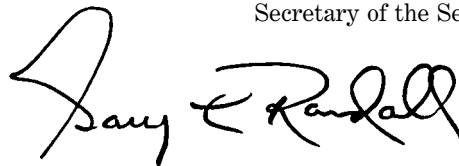
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 4342.
- (b) House Bill No. 4972.
- (c) House Bill No. 4973.
- (d) House Bill No. 4980.
- (e) House Bill No. 5095.
- (f) House Bill No. 5096.
- (g) House Bill No. 5097.
- (h) House Bill No. 5098.
- (i) House Bill No. 5106.
- (j) House Bill No. 5107.
- (k) House Bill No. 5108.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor