

HOUSE BILL No. 5170

November 10, 2011, Introduced by Reps. Segal, Meadows, Jackson, Brown, Liss, Barnett, Slavens, Lindberg, Switalski, Irwin and Howze and referred to the Committee on Banking and Financial Services.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 625 (MCL 206.625), as added by 2011 PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 625. (1) Except as otherwise provided in this section,
2 the following are exempt from the tax imposed by this part:

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

6 (b) A person who is exempt from federal income tax under the
7 internal revenue code except the 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

1 internal revenue code that would be exempt under section 501(c)(12)
2 of the internal revenue code except that it failed to meet the
3 requirements in section 501(c)(12) that 85% or more of its income
4 consist of amounts collected from members.

5 (iii) The tax base attributable to unrelated business activities
6 giving rise to the unrelated business taxable income of an exempt
7 person.

8 (c) A foreign person that is domiciled in a member country of
9 the North American free trade agreement is not subject to taxation
10 under this part if the foreign person is domiciled in a subnational
11 jurisdiction that does not impose an income tax on a similarly
12 situated person domiciled in this state whose presence in the
13 foreign country is the same as the foreign person's presence in the
14 United States. If a qualifying foreign person is domiciled in a
15 subnational jurisdiction that does not impose an income tax on
16 businesses, but instead imposes some other type of subnational
17 business tax, that foreign person is not subject to taxation under
18 this part if that subnational business tax is not imposed on a
19 similarly situated person domiciled in this state whose presence in
20 the foreign country is the same as the foreign person's presence in
21 the United States.

22 (D) A MICHIGAN BUSINESS DEVELOPMENT CORPORATION AS DEFINED
23 UNDER SECTION 3 OF THE BUSINESS DEVELOPMENT CORPORATION ACT.

24 (E) THAT PORTION OF THE TAX BASE OF A FINANCIAL INSTITUTION
25 THAT IS A LOAN PARTICIPANT AND ATTRIBUTABLE TO ITS PARTICIPATION IN
26 A QUALIFIED LOAN TRANSACTION. AS USED IN THIS SUBDIVISION, "LOAN
27 PARTICIPANT" AND "QUALIFIED LOAN TRANSACTION" MEAN THESE TERMS AS



1 **DEFINED IN SECTION 3 OF THE BUSINESS DEVELOPMENT CORPORATION ACT.**

2 (2) Notwithstanding any other provision of this part to the
3 contrary, a foreign person subject to tax under this part shall
4 calculate its corporate income tax base under this section. Except
5 as otherwise provided in this section, the corporate income tax
6 base of a foreign person is subject to all adjustments and other
7 provisions of this part. However, the corporate income tax base
8 shall not include proceeds from sales where title passes outside
9 the United States.

10 (3) Except as otherwise provided in this section, the
11 corporate income tax base of a foreign person includes the sum of
12 business income and the adjustments under section 623 that are
13 related to United States business activity.

14 (4) The sales factor for a foreign person is a fraction, the
15 numerator of which is the taxpayer's total sales in this state
16 where title passes inside the United States during the tax year and
17 the denominator of which is the taxpayer's total sales in the
18 United States where title passes inside the United States during
19 the tax year.

20 (5) As used in this section:

21 (a) "Business income" means, for a foreign person, gross
22 income attributable to the taxpayer's United States business
23 activity and gross income derived from sources within the United
24 States minus the deductions allowed under the internal revenue code
25 that are related to that gross income. Gross income includes the
26 proceeds from sales shipped or delivered to any purchaser within
27 the United States and for which title transfers within the United

1 States; proceeds from services performed within the United States;
2 and a pro rata proportion of the proceeds from services performed
3 both within and outside the United States to the extent the
4 recipient receives benefit of the services within the United
5 States.

6 (b) "Domiciled" means the location of the headquarters of the
7 trade or business from which the trade or business of the foreign
8 person is principally managed and directed.

9 (c) "Foreign person" means a person formed under the laws of a
10 foreign country or a political subdivision of a foreign country,
11 whether or not the person is subject to taxation under the internal
12 revenue code.

13 Enacting section 1. This amendatory act takes effect January
14 1, 2012.

15 Enacting section 2. This amendatory act does not take effect
16 unless all of the following bills of the 96th Legislature are
17 enacted into law:

18 (a) Senate Bill No. _____ or House Bill No. 5168 (request no.
19 01418'11).

20 (b) Senate Bill No. _____ or House Bill No. 5169 (request no.
21 01519'11).

