INCOME TAX ACT OF 1967 (EXCERPT)

Act 281 of 1967

Chapter 3

206.101 Repealed. 1970, Act 140, Imd. Eff. Aug. 1, 1970.

Compiler's Notes: The repealed section pertained to taxable income attributable to Michigan.

206.102 Income producing activities solely in state.

Sec. 102.

In the case of taxable income of a taxpayer whose income-producing activities are confined solely to this state, the entire taxable income of such taxpayer shall be allocated to this state, except as otherwise expressly provided in this part.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 2011, Act 38, Eff. Jan. 1, 2012

206.103 Taxable income partly attributable to state.

Sec. 103.

Any taxpayer having income from business activity which is taxable both within and without this state, other than the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this part.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 1970, Act 140, Imd. Eff. Aug. 1, 1970 ;-- Am. 2011, Act 38, Eff. Jan. 1, 2012

206.105 Allocation and apportionment of business income taxable in another state.

Sec. 105.

For purposes of allocation and apportionment of income from business activity under this part, a taxpayer is taxable in another state if (a) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax, or (b) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 2011, Act 38, Eff. Jan. 1, 2012

206.110 Taxable income of individuals, estates, or trusts; definitions; allocation; rents and royalties.

Sec. 110.

(1) For a resident individual, estate, or trust, all taxable income from any source whatsoever, except that attributable to another state under sections 111 to 115 and subject to section 255, is allocated to this state.

(2) For a nonresident individual, estate, or trust, all taxable income is allocated to this state to the extent it is earned, received, or acquired in 1 or more of the following ways:

(a) For the rendition of personal services performed in this state.

(b) As a distributive share of the net profits of a business, profession, enterprise, undertaking, or other activity as the result of work done, services rendered, or other business activities conducted in this state, except as allocated to another state pursuant to sections 111 to 114 and subject to section 256.

(c) For tax years beginning after 1996, as a prize won by the taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(d) As winnings that are proceeds of a wagering transaction paid on or after October 1, 2003 by a casino or as a payoff price on a winning ticket that is the result of pari-mutuel wagering at a licensed race meeting if the casino or licensed race meeting is located in this state. As used in this subdivision:

(i) "Casino" means a casino regulated by this state under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226, or a building on Native American land or land held in trust by the United States for a federally recognized Indian tribe on which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat 2467.

(ii) "Pari-mutuel wagering" and "licensed race meeting" mean those terms as used in the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336.

(3) The respective shares of a nonresident estate or trust and its beneficiaries, including, solely for purposes of allocation, resident and nonresident beneficiaries, in the income attributable to this state shall be in proportion to the respective shares of distributable net income of the beneficiaries under the internal revenue code. If the estate or trust has no distributable net income for the tax year, the share of each beneficiary in the income attributable to this state shall be in proportion to his or her share of the estate or trust income for that year, under local law or the terms of the instrument, that is required to be distributed currently and other amounts of the income distributed in the year. Any balance of the income attributable to this state shall be allocated to the estate or trust.

(4) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute a nonbusiness income, shall be allocated as provided in sections 111 to 114.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969 ;-- Am. 1990, Act 283, Imd. Eff. Dec. 14, 1990 ;-- Am. 1996, Act 484, Eff. Jan. 1, 1997 ;-- Am. 2003, Act 21, Imd. Eff. June 24, 2003 ;-- Am. 2011, Act 38, Eff. Jan. 1, 2012

206.111 Rents and royalties; allocation.

Sec. 111.

(1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocable to this state:

(a) If and to the extent that the property is utilized in this state; or

(b) In their entirety if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the

property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969

206.112 Capital gains and losses.

Sec. 112.

(1) Capital gains and losses from sales or exchanges of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales or exchanges of tangible personal property are allocable to this state if:

(a) The property had a situs in this state at the time of the sale; or

(b) The taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales or exchanges of intangible personal property are allocable to this state if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969

206.113 Interest and dividends; allocation.

Sec. 113.

Interest and dividends are allocable to this state if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969

206.114 Patent and copyright royalties; allocation.

Sec. 114.

(1) Patent and copyright royalties are allocable to this state:

(a) If and to the extent that the patent or copyright is utilized by the payer in this state; or

(b) If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in this state if the taxpayer is a resident partnership, estate or trust or individual or has a commercial domicile in this state.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in

this state if the taxpayer is a resident partnership, estate or trust or individual or has a commercial domicile in this state.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969

206.115 Apportionment of business income; exception; calculation.

Sec. 115.

(1) Before January 1, 2012, all business income, other than income from transportation services, shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is 3.

(2) After December 31, 2011, all business income, other than income from transportation services, shall be apportioned to this state by multiplying the income by the sales factor calculated under section 121.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975 ;-- Am. 2011, Act 38, Eff. Jan. 1, 2012 ;-- Am. 2011, Act 178, Eff. Jan. 1, 2012

206.116-206.120 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.

Compiler's Notes: The repealed sections pertained to property factor, rental rate, average property value, determination of payroll factor, and determination of compensation paid in state.

206.121 Sales factor; determination.

Sec. 121.

The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

History: 1967, Act 281, Eff. Oct. 1, 1967

206.122 Sales of tangible personalty within Michigan.

Sec. 122.

Sales of tangible personal property are in this state if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory or other place of storage in this state and (i) the purchaser is the United States government or (ii) the taxpayer is not taxable in the state of the purchaser.

History: 1967, Act 281, Eff. Oct. 1, 1967

206.123 Sales other than sales of tangible personalty within state.

Sec. 123.

Sales, other than sales of tangible personal property, are in this state if:

(a) The income-producing activity is performed in this state; or

(b) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than outside this state, based on costs of performance.

History: 1967, Act 281, Eff. Oct. 1, 1967

206.125 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's Notes: The repealed section pertained to taxable income of domestic insurers.

206.131 Transportation services; sections applicable.

Sec. 131.

The taxable income of a taxpayer whose income-producing activities consist of transportation services rendered partly within and partly without the state shall be determined under the provisions of sections 132 to 134.

History: 1967, Act 281, Eff. Oct. 1, 1967

206.132 Transportation other than of oil or gas by pipeline; revenue mile; taxable income.

Sec. 132.

In the case of taxable income other than that derived from the transportation of oil or gas by pipeline, that portion of the net income of the taxpayer derived from transportation services wherever performed that the revenue miles of the taxpayer in Michigan bear to the revenue miles of the taxpayer everywhere. A revenue mile means the transportation for a consideration or 1 net ton in weight or 1 passenger the distance of 1 mile. The taxable income attributable to Michigan sources in the case of a taxpayer engaged in the transportation both of property and of individuals shall be that portion of the entire net income of the taxpayer which is equal to the average of his passenger miles and ton mile fractions, separately computed and individually weighted by the ratio of gross receipts from passenger transportation to total gross receipts from all transportation, and by the ratio of gross receipts from freight transportation to total gross receipts from all transportation, respectively. If it is shown to the satisfaction of the department that the foregoing information is not available or cannot be obtained without unreasonable expense to the taxpayer, the commissioner may use such other data which may be available and which in the opinion of the department will result in an equitable allocation of such receipts to this state.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 2011, Act 38, Eff. Jan. 1, 2012

206.133 Transportation of oil by pipeline; taxable income.

Sec. 133.

In the case of taxable income derived from the transportation of oil by pipeline, that portion of the net income of the taxpayer derived from the pipeline transportation of oil everywhere

that the barrel miles transported in Michigan bear to the barrel miles transported by the taxpayer everywhere.

History: 1967, Act 281, Eff. Oct. 1, 1967

206.134 Transportation of gas by pipeline; taxable income.

Sec. 134.

In the case of taxable income derived from the transportation of gas by pipeline, net income attributable to Michigan shall be that portion of the taxable income of the taxpayer derived from the pipeline transportation of gas everywhere that the thousand cubic feet miles transported in Michigan bear to the thousand cubic feet miles transported by the taxpayer everywhere.

History: 1967, Act 281, Eff. Oct. 1, 1967

206.151 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's Notes: The repealed section pertained to taxable income of financial organizations.

206.191 Sales not exceeding $100,000; taxable income.

Sec. 191.

(1) If the taxpayer's only activities within this state consist of sales and do not include owning or renting real estate or tangible personal property and whose dollar volume of gross sales made during the tax year within the state is not in excess of $100,000.00 the taxpayer may elect for that year:

(a) To report and pay a tax on net income arrived at by multiplying total sales in this state for the taxable year by the ratio of net income from operations to total sales as reported on his federal income tax return for the same taxable year; or

(b) Report and pay a tax of 2/5 of 1% on total sales in this state, whichever method reflects the lesser tax liability.

(2) The election is not available for any taxable year for which a consolidated return is required.

History: 1967, Act 281, Eff. Oct. 1, 1967

206.195 Alternative methods of allocation and apportionment; approval.

Sec. 195.

(1) If the allocation and apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) Separate accounting;

(b) The inclusion of 1 or more additional factors which will fairly represent the taxpayer's business activity in this state.

(c) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's taxable income.

(2) An alternative method will be effective only with approval by the department.

History: 1967, Act 281, Eff. Oct. 1, 1967 ;-- Am. 2011, Act 38, Eff. Jan. 1, 2012