

# HOUSE BILL No. 4362

February 20, 1997, Introduced by Rep. Kukuk and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
by amending section 9 (MCL 208.9), as amended by 1996 PA 347.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 9. (1) "Tax base" means business income, before appor-  
2 tionment or allocation as provided in chapter 3, even if zero or  
3 negative, subject to the adjustments in subsections (2) to ~~(9)~~  
4 (10).

5       (2) Add gross interest income and dividends derived from  
6 obligations or securities of states other than Michigan, in the  
7 same amount that was excluded from federal taxable income, less  
8 the related portion of expenses not deducted in computing federal  
9 taxable income because of sections 265 and 291 of the internal  
10 revenue code.

1 (3) Add all taxes on or measured by net income and the tax  
2 imposed by this act to the extent the taxes were deducted in  
3 arriving at federal taxable income.

4 (4) Add the following, to the extent deducted in arriving at  
5 federal taxable income:

6 (a) A carryback or carryover of a net operating loss.

7 (b) A carryback or carryover of a capital loss.

8 (c) A deduction for depreciation, amortization, or immediate  
9 or accelerated write-off related to the cost of tangible assets.

10 (d) A dividend paid or accrued except a dividend that repre-  
11 sents a reduction of premiums to policyholders of insurance  
12 companies.

13 (e) A deduction or exclusion by a taxpayer due to a classi-  
14 fication as, or the payment of commissions or other fees to, a  
15 domestic international sales corporation or any like special  
16 classification the purpose of which is to reduce or postpone the  
17 federal income tax liability. This subdivision does not apply to  
18 the special provisions of sections 805, 809, and 815(c)(2)(A) of  
19 the internal revenue code.

20 (f) All interest including amounts paid, credited, or  
21 reserved by insurance companies as amounts necessary to fulfill  
22 the policy and other contract liability requirements of sections  
23 805 and 809 of the internal revenue code. Interest does not  
24 include payments or credits made to or on behalf of a taxpayer by  
25 a manufacturer, distributor, or supplier of inventory to defray  
26 any part of the taxpayer's floor plan interest, if these payments  
27 are used by the taxpayer to reduce interest expense in

1 determining federal taxable income. For purposes of this  
2 section, "floor plan interest" means interest paid that finances  
3 any part of the taxpayer's purchase of automobile inventory from  
4 a manufacturer, distributor, or supplier. However, amounts  
5 attributable to any invoiced items used to provide more favorable  
6 floor plan assistance to a taxpayer than to a person who is not a  
7 taxpayer is considered interest paid by a manufacturer, distribu-  
8 tor, or supplier.

9 (g) All royalties except for the following:

10 (i) On and after July 1, 1985, oil and gas royalties that  
11 are excluded in the depletion deduction calculation under the  
12 internal revenue code.

13 (ii) Cable television franchise fees described in section  
14 622 of part III of title VI of the communications act of 1934, 47  
15 U.S.C. 542.

16 (iii) Except as provided in subparagraph (iv), for the tax  
17 years 1986 and after 1986, a franchise fee as defined by section  
18 3 of the franchise investment law, ~~Act No. 269 of the Public~~  
19 ~~Acts of 1974, being section 445.1503 of the Michigan Compiled~~  
20 ~~Laws~~ 1974 PA 269, MCL 445.1503, in the following amounts:

21 (A) For the tax years 1986, 1987, and 1988, 20% of the fran-  
22 chise fee.

23 (B) For the tax years 1989 and 1990, 50% of the franchise  
24 fee.

25 (C) For the tax years 1991 and after 1991, 100% of the fran-  
26 chise fee.

1           (iv) For the tax years ending before 1991, this subdivision  
2 does not apply to a fee for services paid by a franchisee that,  
3 with respect to a specific provision of a franchise agreement, a  
4 court of competent jurisdiction, before June 5, 1985, has deter-  
5 mined is not a royalty payment under this act.

6           (v) Film rental or royalty payments paid by a theater owner  
7 to a film distributor, a film producer, or a film distributor and  
8 producer.

9           (vi) Royalties, fees, charges, or other payments or consid-  
10 eration paid or incurred by radio or television broadcasters for  
11 program matter or signals.

12           (vii) Royalties, fees, charges, or other payments or consid-  
13 eration paid by a film distributor for copyrighted motion picture  
14 films, program matter, or signals to a film producer.

15           (h) A deduction for rent attributable to a lease back that  
16 continues in effect under the former provisions of section  
17 168(f)(8) of the internal revenue code of 1954 as that section  
18 provided immediately before the tax reform act of 1986, Public  
19 Law 99-514, became effective or to a lease back of property to  
20 which the amendments made by the tax reform act of 1986 do not  
21 apply as provided in section 204 of the tax reform act of 1986.

22           (5) Add compensation.

23           (6) Add a capital gain related to business activity of indi-  
24 viduals to the extent excluded in arriving at federal taxable  
25 income.

26           (7) Deduct the following, to the extent included in arriving  
27 at federal taxable income:

1 (a) A dividend received or considered received, including  
2 the foreign dividend gross-up provided for in the internal reve-  
3 nue code.

4 (b) All interest except amounts paid, credited, or reserved  
5 by an insurance company as amounts necessary to fulfill the  
6 policy and other contract liability requirements of sections 805  
7 and 809 of the internal revenue code.

8 (c) All royalties except for the following:

9 (i) On and after July 1, 1985, oil and gas royalties that  
10 are included in the depletion deduction calculation under the  
11 internal revenue code.

12 (ii) Except as provided in subparagraph (iii), for the 1986  
13 tax year and after the 1986 tax year, a franchise fee as defined  
14 in section 3 of ~~Act No. 269 of the Public Acts of 1974~~ THE  
15 FRANCHISE INVESTMENT LAW, 1974 PA 269, MCL 445.1503, in the fol-  
16 lowing amounts:

17 (A) For the tax years 1986, 1987, and 1988, 20% of the fran-  
18 chise fee.

19 (B) For the tax years 1989 and 1990, 50% of the franchise  
20 fee.

21 (C) For the tax years 1991 and after 1991, 100% of the fran-  
22 chise fee.

23 (iii) For the tax years ending before 1991, this subdivision  
24 does not apply to a fee for services paid by a franchisee that,  
25 with respect to a specific provision of a franchise agreement, a  
26 court of competent jurisdiction, before June 5, 1985, has  
27 determined is not a royalty payment under this act.

1 (iv) Film rental or royalty payments paid by a theater owner  
2 to a film distributor, a film producer, or a film distributor and  
3 producer.

4 (v) Royalties, fees, charges, or other payments or consider-  
5 ation paid or incurred by radio or television broadcasters for  
6 program matter or signals.

7 (vi) Royalties, fees, charges, or other payments or consid-  
8 eration paid by a film distributor for copyrighted motion picture  
9 films, program matter, or signals to a film producer.

10 (d) Rent attributable to a lease back that continues in  
11 effect under the former provisions of section 168(f)(8) of the  
12 internal revenue code of 1954 as that section provided immedi-  
13 ately before the tax reform act of 1986, Public Law 99-514,  
14 became effective or to a lease back of property to which the  
15 amendments made by the tax reform act of 1986 do not apply as  
16 provided in section 204 of the tax reform act of 1986.

17 (8) Deduct a capital loss not deducted in arriving at fed-  
18 eral taxable income in the year the loss occurred.

19 (9) To the extent included in federal taxable income, add  
20 the loss or subtract the gain from the tax base that is attribut-  
21 able to another entity whose business activities are taxable  
22 under this act or would be taxable under this act if the business  
23 activities were in this state.

24 (10) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 1996, A  
25 TAXPAYER WITH BUSINESS ACTIVITY BASED ON THE OPERATION OF A CON-  
26 STRUCTION COMPANY MAY DEDUCT AN AMOUNT EQUAL TO 10% OF THE  
27 COMPENSATION PAID IN THE TAX YEAR THAT IS ATTRIBUTABLE TO

1 EMPLOYEES OF THAT CONSTRUCTION COMPANY WHO ARE RESIDENTS OF THIS  
2 STATE. AS USED IN THIS SUBSECTION, "CONSTRUCTION COMPANY" MEANS  
3 A PERSON LICENSED OR REQUIRED TO BE LICENSED AS A RESIDENTIAL  
4 BUILDER OR RESIDENTIAL MAINTENANCE AND ALTERATION CONTRACTOR  
5 UNDER THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.101 TO  
6 339.2721.