

# SENATE BILL No. 480

June 16, 2011, Introduced by Senator JANSEN and referred to the Committee on Reforms, Restructuring and Reinventing.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 623 (MCL 206.623), as added by 2011 PA 38.

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

1           Sec. 623. (1) Except as otherwise provided in this part, there  
2 is levied and imposed a corporate income tax on every taxpayer with  
3 business activity within this state or ownership interest or  
4 beneficial interest in a flow-through entity that has business  
5 activity in this state unless prohibited by 15 USC 381 to 384. The  
6 corporate income tax is imposed on the corporate income tax base,  
7 after allocation or apportionment to this state, at the rate of  
8 6.0%.

9           (2) The corporate income tax base means a taxpayer's business  
10 income subject to the following adjustments, before allocation or

1 apportionment, and the adjustment in subsection (4) after  
2 allocation or apportionment:

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

9 (b) Add all taxes on or measured by net income and the tax  
10 imposed under this part to the extent that the taxes were deducted  
11 in arriving at federal taxable income.

12 (c) Add any carryback or carryover of a net operating loss to  
13 the extent deducted in arriving at federal taxable income.

14 (d) To the extent included in federal taxable income, deduct  
15 dividends and royalties received from persons other than United  
16 States persons and foreign operating entities, including, but not  
17 limited to, amounts determined under section 78 of the internal  
18 revenue code or sections 951 to 964 of the internal revenue code.

19 (e) Except as otherwise provided under this subdivision, to  
20 the extent deducted in arriving at federal taxable income, add any  
21 royalty, interest, or other expense paid to a person related to the  
22 taxpayer by ownership or control for the use of an intangible asset  
23 if the person is not included in the taxpayer's unitary business  
24 group. The addition of any royalty, interest, or other expense  
25 described under this subdivision is not required to be added if the  
26 taxpayer can demonstrate that the transaction has a nontax business  
27 purpose, is conducted with arm's-length pricing and rates and terms

1 as applied in accordance with sections 482 and 1274(d) of the  
2 internal revenue code, and 1 of the following is true:

3 (i) The transaction is a pass through of another transaction  
4 between a third party and the related person with comparable rates  
5 and terms.

6 (ii) An addition would result in double taxation. For purposes  
7 of this subparagraph, double taxation exists if the transaction is  
8 subject to tax in another jurisdiction.

9 (iii) An addition would be unreasonable as determined by the  
10 treasurer.

11 (iv) The related person recipient of the transaction is  
12 organized under the laws of a foreign nation which has in force a  
13 comprehensive income tax treaty with the United States.

14 (f) To the extent included in federal taxable income, deduct  
15 interest income derived from United States obligations.

16 (g) For tax years beginning after December 31, 2011, eliminate  
17 all of the following:

18 (i) Income from producing oil and gas to the extent included in  
19 federal taxable income.

20 (ii) Expenses of producing oil and gas to the extent deducted  
21 in arriving at federal taxable income.

22 **(H) A UNITARY BUSINESS GROUP THAT FILED THE MICHIGAN BUSINESS**  
23 **TAX BOOK-TAX DIFFERENCE FORM 4593 TO ADJUST ITS BUSINESS INCOME TAX**  
24 **BASE PURSUANT TO SECTION 201 OF THE MICHIGAN BUSINESS TAX ACT, 2007**  
25 **PA 36, MCL 208.1201, MAY ADJUST ITS BUSINESS INCOME UNDER THIS**  
26 **SUBDIVISION TO ACCOUNT FOR THE ASSETS THAT GENERATED THE BOOK-TAX**  
27 **DIFFERENCES REPORTED ON FORM 4593. THE ADJUSTMENT UNDER THIS**

1 SUBDIVISION SHALL BE APPLIED ONLY IN THE COMPUTATION OF GAIN OR  
2 LOSS ON THE SALE OR DISPOSITION OF THOSE ASSETS IN A TRANSACTION IN  
3 WHICH BUSINESS INCOME OR BUSINESS LOSS IS RECOGNIZED. IF THOSE  
4 ASSETS ARE SOLD OR OTHERWISE DISPOSED OF PRIOR TO 2015, THEN THE  
5 ADJUSTMENT ASSOCIATED WITH THOSE ASSETS SHALL BE PROPORTIONATELY  
6 ALLOCATED, BASED ON RELATIVE POSITIVE BASIS ADJUSTMENT, TO THE  
7 TAXPAYER'S REMAINING ASSETS ON WHICH THE BOOK-TAX DIFFERENCES WERE  
8 COMPUTED. TO THE EXTENT THE ADJUSTMENT PROVIDED IN THIS SUBDIVISION  
9 WOULD PRODUCE A LOSS UPON THE SALE OR DISPOSITION OF AN ASSET, THEN  
10 THE ADJUSTMENT SHALL NOT BE RECOGNIZED AND THE DISALLOWED BASIS  
11 SHALL BE PROPORTIONATELY ALLOCATED TO THE TAXPAYER'S REMAINING  
12 ASSETS, BASED ON RELATIVE POSITIVE BASIS ADJUSTMENT, ON WHICH THE  
13 BOOK-TAX DIFFERENCES WERE COMPUTED. FOR PURPOSES OF THIS  
14 SUBDIVISION, A LOSS OCCURS IF THE TAXPAYER'S CORPORATE INCOME TAX  
15 BASE BEFORE THE ADJUSTMENT UNDER THIS SUBDIVISION PLUS THE BASIS  
16 PROVIDED FOR UNDER THIS SUBDIVISION EXCEEDS THE PROCEEDS FROM THE  
17 SALE OF THE ASSET.

18 (3) For purposes of subsection (2), the business income of a  
19 unitary business group is the sum of the business income of each  
20 person included in the unitary business group less any items of  
21 income and related deductions arising from transactions including  
22 dividends between persons included in the unitary business group.

23 (4) Deduct any available business loss incurred after December  
24 31, 2011. As used in this subsection, "business loss" means a  
25 negative business income taxable amount after allocation or  
26 apportionment. The business loss shall be carried forward to the  
27 year immediately succeeding the loss year as an offset to the

1 allocated or apportioned corporate income tax base, then  
2 successively to the next 9 taxable years following the loss year or  
3 until the loss is used up, whichever occurs first, but for not more  
4 than 10 taxable years after the loss year.

5 (5) As used in this section, "oil and gas" means oil and gas  
6 that is subject to severance tax under 1929 PA 48, MCL 205.301 to  
7 205.317.

8 Enacting section 1. This amendatory act takes effect January  
9 1, 2012.