

HOUSE BILL NO. 6286

June 30, 2022, Introduced by Rep. Beeler and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending sections 813 and 839 (MCL 206.813 and 206.839), as
added by 2021 PA 135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 813. For tax years beginning on and after January 1,
2 2021, a flow-through entity may, in a form and manner as prescribed
3 by the department, elect to file a return and pay the tax imposed
4 by this part. Except as otherwise provided under this section, an
5 election made under this section is an irrevocable election that

1 shall continue for the next 2 subsequent tax years and the taxpayer
2 shall continue to file a return and pay the tax imposed under this
3 part as provided in section 833. A flow-through entity that elects
4 to pay the tax imposed under this part shall file its election with
5 the department on or before the fifteenth day of the third month of
6 ~~that the subsequent~~ tax year. However, an election made for any tax
7 year beginning in 2021 must be made before ~~the fifteenth day of the~~
8 ~~fourth calendar month after the effective date of the amendatory~~
9 ~~act that added this section.~~ **April 15, 2022.** A separate election
10 must be made after the expiration of the irrevocable period
11 described in this section to continue to pay the tax imposed by
12 this part. If, in accordance with section 847, the tax is not
13 levied and imposed during any tax year, for any subsequent tax year
14 that the tax is levied and imposed under this part, regardless of
15 whether the taxpayer had previously made an election to pay under
16 this section, the taxpayer is required to make a separate election
17 to pay under this section.

18 Sec. 839. (1) A taxpayer or a flow-through entity that did not
19 make the election under section 813 shall provide on or before the
20 due date of the return under section 833, upon the amendment of a
21 return filed under section 833 or the adjustment of the tax under
22 this part by the department, to any member to which the provision
23 of information is required by the internal revenue code all of the
24 following for the tax year:

25 (a) Information regarding the allocation and apportionment of
26 the business income described under this part and the allocation
27 and apportionment of income subject to tax under part 1 and part 2.

28 (b) The member's allocable share of the reporting flow-through
29 entity's taxes calculated under section 815(2) (e) on or measured by

1 net income including the tax imposed by this part for the tax year.
2 The member's allocable share of taxes calculated under section
3 815(2) (e) and allocated to the reporting flow-through entity by
4 other flow-through entities with tax years ending on or within the
5 reporting flow-through entity's tax year.

6 (c) The member's allocable share of the reporting flow-through
7 entity's refund calculated under section 815(2) (g). The member's
8 allocable share of refunds calculated under section 815(2) (g) and
9 allocated to the reporting flow-through entity by other flow-
10 through entities with tax years ending on or within the reporting
11 flow-through entity's tax year.

12 (d) Each of the following:

13 (i) The member's share of the tax imposed under this part on
14 the taxpayer for the tax year and paid ~~by the fifteenth day of the~~
15 ~~third month after the end of the tax year.~~**on a timely filed return**
16 **for the tax year, including any extension.**

17 (ii) The member's share of the tax imposed under this part on
18 the taxpayer for any prior tax year and paid ~~within the tax year~~
19 ~~excluding any amount reported under subparagraph (i) for the~~
20 ~~previous tax year.~~**after the original due date of the prior tax year**
21 **return, including any extension.**

22 (iii) The member's share of the tax allocated to the reporting
23 flow-through entity under subparagraphs (i) and (ii) by other flow-
24 through entities **paid on a timely filed return for the tax year,**
25 **including any extension,** with tax years ending on or within the
26 reporting flow-through entity's tax year.

27 (iv) The member's share of the tax allocated to the reporting
28 flow-through entity under subparagraphs (i) and (ii) by other flow-
29 through entities **paid after the original due date of the prior tax**

1 **year return of that flow-through entity, including any extension.**

2 (e) The member's share of the tax allocated under subdivision
3 (d) must be determined based on the member's share of the income or
4 gain generating the tax imposed under this part and included in the
5 member's share of business income. If a member is allocated
6 different portions of separately reported categories of income and
7 gain, then the allocated share of tax must be based on the tax
8 imposed under this part on each separate category of income or
9 gain.

10 (2) An estate or trust that is either a member of a flow-
11 through entity that elects to file a return and pay the tax imposed
12 under this part or a direct or indirect member of another flow-
13 through entity that elects to file a return and pay the tax imposed
14 under this part shall on or before the due date of the return
15 required under part 1 report to its beneficiaries their allocable
16 share of the tax imposed under this part and reported to the estate
17 or trust under section 839(1)(d) in the same tax year. The
18 allocable share is determined by multiplying the total amount of
19 tax imposed under this part and reported to the estate or trust
20 under section 839(1)(d) in the tax year by a percentage equal to a
21 fraction, the numerator of which is the flow-through entity
22 business income tax base that is distributed to the beneficiaries
23 and the denominator of which is the total flow-through entity
24 business income tax base that is included in distributable net
25 income.