



# HOUSE BILL No. 5006

October 19, 1999, Introduced by Reps. Pappageorge, Ruth Johnson, Rocca, Allen, Godchaux, Green, Law, Kowall, DeVuyst, Geiger, Jansen, Hart, Gosselin, Voorhees, Kukuk, Hager, Faunce, Rick Johnson, Scranton, Vander Roest, Birkholz, Mortimer, Garcia, Shulman, Tabor, Pumford, Shackleton and Raczkowski and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
by amending sections 9 and 73 (MCL 208.9 and 208.73), section 9  
as amended by 1998 PA 539 and section 73 as amended by 1995 PA  
80.

## 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       UNDER THIS SECTION.

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

1 taxable income because of sections 265 and 291 of the internal  
2 revenue code.

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

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

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

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

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

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

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

22       (f) All interest including amounts paid, credited, or  
23 reserved by insurance companies as amounts necessary to fulfill  
24 the policy and other contract liability requirements of sections  
25 805 and 809 of the internal revenue code. Interest does not  
26 include payments or credits made to or on behalf of a taxpayer by  
27 a manufacturer, distributor, or supplier of inventory to defray

1 any part of the taxpayer's floor plan interest, if these payments  
2 are used by the taxpayer to reduce interest expense in determin-  
3 ing federal taxable income. For purposes of this section, "floor  
4 plan interest" means interest paid that finances any part of the  
5 taxpayer's purchase of automobile inventory from a manufacturer,  
6 distributor, or supplier. However, amounts attributable to any  
7 invoiced items used to provide more favorable floor plan assist-  
8 ance to a taxpayer than to a person who is not a taxpayer is con-  
9 sidered interest paid by a manufacturer, distributor, or  
10 supplier.

11 (g) All royalties except for the following:

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

15 (ii) Cable television franchise fees described in section  
16 622 of part III of title VI of the communications act of 1934,  
17 CHAPTER 652, 98 STAT. 2787, 47 U.S.C. 542.

18 (iii) Except as provided in subparagraph (iv), for the tax  
19 years 1986 and after 1986, a franchise fee as defined by section  
20 3 of the franchise investment law, 1974 PA 269, MCL 445.1503, in  
21 the following amounts:

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

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

26 (C) For the tax years 1991 and after 1991, 100% of the  
27 franchise 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       (viii) For tax years that begin after December 31, 1993,  
16 royalties paid by a licensee of application computer software,  
17 operating system software, or system software pursuant to a  
18 license agreement. As used in this subparagraph and  
19 subsection (7)(c)(vii):

20       (A) "Application computer software" means a set of state-  
21 ments or instructions that when incorporated in a machine usable  
22 medium is capable of causing a machine or device having informa-  
23 tion processing capabilities to indicate, perform, or achieve a  
24 particular business function, task, or result for the nontechni-  
25 cal end user. Application computer software includes any other  
26 computer software that does not qualify under  
27 sub-subparagraph ~~(b)~~ (B) or ~~(c)~~ (C).



1 (B) "Operating system software" means a set of statements or  
2 instructions that when incorporated into a machine or device  
3 having information processing capabilities is an interface  
4 between the computer hardware and the application computer soft-  
5 ware or system software.

6 (C) "System software" means a set of statements or instruc-  
7 tions that interacts with operating system software that is  
8 developed, licensed, and intended for the exclusive use of data  
9 processing professionals to build, test, manage, or maintain  
10 application computer software for which a license agreement is  
11 signed by the licensor and licensee at the time of the transfer  
12 of the software and that is not transferred to the licensee as  
13 part of or in conjunction with a sale or lease of computer  
14 hardware.

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 the franchise investment law, 1974 PA 269,  
15 MCL 445.1503, in the following amounts:

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

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

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

22 (iii) For the tax years ending before 1991, this subdivision  
23 does not apply to a fee for services paid by a franchisee that,  
24 with respect to a specific provision of a franchise agreement, a  
25 court of competent jurisdiction, before June 5, 1985, has deter-  
26 mined 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 (vii) For tax years that begin after December 31, 1997, roy-  
11 alties received by a licensor, distributor, developer, marketer,  
12 or copyright holder of application computer software or operating  
13 system software pursuant to a license agreement. System software  
14 is not included within the exception under this subparagraph.

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

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

24 (9) To the extent included in federal taxable income, add  
25 the loss or subtract the gain from the tax base that is attribut-  
26 able to another entity whose business activities are taxable

1 under this act or would be taxable under this act if the business  
2 activities were in this state.

3 (10) FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1, 2000,  
4 DEDUCT \$250,000.00.

5 Sec. 73. (1) An annual or final return shall be filed with  
6 the department in the form and content prescribed by the depart-  
7 ment by the last day of the fourth month after the end of the  
8 taxpayer's tax year. Any final liability shall be remitted with  
9 this return. A person whose apportioned or allocated gross  
10 receipts plus the adjustments provided in section 23b(a) ~~;(b);~~  
11 ~~and (c)~~ TO (G) are less than the following amount for the appro-  
12 priate year need not file a return or pay the tax provided under  
13 this act:

14 (a) \$40,000.00 for tax years beginning before January 1,  
15 1991.

16 (b) \$60,000.00 for tax years beginning after December 31,  
17 1990 and before January 1, 1992.

18 (c) \$100,000.00 for tax years beginning after December 31,  
19 1991 and before January 1, 1994.

20 (d) \$137,500.00 for tax years beginning after December 31,  
21 1993 and before January 1, 1995.

22 (e) \$250,000.00 for tax years beginning after December 31,  
23 1994 AND BEFORE JANUARY 1, 2000.

24 (2) For a person whose apportioned or allocated gross  
25 receipts plus the adjustments provided in section 23b(a) ~~;(b);~~  
26 ~~and (c)~~ TO (G), are for a tax year less than 12 months, the  
27 amount in subsection (1) shall be multiplied by a fraction, the

1 numerator of which is the number of months in the tax year and  
2 the denominator of which is 12.

3       (3) The commissioner upon application of the taxpayer and  
4 for good cause shown may extend the date for filing the annual  
5 return. Interest at the rate of 9% per annum shall be added to  
6 the amount of the tax unpaid for the period of the extension.  
7 The commissioner shall require a tentative return and payment of  
8 an estimated tax.

9       (4) If a taxpayer is granted an extension of time within  
10 which to file the federal income tax return for any taxable year,  
11 the filing of a copy of the request for extension together with a  
12 tentative return and payment of an estimated tax with the commis-  
13 sioner by the due date provided in subsection (1) shall automati-  
14 cally extend the due date for the filing of a final return under  
15 this act for an equivalent period plus 60 days. Interest at the  
16 rate of 9% per annum shall be added to the amount of the tax  
17 unpaid for the period of the extension.

18       (5) For tax years that end after July 6, 1994, an affiliated  
19 group as defined in this act, a controlled group of corporations  
20 as defined in section 1563 of the internal revenue code and fur-  
21 ther described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to  
22 1.414(c)-5, or an entity under common control as defined in the  
23 internal revenue code shall consolidate the gross receipts of the  
24 members of the affiliated group, member corporations of the con-  
25 trolled group, or entities under common control that have appor-  
26 tioned or allocated gross receipts, plus the adjustments provided  
27 in section 23b(a) ~~, (b), and (c)~~ TO (G), of \$100,000.00 or more

1 to determine if the group or entity shall pay a tax or file a  
2 return as provided under subsection (1). An individual member of  
3 an affiliated group or controlled group of corporations or an  
4 entity under common control is not required to file a return or  
5 pay the tax under this act if that member or entity has appor-  
6 tioned or allocated gross receipts, plus the adjustments provided  
7 in section 23b(a) ~~—, (b), and (c)—~~ TO (G), of less than  
8 \$100,000.00.