

SENATE BILL No. 1170

November 8, 2018, Introduced by Senator HILDENBRAND and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.713) by adding sections 254 and 675 and part 4.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 254. (1) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SECTION,
2 FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1, 2018, A TAXPAYER
3 WHO IS EITHER A MEMBER OF A FLOW-THROUGH ENTITY THAT ELECTS TO FILE
4 A RETURN AND PAY THE TAX IMPOSED UNDER PART 4 OR A DIRECT OR
5 INDIRECT MEMBER OF ANOTHER FLOW-THROUGH ENTITY THAT ELECTS TO FILE
6 A RETURN AND PAY THE TAX IMPOSED UNDER PART 4 MAY CLAIM A CREDIT
7 AGAINST THE TAX IMPOSED UNDER THIS PART IN AN AMOUNT EQUAL TO THE
8 MEMBER'S ALLOCATED SHARE OF THE TAX AS REPORTED TO THE MEMBER BY
9 THE FLOW-THROUGH ENTITY PURSUANT TO SECTION 789(2) FOR THE TAX YEAR
10 ENDING ON OR WITHIN THE TAXPAYER'S SAME TAX YEAR.

1 (2) FOR A TAXPAYER THAT IS AN ESTATE OR TRUST, THE AMOUNT OF
2 THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE DETERMINED BY
3 MULTIPLYING THE AMOUNT CALCULATED UNDER SUBSECTION (1) BY A
4 PERCENTAGE EQUAL TO A FRACTION, THE NUMERATOR OF WHICH IS THE FLOW-
5 THROUGH ENTITY BUSINESS INCOME TAX BASE THAT IS RETAINED BY THE
6 ESTATE OR TRUST AND THE DENOMINATOR OF WHICH IS THE TOTAL FLOW-
7 THROUGH ENTITY BUSINESS INCOME TAX BASE THAT IS INCLUDED IN
8 DISTRIBUTABLE NET INCOME.

9 (3) FOR A TAXPAYER WHO IS A BENEFICIARY OF AN ESTATE OR TRUST
10 THAT IS EITHER A MEMBER OF A FLOW-THROUGH ENTITY THAT ELECTS TO
11 FILE A RETURN AND PAY THE TAX IMPOSED UNDER PART 4 OR A DIRECT OR
12 INDIRECT MEMBER OF ANOTHER FLOW-THROUGH ENTITY THAT ELECTS TO FILE
13 A RETURN AND PAY THE TAX IMPOSED UNDER PART 4, THE AMOUNT OF THE
14 CREDIT ALLOWED UNDER THIS SECTION IS EQUAL TO THE ALLOCABLE SHARE
15 OF THE TAX IMPOSED UNDER PART 4 FOR THE YEAR ENDING ON OR WITHIN
16 THE TAXPAYER'S SAME TAX YEAR AS REPORTED TO THE BENEFICIARY IN
17 ACCORDANCE WITH SECTION 789(3).

18 (4) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE TAX
19 LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT PORTION OF THE
20 CREDIT THAT EXCEEDS THE TAX LIABILITY SHALL BE REFUNDED.

21 SEC. 675. (1) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SECTION,
22 FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1, 2018, A TAXPAYER
23 WHO IS EITHER A MEMBER OF A FLOW-THROUGH ENTITY THAT ELECTS TO FILE
24 A RETURN AND PAY THE TAX IMPOSED UNDER PART 4 OR A DIRECT OR
25 INDIRECT MEMBER OF ANOTHER FLOW-THROUGH ENTITY THAT ELECTS TO FILE
26 A RETURN AND PAY THE TAX IMPOSED UNDER PART 4 MAY CLAIM A CREDIT
27 AGAINST THE TAX IMPOSED UNDER THIS PART IN AN AMOUNT EQUAL TO THE

1 MEMBER'S ALLOCATED SHARE OF THE TAX AS REPORTED TO THE MEMBER BY
2 THE FLOW-THROUGH ENTITY PURSUANT TO SECTION 789(2) FOR THE TAX YEAR
3 ENDING ON OR WITHIN THE TAXPAYER'S SAME TAX YEAR.

4 (2) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE TAX
5 LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT PORTION OF THE
6 CREDIT THAT EXCEEDS THE TAX LIABILITY SHALL BE REFUNDED.

7 PART 4

8 CHAPTER 18

9 SEC. 751. A TERM USED IN THIS PART AND NOT DEFINED DIFFERENTLY
10 SHALL HAVE THE SAME MEANING AS WHEN USED IN COMPARABLE CONTEXT IN
11 THE LAWS OF THE UNITED STATES RELATING TO FEDERAL INCOME TAXES IN
12 EFFECT FOR THE TAX YEAR UNLESS A DIFFERENT MEANING IS CLEARLY
13 REQUIRED. A REFERENCE IN THIS PART TO THE INTERNAL REVENUE CODE
14 INCLUDES OTHER PROVISIONS OF THE LAWS OF THE UNITED STATES RELATING
15 TO FEDERAL INCOME TAXES.

16 SEC. 753. (1) "AFFILIATED GROUP" MEANS THAT TERM AS DEFINED IN
17 SECTION 1504 OF THE INTERNAL REVENUE CODE AND INCLUDES ALL UNITED
18 STATES PERSONS THAT ARE FLOW-THROUGH ENTITIES THAT ARE COMMONLY
19 CONTROLLED AS PROVIDED IN 26 CFR 1.414(C)-1.

20 (2) "BUSINESS ACTIVITY" MEANS A TRANSFER OF LEGAL OR EQUITABLE
21 TITLE TO OR RENTAL OF PROPERTY, WHETHER REAL, PERSONAL, OR MIXED,
22 TANGIBLE OR INTANGIBLE, OR THE PERFORMANCE OF SERVICES, OR A
23 COMBINATION THEREOF, MADE OR ENGAGED IN, OR CAUSED TO BE MADE OR
24 ENGAGED IN, WHETHER IN INTRASTATE, INTERSTATE, OR FOREIGN COMMERCE,
25 WITH THE OBJECT OF GAIN, BENEFIT, OR ADVANTAGE, WHETHER DIRECT OR
26 INDIRECT, TO THE TAXPAYER OR TO OTHERS, BUT DOES NOT INCLUDE THE
27 SERVICES RENDERED BY AN EMPLOYEE TO HIS OR HER EMPLOYER OR SERVICES

1 AS A DIRECTOR OF A CORPORATION. ALTHOUGH AN ACTIVITY OF A TAXPAYER
2 MAY BE INCIDENTAL TO ANOTHER OR TO OTHERS OF HIS OR HER BUSINESS
3 ACTIVITIES, EACH ACTIVITY SHALL BE CONSIDERED TO BE BUSINESS
4 ENGAGED IN WITHIN THE MEANING OF THIS PART.

5 (3) "BUSINESS INCOME" MEANS FEDERAL TAXABLE INCOME AND
6 INCLUDES PAYMENTS AND ITEMS OF INCOME AND EXPENSE THAT ARE
7 ATTRIBUTABLE TO BUSINESS ACTIVITY OF THE FLOW-THROUGH ENTITY AND
8 SEPARATELY REPORTED TO ITS MEMBERS.

9 (4) "CORPORATION" MEANS A PERSON THAT IS REQUIRED OR HAS
10 ELECTED TO FILE AS A C CORPORATION AS DEFINED UNDER SECTION
11 1361(A) (2) AND SECTION 7701(A) (3) OF THE INTERNAL REVENUE CODE.
12 CORPORATION DOES NOT INCLUDE AN INSURANCE COMPANY OR A FINANCIAL
13 INSTITUTION.

14 (5) "DEPARTMENT" MEANS THE DEPARTMENT OF TREASURY.

15 (6) "EMPLOYEE" MEANS AN EMPLOYEE AS DEFINED IN SECTION 3401(C)
16 OF THE INTERNAL REVENUE CODE. A PERSON FROM WHOM AN EMPLOYER IS
17 REQUIRED TO WITHHOLD FOR FEDERAL INCOME TAX PURPOSES IS PRIMA FACIE
18 CONSIDERED AN EMPLOYEE.

19 (7) "EMPLOYER" MEANS AN EMPLOYER AS DEFINED IN SECTION 3401(D)
20 OF THE INTERNAL REVENUE CODE. A PERSON REQUIRED TO WITHHOLD FOR
21 FEDERAL INCOME TAX PURPOSES IS PRIMA FACIE CONSIDERED AN EMPLOYER.

22 (8) "FEDERAL TAXABLE INCOME" MEANS TAXABLE INCOME AS DEFINED
23 IN SECTION 63 OF THE INTERNAL REVENUE CODE WITHOUT THE DEDUCTIONS
24 DESCRIBED UNDER SECTION 703(A) (2) OF THE INTERNAL REVENUE CODE. FOR
25 THE PURPOSES OF THIS PART IN COMPUTING FEDERAL TAXABLE INCOME, S
26 CORPORATIONS SHALL BE TREATED AS A CORPORATION UNDER SECTION
27 1361(A) (2) OF THE INTERNAL REVENUE CODE AND PARTNERSHIPS SHALL BE

1 TREATED AS AN ASSOCIATION TAXABLE AS A CORPORATION PURSUANT TO AN
2 ELECTION UNDER 26 CFR 301.7701-3(A).

3 (9) "FINANCIAL INSTITUTION" MEANS THAT TERM AS DEFINED IN
4 SECTION 657.

5 (10) "FLOW-THROUGH ENTITY" MEANS AN ENTITY THAT FOR THE
6 APPLICABLE TAX YEAR IS TREATED AS AN S CORPORATION OR A PARTNERSHIP
7 UNDER THE INTERNAL REVENUE CODE FOR FEDERAL INCOME TAX PURPOSES.
8 FLOW-THROUGH ENTITY DOES NOT INCLUDE A PUBLICLY TRADED PARTNERSHIP
9 OR ANY ENTITY DISREGARDED UNDER SECTION 799.

10 (11) "GROSS RECEIPTS" MEANS THAT TERM AS DEFINED UNDER SECTION
11 607.

12 (12) "INSURANCE COMPANY" MEANS THAT TERM AS DEFINED IN SECTION
13 607.

14 (13) "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTERNAL
15 REVENUE CODE OF 1986 IN EFFECT ON JANUARY 1, 2018 OR, AT THE OPTION
16 OF THE TAXPAYER, IN EFFECT FOR THE TAX YEAR.

17 (14) "MEMBER", WHEN USED IN REFERENCE TO A FLOW-THROUGH
18 ENTITY, MEANS A SHAREHOLDER OF AN S CORPORATION OR A PARTNER OR
19 MEMBER IN A PARTNERSHIP.

20 (15) "PARTNERSHIP" MEANS AN ENTITY THAT IS REQUIRED TO OR HAS
21 ELECTED TO FILE AS A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES.
22 PARTNERSHIP INCLUDES A LIMITED LIABILITY COMPANY THAT IS TREATED AS
23 A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES.

24 (16) "PERSON" MEANS AN INDIVIDUAL, BANK, FINANCIAL
25 INSTITUTION, INSURANCE COMPANY, ASSOCIATION, CORPORATION, FLOW-
26 THROUGH ENTITY, RECEIVER, ESTATE, TRUST, OR ANY OTHER GROUP OR
27 COMBINATION OF GROUPS ACTING AS A UNIT.

1 (17) "PUBLICLY TRADED PARTNERSHIP" MEANS THAT TERM AS DEFINED
2 UNDER SECTION 7704 OF THE INTERNAL REVENUE CODE.

3 (18) "RESIDENT" MEANS A FLOW-THROUGH ENTITY DOMICILED IN THE
4 STATE OR INCORPORATED, FORMED, OR ORGANIZED UNDER THE LAWS OF THIS
5 STATE. "DOMICILE" MEANS THE PRINCIPAL PLACE FROM WHICH THE TRADE OR
6 BUSINESS OF THE FLOW-THROUGH ENTITY IS DIRECTED OR MANAGED.

7 (19) "S CORPORATION" MEANS A CORPORATION OR LIMITED LIABILITY
8 COMPANY ELECTING TAXATION UNDER SECTIONS 1361 TO 1379 OF THE
9 INTERNAL REVENUE CODE.

10 (20) "SALE" OR "SALES" MEANS THAT TERM AS DEFINED IN SECTION
11 609.

12 (21) "STATE" MEANS ANY STATE OF THE UNITED STATES, THE
13 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, ANY
14 TERRITORY OR POSSESSION OF THE UNITED STATES, AND ANY FOREIGN
15 COUNTRY, OR A POLITICAL SUBDIVISION OF ANY OF THE FOREGOING.

16 (22) "TAX" MEANS THE TAX IMPOSED UNDER THIS PART, INCLUDING
17 INTEREST AND PENALTIES UNDER THIS PART, UNLESS THE TERM IS GIVEN A
18 MORE LIMITED MEANING IN THE CONTEXT OF THIS PART OR A PROVISION OF
19 THIS PART.

20 (23) "TAX YEAR" MEANS THE CALENDAR YEAR, OR THE FISCAL YEAR
21 ENDING DURING THE CALENDAR YEAR, UPON THE BASIS OF WHICH THE TAX
22 BASE OF A TAXPAYER IS COMPUTED UNDER THIS PART. IF A RETURN IS MADE
23 FOR A FRACTIONAL PART OF A YEAR, TAX YEAR MEANS THE PERIOD FOR
24 WHICH THE RETURN IS MADE. EXCEPT FOR THE FIRST RETURN REQUIRED BY
25 THIS PART, A TAXPAYER'S TAX YEAR IS FOR THE SAME PERIOD AS IS
26 COVERED BY ITS FEDERAL INCOME TAX RETURN. A TAXPAYER THAT HAS A 52-
27 OR 53-WEEK TAX YEAR BEGINNING NOT MORE THAN 7 DAYS BEFORE THE END

1 OF ANY MONTH IS CONSIDERED TO HAVE A TAX YEAR BEGINNING ON THE
2 FIRST DAY OF THE SUBSEQUENT MONTH. A PERSON INCLUDED IN A UNITARY
3 BUSINESS GROUP THAT JOINS OR DEPARTS THE UNITARY BUSINESS GROUP
4 OTHER THAN AT THE END OF THAT PERSON'S FEDERAL TAX YEAR SHALL HAVE
5 A TAX YEAR BEGINNING WITH ITS FEDERAL INCOME TAX PERIOD AND ENDING
6 ON THE DATE OF JOINING OR DEPARTING THE UNITARY BUSINESS GROUP, AND
7 ANOTHER TAX YEAR BEGINNING ON THE DATE IMMEDIATELY AFTER JOINING OR
8 DEPARTING THE UNITARY BUSINESS GROUP AND ENDING WITH ITS FEDERAL
9 INCOME TAX PERIOD.

10 (24) "TAXPAYER" MEANS A FLOW-THROUGH ENTITY THAT ELECTS
11 PURSUANT TO SECTION 757 TO BE SUBJECT TO THE TAX UNDER THIS PART.

12 (25) "UNITARY BUSINESS GROUP" MEANS A GROUP OF UNITED STATES
13 PERSONS THAT ARE FLOW-THROUGH ENTITIES, 1 OF WHICH OWNS OR
14 CONTROLS, DIRECTLY OR INDIRECTLY, MORE THAN 50% OF THE OWNERSHIP
15 INTEREST WITH VOTING RIGHTS OR OWNERSHIP INTERESTS THAT CONFER
16 COMPARABLE RIGHTS TO VOTING RIGHTS OF THE OTHER MEMBERS, AND THAT
17 HAS BUSINESS ACTIVITIES OR OPERATIONS WHICH RESULT IN A FLOW OF
18 VALUE BETWEEN OR AMONG MEMBERS INCLUDED IN THE UNITARY BUSINESS
19 GROUP OR HAS BUSINESS ACTIVITIES OR OPERATIONS THAT ARE INTEGRATED
20 WITH, ARE DEPENDENT UPON, OR CONTRIBUTE TO EACH OTHER. UNITARY
21 BUSINESS GROUP INCLUDES AN AFFILIATED GROUP THAT MAKES THE ELECTION
22 TO BE TREATED, AND TO FILE, AS A UNITARY BUSINESS GROUP UNDER
23 SECTION 791.

24 (26) "UNITED STATES PERSON" MEANS THAT TERM AS DEFINED IN
25 SECTION 7701(A)(30) OF THE INTERNAL REVENUE CODE.

26 SEC. 755. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, A
27 TAXPAYER HAS SUBSTANTIAL NEXUS IN THIS STATE AND IS SUBJECT TO THE

1 TAX IMPOSED UNDER THIS PART IF THE TAXPAYER ELECTS TO PAY THE TAX
2 PURSUANT TO SECTION 757 AND IF THE TAXPAYER HAS A PHYSICAL PRESENCE
3 IN THIS STATE FOR A PERIOD OF MORE THAN 1 DAY DURING THE TAX YEAR,
4 ACTIVELY SOLICITS SALES IN THIS STATE AND HAS GROSS RECEIPTS
5 SOURCED TO THIS STATE, OR IS A MEMBER OR HAS AN OWNERSHIP INTEREST
6 OR A BENEFICIAL INTEREST IN A FLOW-THROUGH ENTITY, DIRECTLY, OR
7 INDIRECTLY THROUGH 1 OR MORE OTHER FLOW-THROUGH ENTITIES, THAT HAS
8 SUBSTANTIAL NEXUS IN THIS STATE.

9 (2) AS USED IN THIS SECTION:

10 (A) "ACTIVELY SOLICITS" MEANS EITHER OF THE FOLLOWING:

11 (i) SPEECH, CONDUCT, OR ACTIVITY THAT IS PURPOSEFULLY DIRECTED
12 AT OR INTENDED TO REACH PERSONS WITHIN THIS STATE AND THAT
13 EXPLICITLY OR IMPLICITLY INVITES AN ORDER FOR A PURCHASE OR SALE.

14 (ii) SPEECH, CONDUCT, OR ACTIVITY THAT IS PURPOSEFULLY
15 DIRECTED AT OR INTENDED TO REACH PERSONS WITHIN THIS STATE THAT
16 NEITHER EXPLICITLY NOR IMPLICITLY INVITES AN ORDER FOR A PURCHASE
17 OR SALE, BUT IS ENTIRELY ANCILLARY TO REQUESTS FOR AN ORDER FOR A
18 PURCHASE OR SALE.

19 (B) "PHYSICAL PRESENCE" MEANS ANY ACTIVITY CONDUCTED BY THE
20 TAXPAYER OR ON BEHALF OF THE TAXPAYER BY THE TAXPAYER'S EMPLOYEE,
21 AGENT, OR INDEPENDENT CONTRACTOR ACTING IN A REPRESENTATIVE
22 CAPACITY. PHYSICAL PRESENCE DOES NOT INCLUDE THE ACTIVITIES OF
23 PROFESSIONALS PROVIDING SERVICES IN A PROFESSIONAL CAPACITY OR
24 OTHER SERVICE PROVIDERS IF THE ACTIVITY IS NOT SIGNIFICANTLY
25 ASSOCIATED WITH THE TAXPAYER'S ABILITY TO ESTABLISH AND MAINTAIN A
26 MARKET IN THIS STATE.

27 SEC. 757. FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1,

1 2018, A FLOW-THROUGH ENTITY MAY, IN A FORM AND MANNER AS PRESCRIBED
2 BY THE DEPARTMENT, ELECT TO FILE A RETURN AND PAY THE TAX IMPOSED
3 BY THIS PART IN ANY TAX YEAR. AN ELECTION FOR A TAX YEAR DOES NOT
4 OBLIGATE THE FLOW-THROUGH ENTITY TO MAKE THE SAME ELECTIONS IN
5 SUBSEQUENT TAX YEARS. A SEPARATE ELECTION MUST BE MADE FOR EACH TAX
6 YEAR IN A TIMELY MANNER AS PROVIDED UNDER SECTION 785.

7 SEC. 759. (1) BEGINNING JANUARY 1, 2018 AND EACH TAX YEAR
8 AFTER 2018, THERE IS LEVIED AND IMPOSED A FLOW-THROUGH ENTITY TAX
9 ON EVERY TAXPAYER WITH BUSINESS ACTIVITY IN THIS STATE UNLESS
10 PROHIBITED BY 15 USC 381 TO 384. THE FLOW-THROUGH ENTITY TAX IS
11 IMPOSED ON THE BUSINESS INCOME TAX BASE, AFTER ALLOCATION OR
12 APPORTIONMENT TO THIS STATE, AT THE SAME RATE LEVIED AND IMPOSED
13 UNDER SECTION 51 FOR THAT SAME TAX YEAR.

14 (2) THE BUSINESS INCOME TAX BASE MEANS A TAXPAYER'S BUSINESS
15 INCOME SUBJECT TO THE FOLLOWING ADJUSTMENTS, BEFORE ALLOCATION OR
16 APPORTIONMENT, AND THE ADJUSTMENT IN SUBSECTION (4) AFTER
17 ALLOCATION OR APPORTIONMENT:

18 (A) ADD INTEREST INCOME AND DIVIDENDS DERIVED FROM OBLIGATIONS
19 OR SECURITIES OF STATES OTHER THAN THIS STATE, IN THE SAME AMOUNT
20 THAT WAS EXCLUDED FROM FEDERAL TAXABLE INCOME, LESS THE RELATED
21 PORTION OF EXPENSES NOT DEDUCTED IN COMPUTING FEDERAL TAXABLE
22 INCOME BECAUSE OF SECTIONS 265 AND 291 OF THE INTERNAL REVENUE
23 CODE.

24 (B) ADD ALL TAXES ON OR MEASURED BY NET INCOME INCLUDING THE
25 TAX IMPOSED UNDER THIS PART TO THE EXTENT THAT THE TAXES WERE
26 DEDUCTED IN ARRIVING AT FEDERAL TAXABLE INCOME.

27 (C) TO THE EXTENT INCLUDED IN FEDERAL TAXABLE INCOME, DEDUCT

1 DIVIDENDS AND ROYALTIES RECEIVED FROM PERSONS OTHER THAN UNITED
2 STATES PERSONS AND FOREIGN OPERATING ENTITIES, INCLUDING, BUT NOT
3 LIMITED TO, AMOUNTS DETERMINED UNDER SECTION 78 OF THE INTERNAL
4 REVENUE CODE OR SECTIONS 951 TO 965 OF THE INTERNAL REVENUE CODE.

5 (D) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBDIVISION, TO
6 THE EXTENT DEDUCTED IN ARRIVING AT FEDERAL TAXABLE INCOME, ADD ANY
7 ROYALTY, INTEREST, OR OTHER EXPENSE PAID TO A PERSON RELATED TO THE
8 TAXPAYER BY OWNERSHIP OR CONTROL FOR THE USE OF AN INTANGIBLE ASSET
9 IF THE PERSON IS NOT INCLUDED IN THE TAXPAYER'S UNITARY BUSINESS
10 GROUP. THE ADDITION OF ANY ROYALTY, INTEREST, OR OTHER EXPENSE
11 DESCRIBED UNDER THIS SUBDIVISION IS NOT REQUIRED TO BE ADDED IF THE
12 TAXPAYER CAN DEMONSTRATE THAT THE TRANSACTION HAS A NONTAX BUSINESS
13 PURPOSE, IS CONDUCTED WITH ARM'S-LENGTH PRICING AND RATES AND TERMS
14 AS APPLIED IN ACCORDANCE WITH SECTIONS 482 AND 1274(D) OF THE
15 INTERNAL REVENUE CODE, AND 1 OF THE FOLLOWING IS TRUE:

16 (i) THE TRANSACTION IS A PASS THROUGH OF ANOTHER TRANSACTION
17 BETWEEN A THIRD PARTY AND THE RELATED PERSON WITH COMPARABLE RATES
18 AND TERMS.

19 (ii) AN ADDITION WOULD RESULT IN DOUBLE TAXATION. FOR PURPOSES
20 OF THIS SUBPARAGRAPH, DOUBLE TAXATION EXISTS IF THE TRANSACTION IS
21 SUBJECT TO TAX IN ANOTHER JURISDICTION.

22 (iii) AN ADDITION WOULD BE UNREASONABLE AS DETERMINED BY THE
23 STATE TREASURER.

24 (iv) THE RELATED PERSON RECIPIENT OF THE TRANSACTION IS
25 ORGANIZED UNDER THE LAWS OF A FOREIGN NATION WHICH HAS IN FORCE A
26 COMPREHENSIVE INCOME TAX TREATY WITH THE UNITED STATES.

27 (E) TO THE EXTENT INCLUDED IN FEDERAL TAXABLE INCOME, DEDUCT

1 INTEREST INCOME DERIVED FROM UNITED STATES OBLIGATIONS.

2 (F) ELIMINATE ALL OF THE FOLLOWING:

3 (i) INCOME FROM PRODUCING OIL AND GAS TO THE EXTENT INCLUDED
4 IN FEDERAL TAXABLE INCOME.

5 (ii) EXPENSES OF PRODUCING OIL AND GAS TO THE EXTENT DEDUCTED
6 IN ARRIVING AT FEDERAL TAXABLE INCOME.

7 (iii) INCOME DERIVED FROM A MINERAL TO THE EXTENT INCLUDED IN
8 FEDERAL TAXABLE INCOME.

9 (iv) EXPENSES RELATED TO THE INCOME DEDUCTIBLE UNDER
10 SUBPARAGRAPH (iii) TO THE EXTENT DEDUCTED IN ARRIVING AT FEDERAL
11 TAXABLE INCOME.

12 (3) FOR PURPOSES OF SUBSECTION (2), THE BUSINESS INCOME OF A
13 UNITARY BUSINESS GROUP IS THE SUM OF THE BUSINESS INCOME OF EACH
14 PERSON INCLUDED IN THE UNITARY BUSINESS GROUP LESS ANY ITEMS OF
15 INCOME AND RELATED DEDUCTIONS ARISING FROM TRANSACTIONS INCLUDING
16 DIVIDENDS BETWEEN PERSONS INCLUDED IN THE UNITARY BUSINESS GROUP.

17 (4) DEDUCT ANY AVAILABLE BUSINESS LOSS INCURRED ON OR AFTER A
18 TAX YEAR FOR WHICH AN ELECTION WAS MADE UNDER SECTION 757. AS USED
19 IN THIS SUBSECTION, "BUSINESS LOSS" MEANS A NEGATIVE BUSINESS
20 INCOME TAXABLE AMOUNT AFTER ALLOCATION OR APPORTIONMENT AS REPORTED
21 ON A RETURN FILED PURSUANT TO AN ELECTION MADE UNDER SECTION 757.
22 FOR PURPOSES OF THIS SUBSECTION, A TAXPAYER THAT ACQUIRES THE
23 ASSETS OF ANOTHER CORPORATION IN A TRANSACTION DESCRIBED UNDER
24 SECTION 381(A) (1) OR (2) OF THE INTERNAL REVENUE CODE MAY DEDUCT
25 ANY BUSINESS LOSS ATTRIBUTABLE TO THAT DISTRIBUTOR OR TRANSFEROR
26 CORPORATION. THE BUSINESS LOSS SHALL BE CARRIED FORWARD TO THE YEAR
27 IMMEDIATELY SUCCEEDING THE LOSS YEAR AS AN OFFSET TO THE ALLOCATED

1 OR APPORTIONED CORPORATE INCOME TAX BASE, THEN SUCCESSIVELY TO THE
2 NEXT 9 TAXABLE YEARS FOLLOWING THE LOSS YEAR OR UNTIL THE LOSS IS
3 USED UP, WHICHEVER OCCURS FIRST.

4 (5) AS USED IN THIS SECTION, "OIL AND GAS" MEANS OIL AND GAS
5 THAT IS SUBJECT TO SEVERANCE TAX UNDER 1929 PA 48, MCL 205.301 TO
6 205.317.

7 SEC. 761. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, THE
8 TAX BASE ESTABLISHED UNDER THIS PART SHALL BE APPORTIONED IN
9 ACCORDANCE WITH ALLOCATION AND APPORTIONMENT PROVISIONS IN CHAPTER
10 3.

11 (2) FOR A TAXPAYER THAT HAS A DIRECT, OR INDIRECT THROUGH 1 OR
12 MORE OTHER FLOW-THROUGH ENTITIES, OWNERSHIP INTEREST OR BENEFICIAL
13 INTEREST IN A FLOW-THROUGH ENTITY, THE TAXPAYER'S BUSINESS INCOME
14 THAT IS DIRECTLY ATTRIBUTABLE TO THE BUSINESS ACTIVITY OF THE FLOW-
15 THROUGH ENTITY SHALL BE APPORTIONED TO THIS STATE USING AN
16 APPORTIONMENT FACTOR DETERMINED UNDER CHAPTER 3 BASED ON THE
17 BUSINESS ACTIVITY OF THE FLOW-THROUGH ENTITY UNLESS THE FLOW-
18 THROUGH ENTITY IS INCLUDED WITH A UNITARY BUSINESS GROUP FILING A
19 COMBINED RETURN.

20 (3) A TAXPAYER IS SUBJECT TO TAX IN ANOTHER STATE IN EITHER OF
21 THE FOLLOWING CIRCUMSTANCES:

22 (A) THE TAXPAYER IS SUBJECT TO, OR WOULD BE SUBJECT TO, IF THE
23 TAXPAYER WAS NOT A FLOW-THROUGH ENTITY, A BUSINESS PRIVILEGE TAX, A
24 NET INCOME TAX, A FRANCHISE TAX MEASURED BY NET INCOME, A FRANCHISE
25 TAX FOR THE PRIVILEGE OF DOING BUSINESS, OR A CORPORATE STOCK TAX.

26 (B) THAT STATE HAS JURISDICTION TO SUBJECT THE TAXPAYER TO 1
27 OR MORE OF THE TAXES LISTED IN SUBDIVISION (A) REGARDLESS OF

1 WHETHER, IN FACT, THAT STATE DOES OR DOES NOT SUBJECT THE TAXPAYER
2 TO THAT TAX.

3 SEC. 771. (1) ANY TAXPAYER ALLOCATED INCOME AS A MEMBER OF A
4 FLOW-THROUGH ENTITY BY THE FLOW-THROUGH ENTITY MAY CLAIM A CREDIT
5 AGAINST THE TAX IMPOSED BY THIS PART IN AN AMOUNT EQUAL TO THE
6 TAXPAYER'S ALLOCATED SHARE OF THE TAX AS REPORTED BY THE OTHER
7 FLOW-THROUGH ENTITY PURSUANT TO SECTION 789(2).

8 (2) A TAXPAYER IS ALLOWED A CREDIT AGAINST THE TAX DUE UNDER
9 THIS PART FOR THE AMOUNT OF AN INCOME TAX IMPOSED ON THE TAXPAYER
10 FOR THE TAX YEAR BY ANOTHER STATE OF THE UNITED STATES, A POLITICAL
11 SUBDIVISION OF ANOTHER STATE OF THE UNITED STATES, THE DISTRICT OF
12 COLUMBIA, OR A CANADIAN PROVINCE, ON INCOME DERIVED FROM SOURCES
13 OUTSIDE THIS STATE THAT IS ALSO SUBJECT TO TAX UNDER THIS PART OR
14 THE AMOUNT DETERMINED UNDER THIS SUBSECTION, WHICHEVER IS LESS. FOR
15 PURPOSES OF THE CANADIAN PROVINCIAL CREDIT, THE CREDIT IS ALLOWED
16 FOR ONLY THAT PORTION OF THE PROVINCIAL TAX NOT CLAIMED AS A CREDIT
17 FOR FEDERAL INCOME TAX PURPOSES. IT IS PRESUMED THAT THE CANADIAN
18 FEDERAL INCOME TAX IS CLAIMED FIRST. THE PROVINCIAL TAX CLAIMED AS
19 A CARRYOVER DEDUCTION AS PROVIDED IN THE INTERNAL REVENUE CODE IS
20 NOT ALLOWED AS A CREDIT UNDER THIS SECTION. THE CREDIT UNDER THIS
21 SUBSECTION SHALL NOT EXCEED AN AMOUNT DETERMINED BY DIVIDING INCOME
22 THAT IS SUBJECT TO TAXATION BOTH IN THIS STATE AND IN ANOTHER
23 JURISDICTION BY TAXABLE INCOME AND THEN MULTIPLYING THAT RESULT BY
24 THE TAXPAYER'S TAX LIABILITY BEFORE ANY CREDITS ARE DEDUCTED.

25 SEC. 781. (1) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SECTION,
26 BEGINNING WITH THE 2019 TAX YEAR, A TAXPAYER THAT REASONABLY
27 EXPECTS LIABILITY FOR THE TAX YEAR TO EXCEED \$800.00 SHALL FILE AN

1 ESTIMATED RETURN AND PAY AN ESTIMATED TAX FOR EACH QUARTER OF THE
2 TAXPAYER'S TAX YEAR.

3 (2) FOR TAXPAYERS ON A CALENDAR YEAR BASIS, THE QUARTERLY
4 RETURNS AND ESTIMATED PAYMENTS SHALL BE MADE BY APRIL 15, JULY 15,
5 OCTOBER 15, AND JANUARY 15. TAXPAYERS NOT ON A CALENDAR YEAR BASIS
6 SHALL FILE QUARTERLY RETURNS AND MAKE ESTIMATED PAYMENTS ON THE
7 APPROPRIATE DUE DATE WHICH IN THE TAXPAYER'S FISCAL YEAR
8 CORRESPONDS TO THE CALENDAR YEAR.

9 (3) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, THE
10 ESTIMATED PAYMENT MADE WITH EACH QUARTERLY RETURN OF EACH TAX YEAR
11 SHALL BE FOR THE ESTIMATED TAX BASE THAT IS APPLICABLE TO THE
12 TAXPAYER UNDER THIS PART FOR THE QUARTER OR 25% OF THE ESTIMATED
13 ANNUAL LIABILITY. THE SECOND, THIRD, AND FOURTH ESTIMATED PAYMENTS
14 IN EACH TAX YEAR SHALL INCLUDE ADJUSTMENTS, IF NECESSARY, TO
15 CORRECT UNDERPAYMENTS OR OVERPAYMENTS FROM PREVIOUS QUARTERLY
16 PAYMENTS IN THE TAX YEAR TO A REVISED ESTIMATE OF THE ANNUAL TAX
17 LIABILITY. FOR A TAXPAYER THAT CALCULATES AND PAYS ESTIMATED
18 PAYMENTS FOR FEDERAL INCOME TAX PURPOSES PURSUANT TO SECTION
19 6655(E) OF THE INTERNAL REVENUE CODE, THAT TAXPAYER MAY USE THE
20 SAME METHODOLOGY AS USED TO CALCULATE THE ANNUALIZED INCOME
21 INSTALLMENT OR THE ADJUSTED SEASONAL INSTALLMENT, WHICHEVER IS USED
22 AS THE BASIS FOR THE FEDERAL ESTIMATED PAYMENT, TO CALCULATE THE
23 ESTIMATED PAYMENTS REQUIRED EACH QUARTER UNDER THIS SECTION. THE
24 INTEREST AND PENALTY PROVIDED BY THIS PART SHALL NOT BE ASSESSED IF
25 ANY OF THE FOLLOWING OCCUR:

26 (A) IF THE SUM OF THE ESTIMATED PAYMENTS EQUALS AT LEAST 85%
27 OF THE LIABILITY AND THE AMOUNT OF EACH ESTIMATED PAYMENT

1 REASONABLY APPROXIMATES THE TAX LIABILITY INCURRED DURING THE
2 QUARTER FOR WHICH THE ESTIMATED PAYMENT WAS MADE.

3 (B) FOR THE 2019 TAX YEAR AND EACH SUBSEQUENT TAX YEAR, IF THE
4 PRECEDING YEAR'S TAX LIABILITY UNDER THIS PART WAS \$20,000.00 OR
5 LESS AND IF THE TAXPAYER SUBMITTED 4 EQUAL INSTALLMENTS THE SUM OF
6 WHICH EQUALS THE IMMEDIATELY PRECEDING TAX YEAR'S TAX LIABILITY.

7 (4) EACH ESTIMATED RETURN SHALL BE MADE ON A FORM PRESCRIBED
8 BY THE DEPARTMENT AND SHALL INCLUDE AN ESTIMATE OF THE ANNUAL TAX
9 LIABILITY AND OTHER INFORMATION REQUIRED BY THE STATE TREASURER.
10 THE FORM PRESCRIBED UNDER THIS SUBSECTION MAY BE COMBINED WITH ANY
11 OTHER TAX REPORTING FORM PRESCRIBED BY THE DEPARTMENT.

12 (5) WITH RESPECT TO A TAXPAYER FILING AN ESTIMATED TAX RETURN
13 FOR THE TAXPAYER'S FIRST TAX YEAR OF LESS THAN 12 MONTHS, THE
14 AMOUNTS PAID WITH EACH RETURN SHALL BE PROPORTIONAL TO THE NUMBER
15 OF PAYMENTS MADE IN THE FIRST TAX YEAR. A TAXPAYER WITH A TAX YEAR
16 OF LESS THAN 4 MONTHS IS NOT REQUIRED TO FILE AN ESTIMATED TAX
17 RETURN OR REMIT ESTIMATED PAYMENTS.

18 (6) PAYMENTS MADE UNDER THIS SECTION SHALL BE A CREDIT AGAINST
19 THE PAYMENT REQUIRED WITH THE ANNUAL TAX RETURN REQUIRED IN SECTION
20 785.

21 (7) IF THE DEPARTMENT CONSIDERS IT NECESSARY TO INSURE PAYMENT
22 OF THE TAX OR TO PROVIDE A MORE EFFICIENT ADMINISTRATION OF THE
23 TAX, THE DEPARTMENT MAY REQUIRE FILING OF THE RETURNS AND PAYMENT
24 OF THE TAX FOR OTHER THAN QUARTERLY OR ANNUAL PERIODS.

25 SEC. 785. (1) FOR THE FIRST TAX YEAR BEGINNING ON OR AFTER
26 JANUARY 1, 2018, A FLOW-THROUGH ENTITY THAT ELECTS TO PAY THE TAX
27 IMPOSED BY THIS PART SHALL, ON OR BEFORE THE LAST DAY OF THE THIRD

1 MONTH AFTER THE END OF THE TAX YEAR, EITHER FILE AN ANNUAL OR FINAL
2 RETURN AS REQUIRED UNDER SUBSECTION (2) OR FILE AN IRREVOCABLE
3 ELECTION TO PAY THE TAX IMPOSED BY THIS PART FOR THAT TAX YEAR IN
4 THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT. FOR ANY
5 SUBSEQUENT TAX YEAR, A FLOW-THROUGH ENTITY THAT ELECTS TO PAY THE
6 TAX IMPOSED BY THIS PART SHALL, ON OR BEFORE THE FIFTEENTH DAY OF
7 THE FOURTH MONTH OF THAT TAX YEAR, FILE AN IRREVOCABLE ELECTION, IN
8 THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT, TO PAY THE TAX
9 IMPOSED BY THIS PART FOR THAT TAX YEAR.

10 (2) AN ANNUAL OR FINAL RETURN FOR THE TAX IMPOSED UNDER THIS
11 PART SHALL BE FILED WITH THE DEPARTMENT IN THE FORM AND CONTENT
12 PRESCRIBED BY THE DEPARTMENT BY THE LAST DAY OF THE THIRD MONTH
13 AFTER THE END OF THE TAXPAYER'S TAX YEAR. ANY FINAL LIABILITY SHALL
14 BE REMITTED BY THE ANNUAL DUE DATE OF THE TAXPAYER'S ANNUAL OR
15 FINAL RETURN, EXCLUDING ANY EXTENSION OF TIME TO FILE THE RETURN AS
16 PROVIDED UNDER SUBSECTIONS (3) AND (4). A TAXPAYER WHOSE TAX
17 LIABILITY UNDER THIS PART IS LESS THAN OR EQUAL TO \$100.00 DOES NOT
18 NEED TO FILE A RETURN OR PAY THE TAX IMPOSED UNDER THIS PART. THE
19 DEPARTMENT MAY PROVIDE RULES FOR FILING AN INFORMATION ONLY RETURN
20 FOR TAX YEARS FOR WHICH AN ELECTION UNDER SECTION 757 IS NOT MADE
21 AFTER A TAX YEAR FOR WHICH A RETURN WAS FILED UNDER THIS PART.

22 (3) THE DEPARTMENT, UPON APPLICATION OF THE TAXPAYER AND FOR
23 GOOD CAUSE SHOWN, MAY EXTEND THE DATE FOR FILING THE ANNUAL RETURN.
24 INTEREST AT THE RATE UNDER SECTION 23(2) OF 1941 PA 122, MCL
25 205.23, SHALL BE ADDED TO THE AMOUNT OF THE TAX UNPAID FOR THE
26 PERIOD OF THE EXTENSION. THE STATE TREASURER SHALL REQUIRE WITH THE
27 APPLICATION PAYMENT OF THE ESTIMATED TAX LIABILITY UNPAID FOR THE

1 TAX PERIOD COVERED BY THE EXTENSION.

2 (4) IF A TAXPAYER IS GRANTED AN EXTENSION OF TIME WITHIN WHICH
3 TO FILE THE FEDERAL INCOME TAX RETURN FOR ANY TAX YEAR, THE FILING
4 OF A COPY OF THE REQUEST FOR EXTENSION TOGETHER WITH A TENTATIVE
5 RETURN AND PAYMENT OF AN ESTIMATED TAX WITH THE DEPARTMENT BY THE
6 DUE DATE PROVIDED IN SUBSECTION (2) SHALL AUTOMATICALLY EXTEND THE
7 DUE DATE FOR THE FILING OF AN ANNUAL OR FINAL RETURN UNDER THIS
8 PART UNTIL THE LAST DAY OF THE EIGHTH MONTH FOLLOWING THE ORIGINAL
9 DUE DATE OF THE RETURN. INTEREST AT THE RATE UNDER SECTION 23(2) OF
10 1941 PA 122, MCL 205.23, SHALL BE ADDED TO THE AMOUNT OF THE TAX
11 UNPAID FOR THE PERIOD OF THE EXTENSION.

12 SEC. 787. (1) A TAXPAYER REQUIRED TO FILE A RETURN UNDER THIS
13 PART MAY BE REQUIRED TO FURNISH A TRUE AND CORRECT COPY OF ANY
14 RETURN OR PORTION OF ANY RETURN FILED UNDER THE PROVISIONS OF THE
15 INTERNAL REVENUE CODE.

16 (2) A TAXPAYER SHALL FILE AN AMENDED RETURN WITH THE
17 DEPARTMENT SHOWING ANY ALTERATION IN OR MODIFICATION OF A FEDERAL
18 INCOME TAX RETURN THAT AFFECTS ITS TAX BASE UNDER THIS PART. THE
19 AMENDED RETURN SHALL BE FILED WITHIN 120 DAYS AFTER THE FINAL
20 DETERMINATION BY THE INTERNAL REVENUE SERVICE.

21 SEC. 789. (1) AT THE REQUEST OF THE DEPARTMENT, A TAXPAYER
22 REQUIRED BY THE INTERNAL REVENUE CODE TO FILE OR SUBMIT AN
23 INFORMATION ONLY RETURN OF INCOME PAID TO OTHERS SHALL, TO THE
24 EXTENT THE INFORMATION IS APPLICABLE TO RESIDENTS OF THIS STATE, AT
25 THE SAME TIME FILE OR SUBMIT THE INFORMATION IN THE FORM AND
26 CONTENT PRESCRIBED TO THE DEPARTMENT.

27 (2) A TAXPAYER OR A FLOW-THROUGH ENTITY THAT DID NOT MAKE THE

1 ELECTION UNDER SECTION 757 SHALL PROVIDE ON OR BEFORE THE DUE DATE
2 OF THE RETURN UNDER SECTION 785, UPON THE AMENDMENT OF A RETURN
3 FILED UNDER SECTION 785 OR THE ADJUSTMENT OF THE TAX UNDER THIS
4 PART BY THE DEPARTMENT, TO ANY MEMBER TO WHICH THE PROVISION OF
5 INFORMATION IS REQUIRED BY THE INTERNAL REVENUE CODE ALL OF THE
6 FOLLOWING FOR THE TAX YEAR:

7 (A) INFORMATION REGARDING THE ALLOCATION AND APPORTIONMENT OF
8 THE BUSINESS INCOME DESCRIBED UNDER THIS PART.

9 (B) THE AMOUNT OF TAX UNDER THIS PART THAT WAS DEDUCTED OR
10 INCLUDED IN THE DETERMINATION OF THE MEMBER'S SHARE OF BUSINESS
11 INCOME.

12 (C) IF THE REPORTING FLOW-THROUGH ENTITY IS A TAXPAYER, THE
13 MEMBER'S SHARE OF THE TAX IMPOSED UNDER THIS PART ON THE TAXPAYER
14 FOR THE TAX YEAR.

15 (D) IF THE REPORTING FLOW-THROUGH ENTITY DID NOT MAKE THE
16 ELECTION UNDER SECTION 757, THE MEMBER'S SHARE OF THE AMOUNT OF TAX
17 ALLOCATED TO THE REPORTING FLOW-THROUGH ENTITY UNDER SUBDIVISIONS
18 (C) AND (D) BY THE OTHER FLOW-THROUGH ENTITIES WITH TAX YEARS
19 ENDING ON OR WITHIN THE REPORTING FLOW-THROUGH ENTITY'S TAX YEAR.

20 (E) THE MEMBER'S SHARE OF THE TAX ALLOCATED UNDER SUBDIVISIONS
21 (C) AND (D) MUST BE DETERMINED BASED ON THE MEMBER'S SHARE OF THE
22 INCOME OR GAIN GENERATING THE TAX IMPOSED UNDER THIS PART AND
23 INCLUDED IN THE MEMBER'S SHARE OF BUSINESS INCOME. IF A MEMBER IS
24 ALLOCATED DIFFERENT PORTIONS OF SEPARATELY REPORTED CATEGORIES OF
25 INCOME AND GAIN, THEN THE ALLOCATED SHARE OF TAX MUST BE BASED ON
26 THE TAX IMPOSED UNDER THIS PART ON EACH SEPARATE CATEGORY OF INCOME
27 OR GAIN.

1 (3) AN ESTATE OR TRUST WHO IS EITHER A MEMBER OF A FLOW-
2 THROUGH ENTITY THAT ELECTS TO FILE A RETURN AND PAY THE TAX IMPOSED
3 UNDER THIS PART OR A DIRECT OR INDIRECT MEMBER OF ANOTHER FLOW-
4 THROUGH ENTITY THAT ELECTS TO FILE A RETURN AND PAY THE TAX IMPOSED
5 UNDER THIS PART SHALL ON OR BEFORE THE DUE DATE OF THE RETURN
6 REQUIRED UNDER PART 1 REPORT TO ITS BENEFICIARIES THEIR ALLOCABLE
7 SHARE OF THE TAX IMPOSED UNDER THIS PART AND INCURRED BY THE ESTATE
8 OR TRUST IN THE SAME TAX YEAR. THE ALLOCABLE SHARE IS DETERMINED BY
9 MULTIPLYING THE TOTAL AMOUNT OF TAX IMPOSED UNDER THIS PART AND
10 INCURRED BY THE ESTATE OR TRUST IN THE TAX YEAR BY A PERCENTAGE
11 EQUAL TO A FRACTION, THE NUMERATOR OF WHICH IS THE FLOW-THROUGH
12 ENTITY BUSINESS INCOME TAX BASE THAT IS DISTRIBUTED TO THE
13 BENEFICIARIES AND THE DENOMINATOR OF WHICH IS THE TOTAL FLOW-
14 THROUGH ENTITY BUSINESS INCOME TAX BASE THAT IS INCLUDED IN
15 DISTRIBUTABLE NET INCOME.

16 SEC. 791. (1) A UNITARY BUSINESS GROUP MAY ELECT TO FILE A
17 COMBINED RETURN THAT INCLUDES EACH UNITED STATES PERSON THAT IS
18 INCLUDED IN THE UNITARY BUSINESS GROUP. EACH UNITED STATES PERSON
19 INCLUDED IN A UNITARY BUSINESS GROUP OR INCLUDED IN A COMBINED
20 RETURN SHALL BE TREATED AS A SINGLE PERSON, AND ALL TRANSACTIONS
21 BETWEEN THOSE PERSONS INCLUDED IN THE UNITARY BUSINESS GROUP SHALL
22 BE ELIMINATED FROM THE FLOW-THROUGH ENTITY BUSINESS INCOME TAX BASE
23 AND FROM THE APPORTIONMENT FORMULAS.

24 (2) A PERSON THAT IS PART OF AN AFFILIATED GROUP MAY ELECT
25 WITHOUT THE CONSENT OF THE DEPARTMENT TO HAVE ALL OF THE PERSONS
26 THAT ARE INCLUDED IN THAT AFFILIATED GROUP TO BE TREATED AS A
27 UNITARY BUSINESS GROUP. A TAXPAYER THAT ELECTS TO FILE AS A UNITARY

1 BUSINESS GROUP PURSUANT TO THIS SUBSECTION SHALL COMPUTE ITS TAX
2 UNDER THIS PART IN ACCORDANCE WITH ALL OTHER PROVISIONS OF THIS
3 PART THAT APPLY TO A UNITARY BUSINESS GROUP. THE TAXPAYER SHALL
4 MAKE THE ELECTION UNDER THIS SUBSECTION ON A FORM OR IN A FORMAT AS
5 PRESCRIBED BY THE DEPARTMENT THAT IS TO BE FILED IN A TIMELY MANNER
6 WITH THE TAXPAYER'S ANNUAL RETURN. EACH PERSON INCLUDED IN THE
7 AFFILIATED GROUP IS DEEMED TO HAVE AGREED TO BE BOUND BY THE
8 ELECTION MADE UNDER THIS SUBSECTION AND ANY RENEWAL OF THAT
9 ELECTION AND TO HAVE WAIVED ANY OBJECTION TO ITS INCLUSION IN THE
10 AFFILIATED GROUP AND TREATMENT AS A UNITARY BUSINESS GROUP. EACH
11 PERSON THAT SUBSEQUENTLY ENTERS THE AFFILIATED GROUP AFTER THE TAX
12 YEAR FOR WHICH THE ELECTION IS MADE IS DEEMED TO HAVE CONSENTED TO
13 THE APPLICATION OF AND IS BOUND BY THE ELECTION AND TO HAVE WAIVED
14 ANY OBJECTION TO ITS INCLUSION IN THE AFFILIATED GROUP AND
15 TREATMENT AS A UNITARY BUSINESS GROUP. AN ELECTION MADE PURSUANT TO
16 THIS SUBSECTION IS IRREVOCABLE AND BINDING FOR AND APPLICABLE TO
17 THE TAX YEAR FOR WHICH IT IS MADE AND FOR THE NEXT 9 TAX YEARS BUT
18 THE LIABILITY FOR THE TAX UNDER THIS PART SHALL APPLY ONLY FOR THE
19 YEARS IN WHICH AN ELECTION UNDER SECTION 757 IS MADE. UPON THE
20 EXPIRATION OF THE ELECTION AFTER IT HAS BEEN IN EFFECT FOR 10 TAX
21 YEARS, AN ELECTION MAY BE RENEWED FOR ANOTHER 10 TAX YEARS, WITHOUT
22 THE CONSENT OF THE DEPARTMENT; PROVIDED HOWEVER, THAT IN THE CASE
23 OF A NONRENEWAL A NEW ELECTION UNDER THIS SUBSECTION IS NOT
24 PERMITTED IN ANY OF THE IMMEDIATELY FOLLOWING 3 TAX YEARS. THE
25 RENEWAL SHALL BE MADE ON A FORM OR IN A FORMAT AS PRESCRIBED BY THE
26 DEPARTMENT THAT IS TO BE FILED IN A TIMELY MANNER WITH THE
27 TAXPAYER'S ANNUAL RETURN AFTER THE COMPLETION OF A 10-YEAR PERIOD

1 FOR WHICH AN ELECTION UNDER THIS SUBSECTION WAS IN PLACE.

2 SEC. 793. (1) THE TAX IMPOSED BY THIS PART SHALL BE
3 ADMINISTERED BY THE DEPARTMENT OF TREASURY PURSUANT TO 1941 PA 122,
4 MCL 205.1 TO 205.31, AND THIS PART. IF A CONFLICT EXISTS BETWEEN
5 1941 PA 122, MCL 205.1 TO 205.31, AND THIS PART, THE PROVISIONS OF
6 THIS PART APPLY.

7 (2) THE DEPARTMENT MAY PROMULGATE RULES TO IMPLEMENT THIS PART
8 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
9 MCL 24.201 TO 24.328.

10 (3) THE DEPARTMENT SHALL PRESCRIBE FORMS FOR USE BY TAXPAYERS
11 AND MAY PROMULGATE RULES IN CONFORMITY WITH THIS PART FOR THE
12 MAINTENANCE BY TAXPAYERS OF RECORDS, BOOKS, AND ACCOUNTS, AND FOR
13 THE COMPUTATION OF THE TAX, THE MANNER AND TIME OF CHANGING OR
14 ELECTING ACCOUNTING METHODS AND OF EXERCISING THE VARIOUS OPTIONS
15 CONTAINED IN THIS PART, THE MAKING OF RETURNS, AND THE
16 ASCERTAINMENT, ASSESSMENT, AND COLLECTION OF THE TAX IMPOSED UNDER
17 THIS PART.

18 (4) THE TAX IMPOSED BY THIS PART IS IN ADDITION TO ALL OTHER
19 TAXES FOR WHICH THE TAXPAYER MAY BE LIABLE.

20 (5) THE DEPARTMENT SHALL PREPARE AND PUBLISH STATISTICS FROM
21 THE RECORDS KEPT TO ADMINISTER THE TAX IMPOSED BY THIS PART THAT
22 DETAIL THE DISTRIBUTION OF TAX RECEIPTS BY TYPE OF BUSINESS, LEGAL
23 FORM OF ORGANIZATION, SOURCES OF TAX BASE, TIMING OF TAX RECEIPTS,
24 AND TYPES OF DEDUCTIONS. THE STATISTICS SHALL NOT RESULT IN THE
25 DISCLOSURE OF INFORMATION REGARDING ANY SPECIFIC TAXPAYER.

26 SEC. 795. THE REVENUE COLLECTED UNDER THIS PART SHALL BE
27 DISTRIBUTED TO THE GENERAL FUND.

1 SEC. 797. THERE IS APPROPRIATED TO THE DEPARTMENT FOR THE
2 2018-2019 STATE FISCAL YEAR THE SUM OF \$100.00 TO BEGIN
3 IMPLEMENTING THE REQUIREMENTS OF THIS PART. ANY PORTION OF THIS
4 AMOUNT UNDER THIS SECTION THAT IS NOT EXPENDED IN THE 2018-2019
5 STATE FISCAL YEAR SHALL NOT LAPSE TO THE GENERAL FUND BUT SHALL BE
6 CARRIED FORWARD IN A WORK PROJECT ACCOUNT THAT IS IN COMPLIANCE
7 WITH SECTION 451A OF THE MANAGEMENT AND BUDGET ACT, 1984 PA 431,
8 MCL 18.1451A, FOR THE FOLLOWING STATE FISCAL YEAR.

9 SEC. 799. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A
10 PERSON THAT IS A DISREGARDED ENTITY FOR FEDERAL INCOME TAX PURPOSES
11 UNDER THE INTERNAL REVENUE CODE SHALL BE CLASSIFIED AS A
12 DISREGARDED ENTITY FOR PURPOSES OF THIS PART.

13 Enacting section 1. This amendatory act is retroactive and
14 effective for tax years beginning on and after January 1, 2018.