INCOME TAX ACT OF 1967 (EXCERPT)
Act 281 of 1967

PART 2

CHAPTER 10

206.601 Meanings of terms; other provisions.

Sec. 601. A term used in this part and not defined differently shall have the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes in effect for the tax year unless a different meaning is clearly required. A reference in this part to the internal revenue code includes other provisions of the laws of the United States relating to federal income taxes.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.603 Definitions; A, B.

Sec. 603. (1) "Affiliated group" means that term as defined in section 1504 of the internal revenue code except that it shall include all United States persons that are corporations, insurance companies, or financial institutions, other than a foreign operating entity, that are commonly owned, directly or indirectly, by any member of such affiliated group and other members of which more than 50% of the ownership interests with voting rights or ownership interests that confer comparable rights to voting rights of the member is directly or indirectly owned by a common owner or owners.

(2) "Business activity" means a transfer of legal or equitable title to or rental of property, whether real, personal, or mixed, tangible or intangible, or the performance of services, or a combination thereof, made or engaged in, or caused to be made or engaged in, whether in intrastate, interstate, or foreign commerce, with the object of gain, benefit, or advantage, whether direct or indirect, to the taxpayer or to others, but does not include the services rendered by an employee to his or her employer or services as a director of a corporation. Although an activity of a taxpayer may be incidental to another or to others of his or her business activities, each activity shall be considered to be business engaged in within the meaning of this part.

(3) "Business income" means federal taxable income. For a tax-exempt taxpayer, business income means only that part of federal taxable income derived from unrelated business activity.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 173, Eff. Jan. 1, 2012;—Am. 2013, Act 266, Imd. Eff. Dec. 30, 2013.

Compiler's note: Enacting section 1 of Act 266 of 2013 provides:
"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2012."

206.605 Definitions; C to E.

Sec. 605. (1) "Corporation" means a person that is required or has elected to file as a C corporation as defined under section 1361(a)(2) and section 7701(a)(3) of the internal revenue code. Corporation does not include an insurance company or a financial institution.

(2) "Department" means the department of treasury.

(3) "Employee" means an employee as defined in section 3401(c) of the internal revenue code. A person from whom an employer is required to withhold for federal income tax purposes is prima facie considered an employee.

(4) "Employer" means an employer as defined in section 3401(d) of the internal revenue code. A person required to withhold for federal income tax purposes is prima facie considered an employer.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 179, Eff. Jan. 1, 2012;—Am. 2011, Act 307, Eff. Jan. 1, 2012.

206.607 Definitions; F to M.

Sec. 607. (1) "Federal taxable income" means taxable income as defined in section 63 of the internal revenue code, except that federal taxable income shall be calculated as if section 168(k) and section 199 of the internal revenue code were not in effect.

(2) "Flow-through entity" means an entity that for the applicable tax year is treated as a subchapter S corporation under section 1362(a) of the internal revenue code, a general partnership, a trust, a limited partnership, a limited liability partnership, or a limited liability company, that for the tax year is not taxed as a corporation for federal income tax purposes. Flow-through entity does not include any entity disregarded or treated as a corporation under section 699.

(3) "Foreign operating entity" means a United States corporation that satisfies each of the following:

(a) Would otherwise be a part of a unitary business group that has at least 1 corporation included in the unitary business group that is taxable in this state.

(b) Has substantial operations outside the United States, the District of Columbia, any territory or

possession of the United States except for the Commonwealth of Puerto Rico, or a political subdivision of any of the foregoing.

(c) At least 80% of its income is active foreign business income as defined in section 871(*l*)(1)(B)(*ii*) of the internal revenue code.

(4) "Gross receipts" means the entire amount received by the taxpayer from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others except for the following:

(a) Proceeds from sales by a principal that the taxpayer collects in an agency capacity solely on behalf of the principal and delivers to the principal.

(b) Amounts received by the taxpayer as an agent solely on behalf of the principal that are expended by the taxpayer for any of the following:

(*i*) The performance of a service by a third party for the benefit of the principal that is required by law to be performed by a licensed person.

(*ii*) The performance of a service by a third party for the benefit of the principal that the taxpayer has not undertaken a contractual duty to perform.

(*iii*) Principal and interest under a mortgage loan or land contract, lease or rental payments, or taxes, utilities, or insurance premiums relating to real or personal property owned or leased by the principal.

(*iv*) A capital asset of a type that is, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated cost recovery by the principal for federal income tax purposes, or for real property owned or leased by the principal.

(*v*) Property not described under subparagraph (*iv*) purchased by the taxpayer on behalf of the principal and that the taxpayer does not take title to or use in the course of performing its contractual business activities.

(*vi*) Fees, taxes, assessments, levies, fines, penalties, or other payments established by law that are paid to a governmental entity and that are the legal obligation of the principal.

(c) Amounts that are excluded from gross income of a foreign corporation engaged in the international operation of aircraft under section 883(a) of the internal revenue code.

(d) Amounts received by an advertising agency used to acquire advertising media time, space, production, or talent on behalf of another person.

(e) Notwithstanding any other provision of this section, amounts received by a taxpayer that manages real property owned by the taxpayer's client that are deposited into a separate account kept in the name of the taxpayer's client and that are not reimbursements to the taxpayer and are not indirect payments for management services that the taxpayer provides to that client.

(f) Proceeds from the taxpayer's transfer of an account receivable if the sale that generated the account receivable was included in gross receipts for federal income tax purposes. This subdivision does not apply to a taxpayer that during the tax year both buys and sells any receivables.

(g) Proceeds from any of the following:

(*i*) The original issue of stock or equity instruments.

(*ii*) The original issue of debt instruments.

(h) Refunds from returned merchandise.

(i) Cash and in-kind discounts.

(j) Trade discounts.

(k) Federal, state, or local tax refunds.

(*l*) Security deposits.

(m) Payment of the principal portion of loans.

(n) Value of property received in a like-kind exchange.

(o) Proceeds from a sale, transaction, exchange, involuntary conversion, or other disposition of tangible, intangible, or real property that is a capital asset as defined in section 1221(a) of the internal revenue code or land that qualifies as property used in the trade or business as defined in section 1231(b) of the internal revenue code, less any gain from the disposition to the extent that gain is included in federal taxable income.

(p) The proceeds from a policy of insurance, a settlement of a claim, or a judgment in a civil action less any proceeds under this subdivision that are included in federal taxable income.

(5) "Insurance company" means an authorized insurer as defined in section 108 of the insurance code of 1956, 1956 PA 218, MCL 500.108. Insurance company does not include a health maintenance organization authorized under chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3573.

(6) "Internal revenue code" means the United States internal revenue code of 1986 in effect on January 1, 2018 or, at the option of the taxpayer, in effect for the tax year.

(7) "Member", when used in reference to a flow-through entity, means a shareholder of a subchapter S corporation, a partner in a general partnership, a limited partnership, or a limited liability partnership, a

member of a limited liability company, or a beneficiary of a trust that is a flow-through entity.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 182, Imd. Eff. Jan. 1, 2012;—Am. 2011, Act 306, Eff. Jan. 1, 2012;—Am. 2018, Act 32, Imd. Eff. Feb. 21, 2018;—Am. 2018, Act 38, Imd. Eff. Feb. 28, 2018;—Am. 2024, Act 177, Imd. Eff. Dec. 23, 2024.

Compiler's note: Enacting section 1 of Act 32 of 2018 provides:
"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin on and after January 1, 2016."

206.609 Definitions; P to S.

Sec. 609. (1) "Person" means an individual, bank, financial institution, insurance company, association, corporation, flow-through entity, receiver, estate, trust, or any other group or combination of groups acting as a unit.

(2) "Professional employer organization" means an organization, other than an organization whose business activities are included in industry group 736 under the standard industrial classification code as compiled by the United States department of labor, that provides the management and administration of the human resources of another entity by contractually assuming substantial employer rights and responsibilities through a professional employer agreement that establishes an employer relationship with the leased officers or employees assigned to the other entity by doing all of the following:

(a) Maintaining a right of direction and control of employees' work, although this responsibility may be shared with the other entity.

(b) Paying wages and employment taxes of the employees out of its own accounts.

(c) Reporting, collecting, and depositing state and federal employment taxes for the employees.

(d) Retaining a right to hire and fire employees.

(3) "Revenue mile" means the transportation for a consideration of 1 net ton in weight or 1 passenger the distance of 1 mile.

(4) "Sale" or "sales" means, except as provided in subdivision (e), the amounts received by the taxpayer as consideration from the following:

(a) The transfer of title to, or possession of, property that is stock in trade or other property of a kind that would properly be included in the inventory of the taxpayer if on hand at the close of the tax period or property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business. For intangible property, the amounts received shall be limited to any gain received from the disposition of that property.

(b) The performance of services that constitute business activities.

(c) The rental, lease, licensing, or use of tangible or intangible property, including interest that constitutes business activity.

(d) Any combination of business activities described in subdivisions (a), (b), and (c).

(e) For taxpayers not engaged in any other business activities, sales include interest, dividends, and other income from investment assets and activities and from trading assets and activities.

(5) "Shareholder" means a person who owns outstanding stock in a corporation or is a member of a business entity that files as a corporation for federal income tax purposes. An individual is considered as the owner of the stock, or the equity interest in a business entity that files as a corporation for federal income tax purposes, owned, directly or indirectly, by or for family members as defined by section 318(a)(1) of the internal revenue code.

(6) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or a political subdivision of any of the foregoing.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 176, Eff. Jan. 1, 2012.

206.611 Definitions; T to U.

Sec. 611. (1) "Tangible personal property" means that term as defined in section 2 of the use tax act, 1937 PA 94, MCL 205.92.

(2) "Tax" means the tax imposed under this part, including interest and penalties under this part, unless the term is given a more limited meaning in the context of this part or a provision of this part.

(3) "Tax-exempt person" means an organization that is exempt from federal income tax under section 501(a) of the internal revenue code, except the following:

(a) An organization exempt under section 501(c)(12) or (16) of the internal revenue code.

(b) An organization exempt under section 501(c)(4) of the internal revenue code that would be exempt under section 501(c)(12) of the internal revenue code but for its failure to meet the requirement in section 501(c)(12) that 85% or more of its income must consist of amounts collected from members.

(4) "Tax year" means the calendar year, or the fiscal year ending during the calendar year, upon the basis of which the tax base of a taxpayer is computed under this part. If a return is made for a fractional part of a year, tax year means the period for which the return is made. Except for the first return required by this part, a taxpayer's tax year is for the same period as is covered by its federal income tax return. A taxpayer that has a 52- or 53-week tax year beginning not more than 7 days before the end of any month is considered to have a tax year beginning on the first day of the subsequent month. A person included in a unitary business group that joins or departs the unitary business group other than at the end of that person's federal tax year shall have a tax year beginning with its federal income tax period and ending on the date of joining or departing the unitary business group, and another tax year beginning on the date immediately after joining or departing the unitary business group and ending with its federal income tax period. If the term tax year in this part is used in reference to 1 or more previous or preceding tax years and those referenced tax years are before January 1, 2012, then those referenced tax years are deemed those same tax years during which former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, applied.

(5) "Taxpayer" means a corporation, insurance company, financial institution, or unitary business group, whichever is applicable under each chapter, that is liable for a tax, interest, or penalty under this part. For purposes of chapters 11 and 14, taxpayer does not include an insurance company or a financial institution. For purposes of chapter 12, unless specifically included in the section, taxpayer does not include a corporation or a financial institution. For purposes of chapter 13, taxpayer does not include a corporation or an insurance company.

(6) "Unitary business group" means a group of United States persons that are corporations, insurance companies, or financial institutions, other than a foreign operating entity, 1 of which owns or controls, directly or indirectly, more than 50% of the ownership interest with voting rights or ownership interests that confer comparable rights to voting rights of the other members, and that has business activities or operations which result in a flow of value between or among members included in the unitary business group or has business activities or operations that are integrated with, are dependent upon, or contribute to each other. Unitary business group includes an affiliated group that makes the election to be treated, and to file, as a unitary business group under section 691(2).

(7) "United States person" means that term as defined in section 7701(a)(30) of the internal revenue code.

(8) "Unrelated business activity" means, for a tax-exempt person, business activity directly connected with an unrelated trade or business as defined in section 513 of the internal revenue code.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 170, Eff. Jan. 1, 2012;—Am. 2013, Act 266, Imd. Eff. Dec. 30, 2013.

Compiler's note: Enacting section 1 of Act 266 of 2013 provides:
"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2012."

CHAPTER 11

206.621 Nexus; "actively solicits" and "physical presence" defined.

Sec. 621. (1) Except as otherwise provided in this part, a taxpayer has substantial nexus in this state and is subject to the tax imposed under this part if the taxpayer has a physical presence in this state for a period of more than 1 day during the tax year, if the taxpayer actively solicits sales in this state and has gross receipts of $350,000.00 or more sourced to this state, or if the taxpayer has an ownership interest or a beneficial interest in a flow-through entity, directly, or indirectly through 1 or more other flow-through entities, that has substantial nexus in this state.

(2) As used in this section:

(a) "Actively solicits" means either of the following:

(*i*) Speech, conduct, or activity that is purposefully directed at or intended to reach persons within this state and that explicitly or implicitly invites an order for a purchase or sale.

(*ii*) Speech, conduct, or activity that is purposefully directed at or intended to reach persons within this state that neither explicitly nor implicitly invites an order for a purchase or sale, but is entirely ancillary to requests for an order for a purchase or sale.

(b) "Physical presence" means any activity conducted by the taxpayer or on behalf of the taxpayer by the taxpayer's employee, agent, or independent contractor acting in a representative capacity. Physical presence does not include the activities of professionals providing services in a professional capacity or other service providers if the activity is not significantly associated with the taxpayer's ability to establish and maintain a market in this state.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 187, Eff. Jan. 1, 2012.

206.623 Corporate income tax; levy and imposition; base; adjustments; business income of

unitary business group; "business loss" and "oil and gas" defined.

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

(2) The corporate income tax base means a taxpayer's business income subject to the following adjustments, before allocation or apportionment, and the adjustment in subsection (4) after allocation or apportionment:

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

(b) Add all taxes on or measured by net income including the tax imposed under this part to the extent that the taxes were deducted in arriving at federal taxable income including any direct or indirect allocated share of taxes paid by a flow-through entity under part 4.

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

(d) To the extent included in federal taxable income, deduct dividends and royalties received from persons other than United States persons and foreign operating entities, including, but not limited to, amounts determined under section 78 of the internal revenue code or sections 951 to 965 of the internal revenue code.

(e) Except as otherwise provided under this subdivision, to the extent deducted in arriving at federal taxable income, add any royalty, interest, or other expense paid to a person related to the taxpayer by ownership or control for the use of an intangible asset if the person is not included in the taxpayer's unitary business group. The addition of any royalty, interest, or other expense described under this subdivision is not required to be added if the taxpayer can demonstrate that the transaction has a nontax business purpose, is conducted with arm's-length pricing and rates and terms as applied in accordance with sections 482 and 1274(d) of the internal revenue code, and 1 of the following is true:

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

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

(*iii*) An addition would be unreasonable as determined by the state treasurer.

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

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

(g) Eliminate all of the following:

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

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

(h) For a qualified taxpayer, eliminate all of the following:

(*i*) Income derived from a mineral to the extent included in federal taxable income.

(*ii*) Expenses related to the income deductible under subparagraph (*i*) to the extent deducted in arriving at federal taxable income.

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

(4) Deduct any available business loss incurred after December 31, 2011. As used in this subsection, "business loss" means a negative business income taxable amount after allocation or apportionment. For purposes of this subsection, a taxpayer that acquires the assets of another corporation in a transaction described under section 381(a)(1) or (2) of the internal revenue code may deduct any business loss attributable to that distributor or transferor corporation. The business loss shall be carried forward to the year immediately succeeding the loss year as an offset to the allocated or apportioned corporate income tax base, then successively to the next 9 taxable years following the loss year or until the loss is used up, whichever occurs first.

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

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 312, Eff. Jan. 1, 2012;—Am. 2012, Act 414, Imd. Eff. Dec. 20, 2012;—Am. 2014, Act 13, Imd. Eff. Feb. 25, 2014;—Am. 2021, Act 135, Imd. Eff. Dec. 21, 2021.

Compiler's note: Enacting section 1 of Act 13 of 2014 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

Enacting section 1 of Act 135 of 2021 provides:

"Enacting section 1. This amendatory act is retroactive and intended to apply retroactively effective for tax years beginning on and after January 1, 2021."

206.625 Exemptions; corporate income tax base of foreign person; sales factor; "business income," "domiciled," and "foreign person" defined.

Sec. 625. (1) Except as otherwise provided in this section, the following are exempt from the tax imposed by this part:

(a) The United States, this state, other states, and the agencies, political subdivisions, and enterprises of the United States, this state, and other states.

(b) A person who is exempt from federal income tax under the internal revenue code except the following:

(*i*) An organization included under section 501(c)(12) or 501(c)(16) of the internal revenue code.

(*ii*) An organization exempt under section 501(c)(4) of the internal revenue code that would be exempt under section 501(c)(12) of the internal revenue code except that it failed to meet the requirements in section 501(c)(12) that 85% or more of its income consist of amounts collected from members.

(*iii*) The tax base attributable to unrelated business activities giving rise to the unrelated business taxable income of an exempt person.

(c) A foreign person that is domiciled in a member country of the North American free trade agreement is not subject to taxation under this part if the foreign person is domiciled in a subnational jurisdiction that does not impose an income tax on a similarly situated person domiciled in this state whose presence in the foreign country is the same as the foreign person's presence in the United States. If a qualifying foreign person is domiciled in a subnational jurisdiction that does not impose an income tax on businesses, but instead imposes some other type of subnational business tax, that foreign person is not subject to taxation under this part if that subnational business tax is not imposed on a similarly situated person domiciled in this state whose presence in the foreign country is the same as the foreign person's presence in the United States.

(d) A person that qualifies as a domestic international sales corporation as defined in section 992 of the internal revenue code for the portion of the year that it has in effect a valid election to be treated as a domestic international sales corporation.

(e) A person that is a self-insurer group operating under an agreement entered pursuant to section 611(2) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.611.

(2) Notwithstanding any other provision of this part to the contrary, a foreign person subject to tax under this part shall calculate its corporate income tax base under this section. Except as otherwise provided in this section, the corporate income tax base of a foreign person is subject to all adjustments and other provisions of this part. However, the corporate income tax base shall not include net income from sales of tangible personal property where title passes outside the United States.

(3) Except as otherwise provided in this section, the corporate income tax base of a foreign person includes the sum of business income and the adjustments under section 623 that are related to United States business activity.

(4) The sales factor for a foreign person is a fraction, the numerator of which is the taxpayer's total sales in this state during the tax year and the denominator of which is the taxpayer's total sales in the United States during the tax year. For purposes of this subsection, for sales of tangible personal property, only those sales where title passes inside the United States shall be used in the sales factor, and for sales of property other than tangible personal property, those sales shall be apportioned in accordance with chapter 14.

(5) As used in this section:

(a) "Business income" means, for a foreign person, gross income attributable to the taxpayer's United States business activity and gross income derived from sources within the United States minus the deductions allowed under the internal revenue code that are related to that gross income. Gross income includes the proceeds from sales shipped or delivered to any purchaser within the United States and for which title transfers within the United States; proceeds from services performed within the United States; and a pro rata proportion of the proceeds from services performed both within and outside the United States to the extent the recipient receives benefit of the services within the United States.

(b) "Domiciled" means the location of the headquarters of the trade or business from which the trade or business of the foreign person is principally managed and directed.

(c) "Foreign person" means a person formed under the laws of a foreign country or a political subdivision of a foreign country, whether or not the person is subject to taxation under the internal revenue code.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 175, Eff. Jan. 1, 2012;—Am. 2014, Act 15, Imd. Eff. Feb. 25, 2014;—Am. 2017, Act 216, Eff. Mar. 20, 2018.

Compiler's note: Enacting section 1 of Act 15 of 2014 provides:
"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

CHAPTER 12

206.635 Tax on insurance company; imposition and levy; direct premiums; qualified health insurance policies; exemption.

Sec. 635. (1) Except as otherwise provided under subsection (4) or (6), each insurance company shall pay a tax determined under this chapter.

(2) The tax imposed by this chapter on each insurance company shall be a tax equal to 1.25% of gross direct premiums written on property or risk located or residing in this state. However, beginning on January 1, 2019, for gross direct premiums attributable to qualified health insurance policies the tax imposed shall be a tax equal to 0.95% through December 31, 2019, and for the 2020 tax year and each tax year after 2020, the tax rate for those gross direct premiums attributable to qualified health insurance policies shall be determined as provided under subsection (7). Direct premiums do not include any of the following:

(a) Premiums on policies not taken.

(b) Returned premiums on canceled policies.

(c) Receipts from the sale of annuities.

(d) Receipts on reinsurance premiums if the tax has been paid on the original premiums.

(e) The first $190,000,000.00 of disability insurance premiums written in this state, other than credit insurance and disability income insurance premiums, of each insurance company subject to tax under this chapter. This exemption shall be reduced by $2.00 for each $1.00 by which the insurance company's gross direct premiums from insurance carrier services in this state and outside this state exceed $280,000,000.00.

(3) The tax calculated under this chapter is in lieu of all other privilege or franchise fees or taxes imposed by this part or any other law of this state, except taxes on real and personal property, taxes collected under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, and taxes collected under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, and except as otherwise provided in the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(4) The tax imposed and levied under this chapter does not apply to an insurance company authorized under chapter 46 or 47 of the insurance code of 1956, 1956 PA 218, MCL 500.4601 to 500.4673 and 500.4701 to 500.4747.

(5) For a taxpayer subject to the tax imposed under chapter 11, that portion of the tax base attributable to the services provided by an attorney-in-fact to a reciprocal insurer pursuant to chapter 72 of the insurance code of 1956, 1956 PA 218, MCL 500.7200 to 500.7234, is exempt from the tax imposed by that chapter.

(6) The tax imposed and levied under this chapter does not apply to a health maintenance organization authorized under chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3573.

(7) By October 1, 2020 and each October 1 thereafter, the department shall determine the tax rate to be imposed on gross direct premiums attributable to qualified health insurance policies for that calendar year as follows:

(a) Calculate the total liability for all taxpayers after all credits for qualified health insurance policies under this chapter and section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, for the prior calendar year.

(b) Calculate the total liability for all taxpayers after all credits for qualified health insurance policies under this chapter at a rate of 1.25% and section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, for the prior calendar year.

(c) Determine the actual amount of savings for the prior year as a result of the rate reduction under subsection (2) by subtracting the amount determined under subdivision (a) from the amount determined under subdivision (b).

(d) Determine the amount of savings above the savings limit for the prior calendar year, by subtracting $18,000,000.00 from the amount determined under subdivision (c).

(e) Determine the current year savings limit by subtracting the sum of the amounts determined under subdivision (d) for each calendar year beginning on and after January 1, 2019 from $18,000,000.00.

(f) Calculate the rate reduction for the current calendar year by dividing the amount determined under subdivision (e) by the amount of prior year gross direct premiums attributable to qualified health insurance policies written by taxpayers with no liability under section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, for the prior calendar year.

(g) Calculate the tax rate for the current calendar year by subtracting the amount determined under subdivision (f) from 0.0125.

(8) The state treasurer shall develop a method to account for changes in tax liability occurring after the calculation of the immediately succeeding calendar year's rate.

(9) As used in this section, "qualified health insurance policies" means policies written on risk located or residing in this state that are 1 of the following types of policies:

(a) Comprehensive major medical, regardless of whether the policy is eligible for a health savings account or purchased on the health insurance marketplace.

(b) Student.

(c) Children's health insurance program.

(d) Medicaid.

(e) Employer comprehensive, regardless of whether the policy is eligible for a health savings account or purchased on the health insurance marketplace.

(f) Multiple employer associations or trusts and any other employer associations and trusts.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2018, Act 31, Imd. Eff. Feb. 21, 2018;—Am. 2018, Act 222, Imd. Eff. June 26, 2018.

Compiler's note: Enacting section 1 of Act 31 of 2018 provides:
"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin on and after January 1, 2016."

206.637 Tax credit; calculation; assessments of insurance company from immediately preceding tax year; payments to Michigan automobile insurance placement facility attributable to assigned claims plan.

Sec. 637. (1) Except as otherwise provided under subsection (3), an insurance company may claim a credit against the tax imposed under this chapter in the following amounts:

(a) Amounts paid to the Michigan worker's compensation placement facility pursuant to chapter 23 of the insurance code of 1956, 1956 PA 218, MCL 500.2301 to 500.2352.

(b) Amounts paid to the Michigan basic property insurance association pursuant to chapter 29 of the insurance code of 1956, 1956 PA 218, MCL 500.2901 to 500.2954.

(c) Amounts paid to the Michigan automobile insurance placement facility pursuant to chapter 33 of the insurance code of 1956, 1956 PA 218, MCL 500.3301 to 500.3390.

(d) Amounts paid to the property and casualty guaranty association pursuant to chapter 79 of the insurance code of 1956, 1956 PA 218, MCL 500.7901 to 500.7949.

(e) Amounts paid to the Michigan life and health insurance guaranty association pursuant to chapter 77 of the insurance code of 1956, 1956 PA 218, MCL 500.7701 to 500.7780.

(2) The assessments of an insurance company from the immediately preceding tax year shall be used in calculating the credits allowed under this section for each tax year.

(3) For the 2016 tax year only, an insurance company shall only include in the calculation of a credit under this section 35% of the amounts paid to the Michigan automobile insurance placement facility that are attributable to the assigned claims plan approved under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179. For tax years beginning on and after January 1, 2017, an insurance company shall not include in the calculation of a credit under this section amounts paid to the Michigan automobile insurance placement facility that are attributable to the assigned claims plan approved under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2016, Act 278, Imd. Eff. July 1, 2016.

206.639 Tax credit in amount equal to 50% of examination fees paid by insurance company.

Sec. 639. An insurance company shall be allowed a credit against the tax imposed under this chapter in an amount equal to 50% of the examination fees paid by the insurance company during the tax year pursuant to section 224 of the insurance code of 1956, 1956 PA 218, MCL 500.224.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.641 Amounts paid pursuant to MCL 418.352; tax credit; refund of excess amount.

Sec. 641. (1) For amounts paid pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, an insurance company subject to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may claim a credit against the tax imposed under this chapter for the tax year in an amount equal to the amount paid during that tax year by the insurance company pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, as certified by the director of the bureau of worker's disability compensation pursuant to section 391(6) of the worker's

disability compensation act of 1969, 1969 PA 317, MCL 418.391.

(2) An insurance company claiming a credit under this section may claim a portion of the credit allowed under this section equal to the payments made during a calendar quarter pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, against the estimated tax payments made under section 681. Any credit in excess of an estimated payment shall be refunded to the insurance company on a quarterly basis within 60 calendar days after receipt of a properly completed estimated tax return. Any subsequent increase or decrease in the amount claimed for payments made by the insurance company shall be reflected in the amount of the credit taken for the calendar quarter in which the amount of the adjustment is finalized.

(3) The credit under this section is in addition to any other credits the insurance company is eligible for under this chapter.

(4) Any amount of the credit under this section that is in excess of the tax liability of the insurance company for the tax year shall be refunded, without interest, by the department to the insurance company within 60 calendar days of receipt of a properly completed annual return required under this part.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.643 Imposition of tax on insurance company; tax year; annual return; calculation of estimated payment; disclosure.

Sec. 643. (1) An insurance company is subject to the tax imposed by this chapter or by section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, if applicable, whichever is greater.

(2) The tax year of an insurance company is the calendar year.

(3) Notwithstanding section 685, an insurance company shall file the annual return required under this part before March 2 after the end of the tax year, and an automatic extension under section 685(3) is not available.

(4) For the purpose of calculating an estimated payment required by section 681, the greater of the amount of tax imposed on an insurance company under this chapter or under section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, shall be considered the insurance company's tax liability for the immediately preceding tax year.

(5) The requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, that prohibit an employee or authorized representative of, a former employee or authorized representative of, or anyone connected with the department from divulging any facts or information obtained in connection with the administration of a tax, do not apply to disclosure of a tax return required by this section.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

CHAPTER 13

206.651 Definitions.

Sec. 651. As used in this chapter:

(a) "Billing address" means the location indicated in the books and records of the financial institution on the first day of the tax year or on a later date in the tax year when the customer relationship began as the address where any notice, statement, or bill relating to a customer's account is mailed.

(b) "Borrower is located in this state" or "credit card holder is located in this state" means a borrower, other than a credit card holder, that is engaged in a trade or business which maintains its commercial domicile in this state, or a borrower that is not engaged in a trade or business or a credit card holder whose billing address is in this state.

(c) "Commercial domicile" means the headquarters of the trade or business, that is the place from which the trade or business is principally managed and directed, or if a financial institution is organized under the laws of a foreign country, of the Commonwealth of Puerto Rico, or any territory or possession of the United States, such financial institution's commercial domicile shall be deemed for the purposes of this chapter to be the state of the United States or the District of Columbia from which such financial institution's trade or business in the United States is principally managed and directed. It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of such employees are performed, as of the last day of the tax year.

(d) "Credit card" means a credit, travel, or entertainment card.

(e) "Credit card issuer's reimbursement fee" means the fee a financial institution receives from a merchant's bank because 1 of the persons to whom the financial institution has issued a credit card has charged merchandise or services to the credit card.

(f) "FFIEC" means the federal financial institutions examination council established pursuant to section 1004 of the financial institutions regulatory and interest rate control act of 1978, Public Law 95-630, 12 USC 3303.

(g) "Financial institution" means any of the following:

(*i*) A bank holding company, a national bank, a state chartered bank, a state chartered savings bank, a federally chartered savings association, or a federally chartered farm credit system institution.

(*ii*) Any entity, other than an entity subject to the tax imposed under chapter 12, who is directly or indirectly owned by an entity described in subparagraph (*i*) and is a member of the unitary business group.

(*iii*) A unitary business group of entities described in subparagraph (*i*) or (*ii*), or both.

(h) "Gross business" means the sum of the following less transactions between those entities included in a unitary business group:

(*i*) Fees, commissions, or other compensation for financial services.

(*ii*) Net gains, not less than zero, from the sale of loans and other intangibles.

(*iii*) Net gains, not less than zero, from trading in stocks, bonds, or other securities.

(*iv*) Interest charged to customers for carrying debit balances of margin accounts.

(*v*) Interest and dividends received.

(*vi*) Any other gross proceeds resulting from the operation as a financial institution.

(i) "Loan" means any extension of credit resulting from direct negotiations between the financial institution and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under section 595 of the internal revenue code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, non-interest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment conduit, or other mortgage-backed or asset-backed security, and other similar items.

(j) "Loan secured by real property" means that 50% or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(k) "Merchant discount" means the fee or negotiated discount charged to a merchant by the financial institution for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the credit card holder.

(*l*) "Michigan obligations" means a bond, note, or other obligation issued by a governmental unit described in section 3 of the shared credit rating act, 1985 PA 227, MCL 141.1053.

(m) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(n) "Principal base of operations", with respect to transportation property, means the place of more or less permanent nature from which said property is regularly directed or controlled. With respect to an employee, the principal base of operations means the place of more or less permanent nature from which the employee regularly does any of the following:

(*i*) Starts his or her work and to which he or she customarily returns in order to receive instructions from his or her employer.

(*ii*) Communicates with his or her customers or other persons.

(*iii*) Performs any other functions necessary to the exercise of his or her trade or profession at some other point or points.

(o) "Real property owned" and "tangible personal property owned" mean real and tangible personal property respectively on which the financial institution may claim depreciation for federal income tax purposes or to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal properties do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(p) "Regular place of business" means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of

business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than 1 regular place of business and 1 such regular place of business is in this state and 1 such regular place of business is outside this state, such asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, such policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.

(q) "Rolling stock" means railroad freight or passenger cars, locomotives, or other rail cars.

(r) "Syndication" means an extension of credit in which 2 or more persons finance the credit and each person is at risk only up to a specified percentage of the total extension of the credit or up to a specified dollar amount.

(s) "Top-tiered parent entity" means the highest level entity within the unitary business group that is required to file with a regulatory agency under the standards prescribed by the FFIEC.

(t) "Total equity capital" means that same amount reported by the financial institution or top-tiered parent entity, in the case of a unitary business group of financial institutions, and as reported for the tax year on any of the following forms or successor forms listed in this subdivision and designated by the FFIEC, that are filed with the office of the comptroller of the currency, the Federal Deposit Insurance Corporation, or the Federal Reserve System:

(*i*) The consolidated financial statement for holding companies, FR Y-9C.

(*ii*) The parent company only financial statements for small holding companies, FR Y-9SP.

(*iii*) To the extent that FR Y-9C or FR Y-9SP are not filed for the tax year, the consolidated reports of condition and income, call reports, FFIEC 031, 041, or 051.

(*iv*) A report similar in content and designated by the FFIEC.

(u) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, or trailers.

(v) "United States obligations" means all obligations of the United States exempt from taxation under 31 USC 3124(a) or exempt under the United States constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States constitution or any statute of the United States.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 171, Eff. Jan. 1, 2012;—Am. 2018, Act 460, Imd. Eff. Dec. 27, 2018.

Compiler's note: Enacting section 1 of Act 460 of 2018 provides:

"Enacting section 1. (1) This amendatory act is effective for tax years beginning after December 31, 2018.

"(2) The provisions of section 655 of the income tax act of 1967, 1967 PA 281, MCL 206.655, as amended by this amendatory act, are curative and intended to clarify existing law and accurately reflect the interpretation and application of those provisions in accordance with the notice to taxpayers dated November 21, 2016, regarding 5-year averaging calculation of net equity capital for financial institutions."

206.653 Franchise tax.

Sec. 653. (1) Every financial institution with substantial nexus in this state is subject to a franchise tax. The franchise tax is imposed upon the tax base of the financial institution as determined under section 655 after allocation or apportionment to this state, at the rate of 0.29%.

(2) For purposes of this section, a financial institution has substantial nexus in this state if the financial institution satisfies any of the following:

(a) Has a physical presence in this state for a period of more than 1 day during the tax year.

(b) Actively solicits sales in this state and has gross receipts of $350,000.00 or more sourced to this state. As used in this subdivision, "actively solicits" means that term as defined under section 621.

(c) Has an ownership interest or a beneficial interest in a flow-through entity, directly or indirectly through 1 or more other flow-through entities, that has substantial nexus in this state as provided under this section or section 621.

(3) The tax under this chapter is in lieu of the tax levied and imposed under chapter 11 of this part.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 183, Eff. Jan. 1, 2012.

206.655 Financial institution; tax base; total equity capital.

Sec. 655. (1) For a financial institution, the tax base is the total equity capital of the financial institution or the top-tiered parent entity in the case of a unitary business group of financial institutions, subject to the following deductions before allocation or apportionment:

(a) The average daily book value of United States obligations owned during the tax year by members of the unitary business group.

(b) The average daily book value of Michigan obligations owned during the tax year by members of the unitary business group.

(c) Subject to the limitation provided in this subdivision, the equity capital of a person that is subject to the tax imposed under chapter 12, not to exceed 125% of the minimum regulatory capitalization requirements of the member. For purposes of this subdivision, "equity capital" means equity capital as calculated in accordance with generally accepted accounting principles.

(2) For tax years beginning on or before December 31, 2020, the tax base shall be determined by adding the financial institution's equity capital as of the close of the current tax year and preceding 4 tax years and dividing the resulting sum by 5. If a financial institution has not been in existence for a period of 5 tax years, equity capital shall be determined by adding together the financial institution's equity capital for the number of tax years the financial institution has been in existence and dividing the resulting sum by the number of years the financial institution has been in existence. For tax years beginning after December 31, 2020, the tax base shall be determined as of the close of the tax year. For purposes of this section, a partial year shall be treated as a full year.

(3) For purposes of this section, each of the following applies:

(a) A change in identity, form, or place of organization of 1 financial institution shall be treated as if a single financial institution had been in existence for the entire tax year in which the change occurred and each tax year after the change.

(b) The combination of 2 or more financial institutions into 1 shall be treated as if the constituent financial institutions had been a single financial institution in existence for the entire tax year in which the combination occurred and each tax year after the combination, and the book values and adjustments for United States obligations and Michigan obligations of the constituent institutions shall be combined. A combination shall include any acquisition required to be accounted for by the surviving financial institution in accordance with generally accepted accounting principles or a statutory merger or consolidation.

(c) If a United States person included in a unitary business group of financial institutions or a financial institution combined return is subject to tax under chapter 11 or 12, any business income or equity capital attributable to that person shall be eliminated from the total equity capital of the unitary business group and any sales or gross business attributable to that person shall be eliminated from the apportionment formula under this chapter.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2018, Act 460, Imd. Eff. Dec. 27, 2018.

Compiler's note: Enacting section 1 of Act 460 of 2018 provides:

"Enacting section 1. (1) This amendatory act is effective for tax years beginning after December 31, 2018.

"(2) The provisions of section 655 of the income tax act of 1967, 1967 PA 281, MCL 206.655, as amended by this amendatory act, are curative and intended to clarify existing law and accurately reflect the interpretation and application of those provisions in accordance with the notice to taxpayers dated November 21, 2016, regarding 5-year averaging calculation of net equity capital for financial institutions."

206.657 Financial institution; business activities subject to tax within and outside of state; gross business factor.

Sec. 657. (1) Except as otherwise provided under this chapter, the tax base of a financial institution whose business activities are confined solely to this state shall be allocated to this state. The tax base of a financial institution whose business activities are subject to tax both within and outside of this state shall be apportioned to this state by multiplying the tax base by the gross business factor.

(2) A financial institution whose business activities are subject to tax both within and outside of this state is subject to tax in another state in either of the following circumstances:

(a) The financial institution is subject to a business privilege tax, 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 a tax of the type imposed under this part in that state.

(b) That state has jurisdiction to subject the financial institution to 1 or more of the taxes listed in subdivision (a) regardless of whether that state does or does not subject the financial institution to that tax.

(3) Except as otherwise provided in subsection (4), the gross business factor is a fraction, the numerator of which is the total gross business of the financial institution in this state during the tax year and the denominator of which is the total gross business of the financial institution everywhere during the tax year.

(4) Except as otherwise provided under this subsection, for a financial institution that is included in a unitary business group, gross business includes gross business in this state of every financial institution included in the unitary business group without regard to whether the financial institution has nexus in this state. Gross business between financial institutions included in a unitary business group must be eliminated in calculating the gross business factor.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.659 Financial institution; gross business in state; determination.

Sec. 659. Gross business in this state of the financial institution is determined as follows:

(a) Receipts from credit card receivables including without limitation interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to credit card holders such as annual fees are in this state if the billing address of the credit card holder is located in this state.

(b) Credit card issuer's reimbursement fees are in this state if the billing address of the credit card holder is located in this state.

(c) Receipts from merchant discounts are in this state if the commercial domicile of the merchant is in this state.

(d) Loan servicing fees are in this state under any of the following circumstances:

(*i*) For a loan secured by real property, if the real property for which the loan is secured is in this state.

(*ii*) For a loan secured by real property, if the real property for which the loan is secured is located both within and without this state and 1 or more other states and more than 50% of the fair market value of the real property is located in this state.

(*iii*) For a loan secured by real property, if more than 50% of the fair market value of the real property for which the loan is secured is not located within any 1 state but the borrower is located in this state.

(*iv*) For a loan not secured by real property, the borrower is located in this state.

(e) Receipts from services are in this state if the recipient of the services receives all of the benefit of the services in this state. If the recipient of the services receives some of the benefit of the services in this state, the receipts are included in the numerator of the apportionment factor in proportion to the extent that the recipient receives benefit of the services in this state.

(f) Receipts from investment assets and activities and trading assets and activities, including interest and dividends, are in this state if the financial institution's customer is in this state. If the location of the financial institution's customer cannot be determined, both of the following apply:

(*i*) Interest, dividends, and other income from investment assets and activities and from trading assets and activities, including, but not limited to, investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. Interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. The amount of receipts and other income from investment assets and activities is in this state if assets are assigned to a regular place of business of the taxpayer within this state.

(*ii*) The amount of receipts from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts otherwise sourced in this section, is in this state if the assets are assigned to a regular place of business of the taxpayer within this state.

(g) Interest charged to customers for carrying debit balances on margin accounts without deduction of any costs incurred in carrying the accounts is in this state if the customer is located in this state.

(h) Interest from loans secured by real property is in this state if the property is located in this state, if the property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located in this state, or if more than 50% of the fair market value of the real property is not located within any 1 state but the borrower is located in this state.

(i) Interest from loans not secured by real property is in this state if the borrower is located in this state.

(j) Net gains from the sale of loans secured by real property or mortgage service rights relating to real property are in this state if the property is in this state, if the property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located within this state, or if more than 50% of the fair market value of the real property is not located in any 1 state but the borrower is located in this state.

(k) Net gains from the sale of loans not secured by real property or any other intangible assets are in this state if the depositor or borrower is located in this state.

(*l*) Receipts from the lease of real property are in this state if the property is located in this state.

(m) Receipts from the lease of tangible personal property are in this state if the property is located in this state when it is first placed in service by the lessee.

(n) Receipts from the lease of transportation tangible personal property are in this state if the property is

used in this state or if the extent of use of the property within this state cannot be determined but the property has its principal base of operations within this state.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

CHAPTER 14

206.661 Tax base; apportionment; taxpayer subject to tax within state, within and outside state, or in another state.

Sec. 661. (1) Except as otherwise provided in this part, the tax base established under this part shall be apportioned in accordance with this chapter.

(2) The tax base of a taxpayer whose business activities are confined solely to this state shall be allocated to this state. The tax base of a taxpayer whose business activities are subject to tax both within and outside of this state shall be apportioned to this state by multiplying the tax base by the sales factor calculated under section 663. For a taxpayer that has a direct, or indirect through 1 or more other flow-through entities, ownership interest or beneficial interest in a flow-through entity, the taxpayer's business income that is directly attributable to the business activity of the flow-through entity shall be apportioned to this state using an apportionment factor determined under section 663 based on the business activity of the flow-through entity unless the flow-through entity is unitary with the taxpayer for apportionment purposes as provided under section 663.

(3) A taxpayer is subject to tax in another state in either of the following circumstances:

(a) The taxpayer is subject to a business privilege tax, 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.

(b) That state has jurisdiction to subject the taxpayer to 1 or more of the taxes listed in subdivision (a) regardless of whether that state does or does not subject the taxpayer to that tax.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 191, Eff. Jan. 1, 2012;—Am. 2011, Act 310, Eff. Jan. 1, 2012.

206.663 Sales factor.

Sec. 663. (1) Except as otherwise provided in subsection (2) and section 669, the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax year and the denominator of which is the total sales of the taxpayer everywhere during the tax year. The numerator of a taxpayer shall include its proportionate share of the total sales in this state of a flow-through entity that is unitary with the taxpayer. The denominator of a taxpayer shall include its proportionate share of the total sales everywhere of a flow-through entity that is unitary with the taxpayer. A flow-through entity is unitary with a taxpayer when that taxpayer owns or controls, directly or indirectly, more than 50% of the ownership interests with voting rights or ownership interests that confer comparable rights to voting rights of the flow-through entity, and that has business activities or operations which result in a flow of value between the taxpayer and the flow-through entity, or between the flow-through entity and another flow-through entity unitary with the taxpayer, or has business activities or operations that are integrated with, are dependent upon, or contribute to each other.

(2) Except as otherwise provided under this subsection, for a taxpayer that is a unitary business group, sales include sales in this state of every person included in the unitary business group without regard to whether the person has nexus in this state. Sales between persons included in a unitary business group must be eliminated in calculating the sales factor. Sales between a taxpayer and a flow-through entity unitary with that taxpayer shall, to the extent of the taxpayer's interest in the flow-through entity, be eliminated in calculating the sales factor. Sales between a flow-through entity unitary with a taxpayer and another flow-through entity unitary with that same taxpayer shall, to the extent of the taxpayer's interest in the selling flow-through entity, be eliminated in calculating the sales factor.

(3) It is the intent of the legislature that the tax base of a taxpayer is apportioned to this state by multiplying the tax base by the sales factor multiplied by 100% and that apportionment shall not be based on property, payroll, or any other factor notwithstanding section 1 of 1969 PA 343, MCL 205.581.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 308, Eff. Jan. 1, 2012;—Am. 2014, Act 15, Imd. Eff. Feb. 25, 2014.

Compiler's note: Enacting section 1 of Act 15 of 2014 provides:
"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

206.665 Sales; determination; receipts; definitions; borrower located in this state.

Sec. 665. (1) Sales of the taxpayer in this state are determined as follows:

(a) Sales of tangible personal property are in this state if the property is shipped or delivered, or, in the case of electricity and gas, the contract requires the property to be shipped or delivered, to any purchaser within

this state based on the ultimate destination at the point that the property comes to rest regardless of the free on board point or other conditions of the sales. Property stored in transit for 60 days or more prior to receipt by the purchaser or the purchaser's designee, or in the case of a dock sale not picked up for 60 days or more, shall be deemed to have come to rest at this ultimate destination. Property stored in transit for fewer than 60 days prior to receipt by the purchaser or the purchaser's designee, or in the case of a dock sale picked up before 60 days, is not deemed to have come to rest at this ultimate destination. For purposes of this subdivision:

(*i*) "Dock sale" means a sale in which the purchaser uses its own or rented vehicles, or makes arrangements with a carrier, to pick up the property at the seller's location.

(*ii*) "Stored in transit" means storing, staging, forwarding, or consolidating activities undertaken for further shipment or transfer of the property to the purchaser or purchaser's designee.

(b) Receipts from the sale, lease, rental, or licensing of real property are in this state if that property is located in this state.

(c) Receipts from the lease or rental of tangible personal property are sales in this state to the extent that the property is utilized in this state. The extent of utilization of tangible personal property in this state is determined by multiplying the receipts by a fraction, the numerator of which is the number of days of physical location of the property in this state during the lease or rental period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all lease or rental periods in the tax year. If the physical location of the property during the lease or rental period is unknown or cannot be determined, the tangible personal property is utilized in the state in which the property was located at the time the lease or rental payer obtained possession.

(d) Receipts from the lease or rental of mobile transportation property owned by the taxpayer are in this state to the extent that the property is used in this state. The extent to which an aircraft will be deemed to be used in this state and the amount of receipts that is to be included in the numerator of this state's sales factor are determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the receipts are in this state if the property has its principal base of operations in this state.

(e) Royalties and other income received for the use of or for the privilege of using intangible property, including patents, know-how, formulas, designs, processes, patterns, copyrights, trade names, service names, franchises, licenses, contracts, customer lists, custom computer software, or similar items, are attributed to the state in which the property is used by the purchaser. If the property is used in more than 1 state, the royalties or other income shall be apportioned to this state pro rata according to the portion of use in this state. If the portion of use in this state cannot be determined, the royalties or other income shall be excluded from both the numerator and the denominator. Intangible property is used in this state if the purchaser uses the intangible property or the rights to the intangible property in the regular course of its business operations in this state, regardless of the location of the purchaser's customers.

(2) Sales from the performance of services are in this state and attributable to this state as follows:

(a) Except as otherwise provided in this section, all receipts from the performance of services are included in the numerator of the apportionment factor if the recipient of the services receives all of the benefit of the services in this state. If the recipient of the services receives some of the benefit of the services in this state, the receipts are included in the numerator of the apportionment factor in proportion to the extent that the recipient receives benefit of the services in this state.

(b) Sales derived from securities brokerage services attributable to this state are determined by multiplying the total dollar amount of receipts from securities brokerage services by a fraction, the numerator of which is the sales of securities brokerage services to customers within this state, and the denominator of which is the sales of securities brokerage services to all customers. Receipts from securities brokerage services include commissions on transactions, the spread earned on principal transactions in which the broker buys or sells from its account, total margin interest paid on behalf of brokerage accounts owned by the broker's customers, and fees and receipts of all kinds from the underwriting of securities. If receipts from brokerage services can be associated with a particular customer, but it is impractical to associate the receipts with the address of the customer, then the address of the customer shall be presumed to be the address of the branch office that generates the transactions for the customer.

(c) Sales of services that are derived directly or indirectly from the sale of management, distribution, administration, or securities brokerage services to, or on behalf of, a regulated investment company or its beneficial owners, including receipts derived directly or indirectly from trustees, sponsors, or participants of employee benefit plans that have accounts in a regulated investment company, shall be attributable to this state to the extent that the shareholders of the regulated investment company are domiciled within this state.

For purposes of this subdivision, "domicile" means the shareholder's mailing address on the records of the regulated investment company. If the regulated investment company or the person providing management services to the regulated investment company has actual knowledge that the shareholder's primary residence or principal place of business is different than the shareholder's mailing address, then the shareholder's primary residence or principal place of business is the shareholder's domicile. A separate computation shall be made with respect to the receipts derived from each regulated investment company. The total amount of sales attributable to this state shall be equal to the total receipts received by each regulated investment company multiplied by a fraction determined as follows:

(*i*) The numerator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by the regulated investment company shareholders who have their domicile in this state.

(*ii*) The denominator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by all shareholders.

(*iii*) For purposes of the fraction, the year shall be the tax year of the regulated investment company that ends with or within the tax year of the taxpayer.

(3) Receipts from the origination of a loan or gains from the sale of a loan secured by residential real property are deemed a sale in this state only if 1 or more of the following apply:

(a) The real property is located in this state.

(b) The real property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located within this state.

(c) More than 50% of the real property is not located in any 1 state and the borrower is located in this state.

(4) Interest from loans secured by real property is in this state if the property is located within this state, if the property is located both within this state and 1 or more other states and if more than 50% of the fair market value of the real property is located within this state, or if more than 50% of the fair market value of the real property is not located within any 1 state but the borrower is located in this state. The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.

(5) Interest from a loan not secured by real property is in this state if the borrower is located in this state.

(6) Gains from the sale of a loan not secured by real property, including income recorded under the coupon stripping rules of section 1286 of the internal revenue code, are in this state if the borrower is in this state.

(7) Receipts from credit card receivables, including interest, fees, and penalties from credit card receivables and receipts from fees charged to cardholders, such as annual fees, are in this state if the billing address of the cardholder is in this state.

(8) Receipts from the sale of credit card or other receivables are in this state if the billing address of the customer is in this state. Credit card issuer's reimbursements fees are in this state if the billing address of the cardholder is in this state. Receipts from merchant discounts, computed net of any cardholder chargebacks, but not reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its cardholders, are in this state if the commercial domicile of the merchant is in this state.

(9) Loan servicing fees derived from loans of another secured by real property are in this state if the real property is located in this state, if the real property is located both within and outside of this state and 1 or more states if more than 50% of the fair market value of the real property is located in this state, or if more than 50% of the fair market value of the real property is not located in any 1 state but the borrower is located in this state. Loan servicing fees derived from loans of another not secured by real property are in this state if the borrower is located in this state. If the location of the security cannot be determined, then loan servicing fees for servicing either the secured or the unsecured loans of another are in this state if the lender to whom the loan servicing service is provided is located in this state.

(10) Receipts from the sale of securities and other assets from investment and trading activities, including, but not limited to, interest, dividends, and gains are in this state in either of the following circumstances:

(a) The person's customer is in this state.

(b) If the location of the person's customer cannot be determined, both of the following apply:

(*i*) Interest, dividends, and other income from investment assets and activities and from trading assets and activities, including, but not limited to, investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. Interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements is in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. The amount of receipts and other income from investment

assets and activities is in this state if assets are assigned to a regular place of business of the taxpayer within this state.

(*ii*) The amount of receipts from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts otherwise sourced in this section, is in this state if the assets are assigned to a regular place of business of the taxpayer within this state.

(11) Receipts from transportation services rendered by a person subject to tax in another state are in this state and shall be attributable to this state as follows:

(a) Except as otherwise provided in subdivisions (b) through (e), receipts shall be proportioned based on the ratio of revenue miles of the person in this state to the revenue miles of the person everywhere.

(b) Receipts from maritime transportation services shall be attributable to this state as follows:

(*i*) 50% of those receipts that either originate or terminate in this state.

(*ii*) 100% of those receipts that both originate and terminate in this state.

(c) Receipts attributable to this state of a person whose business activity consists of the transportation both of property and of individuals shall be proportioned based on the total receipts for passenger miles and ton mile fractions, separately computed and individually weighted by the ratio of receipts from passenger transportation to total receipts from all transportation, and by the ratio of receipts from freight transportation to total receipts from all transportation, respectively.

(d) Receipts attributable to this state of a person whose business activity consists of the transportation of oil by pipeline shall be proportioned based on the ratio of the receipts for the barrel miles transported in this state to the receipts for the barrel miles transported by the person everywhere.

(e) Receipts attributable to this state of a person whose business activities consist of the transportation of gas by pipeline shall be proportioned based on the ratio of the receipts for the 1,000 cubic feet miles transported in this state to the receipts for the 1,000 cubic feet miles transported by the person everywhere.

(12) For purposes of subsection (11), if a taxpayer can show that revenue mile information is not available or cannot be obtained without unreasonable expense to the taxpayer, receipts attributable to this state shall be that portion of the revenue derived from transportation services performed everywhere that the miles of transportation services performed in this state bear to the miles of transportation services performed everywhere. If the department determines that the information required for the calculations under subsection (11) are not available or cannot be obtained without unreasonable expense to the taxpayer, the department may use other available information that in the opinion of the department will result in an equitable allocation of the taxpayer's receipts to this state.

(13) Except as provided in subsections (14) through (19), receipts from the sale of telecommunications service or mobile telecommunications service are in this state if the customer's place of primary use of the service is in this state. As used in this subsection, "place of primary use" means the customer's residential street address or primary business street address where the customer's use of the telecommunications service primarily occurs. For mobile telecommunications service, the customer's residential street address or primary business street address is the place of primary use only if it is within the licensed service area of the customer's home service provider.

(14) Receipts from the sale of telecommunications service sold on an individual call-by-call basis are in this state if either of the following applies:

(a) The call both originates and terminates in this state.

(b) The call either originates or terminates in this state and the service address is located in this state.

(15) Receipts from the sale of postpaid telecommunications service are in this state if the origination point of the telecommunication signal, as first identified by the service provider's telecommunication system or as identified by information received by the seller from its service provider if the system used to transport telecommunication signals is not the seller's, is located in this state.

(16) Receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service are in this state if the purchaser obtains the prepaid card or similar means of conveyance at a location in this state. Receipts from recharging a prepaid telecommunications service or mobile telecommunications service are in this state if the purchaser's billing information indicates a location in this state.

(17) Receipts from the sale of private communication services are in this state as follows:

(a) 100% of the receipts from the sale of each channel termination point within this state.

(b) 100% of the receipts from the sale of the total channel mileage between each termination point within this state.

(c) 50% of the receipts from the sale of service segments for a channel between 2 customer channel termination points, 1 of which is located in this state and the other is located outside of this state, which segments are separately charged.

(d) The receipts from the sale of service for segments with a channel termination point located in this state and in 2 or more other states or equivalent jurisdictions, and which segments are not separately billed, are in this state based on a percentage determined by dividing the number of customer channel termination points in this state by the total number of customer channel termination points.

(18) Receipts from the sale of billing services and ancillary services for telecommunications service are in this state based on the location of the purchaser's customers. If the location of the purchaser's customers is not known or cannot be determined, the sale of billing services and ancillary services for telecommunications service is in this state based on the location of the purchaser.

(19) Receipts to access a carrier's network or from the sale of telecommunications services for resale are in this state as follows:

(a) 100% of the receipts from access fees attributable to intrastate telecommunications service that both originates and terminates in this state.

(b) 50% of the receipts from access fees attributable to interstate telecommunications service if the interstate call either originates or terminates in this state.

(c) 100% of the receipts from interstate end user access line charges, if the customer's service address is in this state. As used in this subdivision, "interstate end user access line charges" includes, but is not limited to, the surcharge approved by the federal communications commission and levied pursuant to 47 CFR 69.

(d) Gross receipts from sales of telecommunications services to other telecommunication service providers for resale shall be sourced to this state using the apportionment concepts used for non-resale receipts of telecommunications services if the information is readily available to make that determination. If the information is not readily available, then the taxpayer may use any other reasonable and consistent method.

(20) Except as otherwise provided under this subsection, for a taxpayer whose business activities include live radio or television programming as described in subsector code 7922 of industry group 792 under the standard industrial classification code as compiled by the United States department of labor or are included in industry groups 483, 484, 781, or 782 under the standard industrial classification code as compiled by the United States department of labor, or any combination of the business activities included in those groups, media receipts are in this state and attributable to this state only if the commercial domicile of the customer is in this state and the customer has a direct connection or relationship with the taxpayer pursuant to a contract under which the media receipts are derived. For media receipts from the sale of advertising, if the customer of that advertising is commercially domiciled in this state and receives some of the benefit of the sale of that advertising in this state, the media receipts from the advertising to that customer are included in the numerator of the apportionment factor in proportion to the extent that the customer receives the benefit of the advertising in this state. For purposes of this subsection, if the taxpayer is a broadcaster and if the customer receives some of the benefit of the advertising in this state, the media receipts for that sale of advertising from that customer shall be proportioned based on the ratio that the broadcaster's viewing or listening audience in this state bears to its total viewing or listening audience everywhere. As used in this subsection:

(a) "Media property" means motion pictures, television programs, internet programs and websites, other audiovisual works, and any other similar property embodying words, ideas, concepts, images, or sound without regard to the means or methods of distribution or the medium in which the property is embodied.

(b) "Media receipts" means receipts from the sale, license, broadcast, transmission, distribution, exhibition, or other use of media property and receipts from the sale of media services. Media receipts do not include receipts from the sale of media property that is a consumer product that is ultimately sold at retail.

(c) "Media services" means services in which the use of the media property is integral to the performance of those services.

(21) Terms used in subsections (13) through (20) have the same meaning as those terms defined in the streamlined sales and use tax agreement administered under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833.

(22) For purposes of this section, a borrower is considered located in this state if the borrower's billing address is in this state.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2014, Act 13, Imd. Eff. Feb. 25, 2014.

Compiler's note: Enacting section 1 of Act 13 of 2014 provides:
"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

206.667 Alternative to apportionment provisions of part; rebuttable presumption; filing of return.

Sec. 667. (1) If the 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 state treasurer may require the following, with respect to all or a portion of the taxpayer's business activity, if reasonable:

(a) Separate accounting.

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

(c) The use of any other method to effectuate an equitable allocation and apportionment of the taxpayer's tax base.

(2) An alternate method may be used only if it is approved by the department.

(3) The apportionment provisions of this part shall be rebuttably presumed to fairly represent the business activity attributed to the taxpayer in this state, taken as a whole and without a separate examination of the specific elements of the tax base unless it can be demonstrated that the business activity attributed to the taxpayer in this state is out of all appropriate proportion to the actual business activity transacted in this state and leads to a grossly distorted result or would operate unconstitutionally to tax the extraterritorial activity of the taxpayer.

(4) The filing of a return or an amended return is not considered a petition for the purposes of subsection (1).

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 189, Eff. Jan. 1, 2012.

206.669 Receipts; sourcing.

Sec. 669. All other receipts not otherwise sourced under this part shall be sourced based on where the benefit to the customer is received or, if where the benefit to the customer is received cannot be determined, to the customer's billing address.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

CHAPTER 15

206.671 Tax credit; requirements; determination of disqualification; reduction percentage; compensation paid by professional employer organization to officers of client and employees of professional employer; unitary business group; definitions.

Sec. 671. (1) The credit provided in this section shall be taken before any other credit under this part and is available to any taxpayer, other than those taxpayers subject to the tax imposed under chapter 12 or 13, with gross receipts that do not exceed $20,000,000.00 and with adjusted business income minus the loss adjustment that does not exceed $1,300,000.00 as adjusted annually for inflation using the Detroit consumer price index, and subject to the following:

(a) A corporation or unitary business group is disqualified if either of the following occurs for the respective tax year:

(*i*) Compensation and directors' fees of a shareholder or officer exceed $180,000.00.

(*ii*) The sum of the following amounts exceeds $180,000.00:

(A) Compensation and directors' fees of a shareholder.

(B) The product of the percentage of outstanding ownership or of outstanding stock owned by that shareholder multiplied by the difference between the following:

(I) The sum of business income and, to the extent deducted in determining federal taxable income, a carryback or a carryover of a net operating loss or capital loss.

(II) The loss adjustment.

(b) Subject to the reduction percentage determined under subsection (3), the credit determined under this subsection shall be reduced by the following percentages in the following circumstances:

(*i*) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(*ii*)(A) and (B) is, more than $160,000.00 but less than $165,000.00, the credit is reduced by 20%.

(*ii*) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(*ii*)(A) and (B) is, $165,000.00 or more but less than $170,000.00, the credit is reduced by 40%.

(*iii*) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(*ii*)(A) and (B) is, $170,000.00 or more but less than $175,000.00, the credit is reduced by 60%.

(*iv*) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(*ii*)(A) and (B) is, $175,000.00 or more but not in excess of $180,000.00, the credit is reduced by 80%.

(2) For the purposes of determining disqualification under subsection (1), both of the following apply:

(a) An active shareholder's share of business income shall not be attributed to another active shareholder.

(b) If the taxpayer is a unitary business group, the amount of all items paid or allocable by all persons included in the unitary business group to any 1 individual who is a shareholder or officer of a single person included in the unitary business group shall be combined.

(3) The reduction percentage is the greater of the following:

(a) The reduction percentage based on the compensation and directors' fees of the shareholder or officer with the greatest amount of compensation and directors' fees.

(b) The reduction percentage based on the sum of the amounts in subsection (1)(a)(*ii*)(A) and (B) for the shareholder or officer with the greatest sum of the amounts in subsection (1)(a)(*ii*)(A) and (B).

(4) A taxpayer that qualifies under subsection (1) is allowed a credit against the tax imposed under this part. The credit under this subsection is the amount by which the tax imposed under this part exceeds 1.8% of adjusted business income.

(5) If gross receipts exceed $19,000,000.00, the credit shall be reduced by a fraction, the numerator of which is the amount of gross receipts over $19,000,000.00 and the denominator of which is $1,000,000.00. The credit shall not exceed 100% of the tax liability imposed under this part.

(6) For a taxpayer that reports for a tax year less than 12 months, the amounts specified in this section for gross receipts, adjusted business income, and share of business income shall be multiplied by a fraction, the numerator of which is the number of months in the tax year and the denominator of which is 12.

(7) Compensation paid by a professional employer organization to the officers of the client and to employees of the professional employer organization who are assigned or leased to and perform services for the client shall be included in determining eligibility of the client under this section.

(8) A disqualifier or reduction under subsection (1) applies to a taxpayer that is a unitary business group if a disqualifier or reduction applies to any member of a unitary business group.

(9) As used in this section:

(a) "Active shareholder" means a shareholder who receives at least $10,000.00 in compensation, directors' fees, or dividends from the business, and who owns at least 5% of the outstanding stock or other ownership interest.

(b) "Adjusted business income" means business income as defined in section 603 with all of the following adjustments:

(*i*) Add compensation and directors' fees of active shareholders of a corporation.

(*ii*) Add, to the extent deducted in determining federal taxable income, a carryback or carryover of a net operating loss.

(*iii*) Add, to the extent deducted in determining federal taxable income, a carryback or carryover capital loss.

(*iv*) Add compensation and directors' fees of officers of a corporation.

(c) "Client" means an entity whose employment operations are managed by a professional employer organization.

(d) "Compensation" means all wages, salaries, fees, bonuses, commissions, and other payments made in the tax year on behalf of or for the benefit of employees, officers, or directors of the taxpayers. Compensation includes, but is not limited to, payments that are subject to or specifically exempt or excepted from withholding under sections 3401 to 3406 of the internal revenue code. Compensation also includes, on a cash or accrual basis consistent with the taxpayer's method of accounting for federal income tax purposes, payments to a pension, retirement, or profit sharing plan other than those payments attributable to unfunded accrued actuarial liabilities, and payments for insurance for which employees are the beneficiaries, including payments under health and welfare and noninsured benefit plans and payment of fees for the administration of health and welfare and noninsured benefit plans. Compensation does not include any of the following:

(*i*) Discounts on the price of the taxpayer's merchandise or services sold to the taxpayer's employees, officers, or directors that are not available to other customers.

(*ii*) Except as otherwise provided in this subdivision, payments to an independent contractor.

(*iii*) Payments to state and federal unemployment compensation funds.

(*iv*) The employer's portion of payments under the federal insurance contributions act, chapter 21 of subtitle C of the internal revenue code, 26 USC 3101 to 3128, the railroad retirement tax act, chapter 22 of subtitle C of the internal revenue code, 26 USC 3201 to 3233, and similar social insurance programs.

(*v*) Payments, including self-insurance payments, for worker's compensation insurance or federal employers' liability act insurance pursuant to 45 USC 51 to 60.

(e) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.

(f) "Loss adjustment" means the amount by which adjusted business income was less than zero in any of the 5 tax years immediately preceding the tax year for which eligibility for the credit under this section is

being determined. In determining the loss adjustment for a tax year, a corporation is not required to use more of the taxpayer's total negative adjusted business income than the amount needed to qualify the corporation for the credit under this section. A corporation shall not be considered to have used any portion of the taxpayer's negative adjusted business income amount unless the portion used is necessary to qualify for the credit under this section. A corporation shall not reuse a negative adjusted business income amount used as a loss adjustment in a previous tax year or use a negative adjusted business income amount from a year in which the corporation did not receive the credit under this section.

(g) "Officer" means an officer of a corporation including all of the following:

(*i*) The chairperson of the board.

(*ii*) The president, vice president, secretary, or treasurer of the corporation or board.

(*iii*) Persons performing similar duties and responsibilities to persons described in subparagraphs (*i*) and (*ii*), that include, at a minimum, major decision making.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 185, Eff. Jan. 1, 2012;—Am. 2011, Act 313, Eff. Jan. 1, 2012;—Am. 2014, Act 13, Imd. Eff. Feb. 25, 2014.

Compiler's note: Enacting section 1 of Act 13 of 2014 provides:
"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

206.673 Tax credit under former 1975 PA 228, or 2007 PA 36, MCL 208.1101 to 208.1601, or MCL 208.1403; effect of failure to comply with terms of agreement or movement, sale, transfer, or disposal of property.

Sec. 673. (1) A taxpayer that has claimed a credit under former 1975 PA 228 or under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, that included a provision that allowed for a reduction in the credit amount, a termination of the credit, or a percentage of the credit amount previously claimed added back to the tax liability of that taxpayer under that act if the taxpayer failed to comply with any terms of the agreement or other conditions of that credit or if the taxpayer sells or otherwise moves the property for which a credit was claimed fewer than 5 years after the year in which the credit was originally claimed under former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, shall have a percentage, or the entire amount, of the credit amount previously claimed under former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, added back to the taxpayer's tax liability under this act in the year that the taxpayer failed to satisfy or breached the conditions of that credit set forth under former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(2) A taxpayer that has claimed a credit under section 35a of former 1975 PA 228 or under section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, for a tangible asset that the taxpayer has sold, transferred out of this state, or otherwise disposed of during the current tax year shall have an amount equal to the sum of the amounts calculated under subdivisions (a), (b), and (c) added back to the taxpayer's liability under this act for that same tax year:

(a) Calculate the gross proceeds or benefit derived from the sale or other disposition of tangible assets, other than mobile tangible assets, minus the gain, multiplied by the apportionment factor for the taxable year as prescribed in chapter 14, and plus the loss, multiplied by the apportionment factor for the taxable year as prescribed in chapter 14 from the sale or other disposition reflected in federal taxable income. This amount shall be multiplied by the rate at which the credit was used and to the extent the credit was used under either former 1975 PA 228 or section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, as applicable.

(b) Calculate the gross proceeds or benefit derived from the sale or other disposition of mobile tangible assets minus the gain and plus the loss from the sale or other disposition reflected in federal taxable income. This amount shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 14. The resulting amount shall then be multiplied by the rate at which the credit was used and to the extent the credit was used under either former 1975 PA 228 or section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, as applicable.

(c) Calculate the federal basis used for determining gain or loss as of the date of the transfer of tangible assets, other than mobile tangible assets, from this state. This amount shall be multiplied by the rate at which the credit was used and to the extent the credit was used under either former 1975 PA 228 or section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, as applicable. For purposes of this subdivision, transfer means removal from this state of tangible assets, other than mobile tangible assets, by means other than sale or other disposition.

History: Add. 2011, Act 181, Eff. Jan. 1, 2012;—Am. 2014, Act 16, Imd. Eff. Feb. 25, 2014.

Compiler's note: Enacting section 1 of Act 16 of 2014 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years beginning after December 31, 2011."

***** *206.675 THIS SECTION IS AMENDED EFFECTIVE APRIL 2, 2025: See 206.675.amended* *****

206.675 Flow-through entity members; tax credit for tax paid by the flow-through entity; refundable.

Sec. 675. (1) Except as otherwise provided under this section, for tax years beginning on and after January 1, 2021, a taxpayer who is either a member of a flow-through entity that elects to file a return and pay the tax imposed under part 4 or a direct or indirect member of another flow-through entity that elects to file a return and pay the tax imposed under part 4 may claim a credit against the tax imposed under this part in an amount equal to the member's allocated share of the tax as reported to the member by the flow-through entity pursuant to section 839(1)(d) for the tax year ending on or within the taxpayer's same tax year.

(2) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

(3) For tax years ending in 2021 only, if the taxpayer claims a credit under this section and the annual return filed under this part on which the credit under this section is claimed results in a refund, any portion of that refund that is attributable to the credit claimed under this section is not subject to added interest under section 30(3) of 1941 PA 122, MCL 205.30.

History: Add. 2021, Act 135, Imd. Eff. Dec. 21, 2021.

Compiler's note: Enacting section 1 of Act 135 of 2021 provides:

"Enacting section 1. This amendatory act is retroactive and intended to apply retroactively effective for tax years beginning on and after January 1, 2021."

***** *206.675.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 2, 2025* *****

206.675.amended Flow-through entity members; tax credit for tax paid by the flow-through entity; refundable; reasonable proof.

Sec. 675. (1) Except as otherwise provided under this section, for tax years beginning on and after January 1, 2021, a taxpayer who is either a member of a flow-through entity that elects to file a return and pay the tax imposed under part 4 or a direct or indirect member of another flow-through entity that elects to file a return and pay the tax imposed under part 4 may claim a credit against the tax imposed under this part in an amount equal to the member's allocated share of the tax as reported to the member by the flow-through entity pursuant to section 839(1)(d) for the tax year ending on or within the taxpayer's same tax year.

(2) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

(3) For tax years ending in 2021 only, if the taxpayer claims a credit under this section and the annual return filed under this part on which the credit under this section is claimed results in a refund, any portion of that refund that is attributable to the credit claimed under this section is not subject to added interest under section 30(3) of 1941 PA 122, MCL 205.30.

(4) The department may require reasonable proof from the taxpayer related to the allocated share of the tax claimed for a credit under this section, the direct or indirect flow-through entities required to report under section 839(1)(d), or any other information required by the department for the administration of this section.

History: Add. 2021, Act 135, Imd. Eff. Dec. 21, 2021;—Am. 2024, Act 216, Eff. Apr. 2, 2025.

Compiler's note: Enacting section 1 of Act 135 of 2021 provides:

"Enacting section 1. This amendatory act is retroactive and intended to apply retroactively effective for tax years beginning on and after January 1, 2021."

206.676 Rehabilitation of historic resource; tax credit; plan; certification; revocation of certificate or sale of historic resource; rules; report; definitions.

Sec. 676. (1) Subject to the limitations under this section, a qualified taxpayer with a certificate of completed rehabilitation issued pursuant to subsection (4) after December 31, 2020 and before January 1, 2031 may credit against the tax imposed by this part the amount determined pursuant to subsection (2) for the qualified expenditures for the rehabilitation of a historic resource pursuant to the rehabilitation plan in the year in which the certificate of completed rehabilitation of the historic resource is issued. The qualified taxpayer shall initially claim a credit under this section within 5 years after the certificate of completed rehabilitation is issued pursuant to subsection (4). If the credit is not initially claimed within 5 years after the certificate is issued, the certificate is no longer valid and the qualified taxpayer is no longer eligible to claim a credit under this section for that rehabilitation plan. Only those expenditures that are paid or incurred during the time periods prescribed for the credit under section 47(a)(2) of the internal revenue code and any related

treasury regulations shall be considered qualified expenditures.

(2) Subject to the limitations under this section, a qualified taxpayer that has claimed and received a credit for qualified expenditures under section 47(a)(2) of the internal revenue code or has entered into an agreement under subsection (10) may claim a credit under this section equal to 25% of the qualified expenditures that are eligible, or would have been eligible except that the qualified taxpayer entered into an agreement under subsection (10), for the credit under section 47(a)(2) of the internal revenue code or, if the qualified taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, 25% of the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code.

(3) To be eligible for the credit under this section, a person shall submit an application and a rehabilitation plan to the state historic preservation office. Completed applications must be considered in the order in which the office received the completed applications and approved or denied within 120 days of receipt of the completed applications. If the office determines that the application is complete and the rehabilitation plan meets the criteria for a credit under this section, the office shall issue a preapproval letter to the applicant that states that the rehabilitation plan qualifies for the credit under this section and the maximum total amount of the credit reserved for which a credit may be claimed when the project is complete and a certificate of completed rehabilitation is issued for qualified expenditures pursuant to that rehabilitation plan. If an application is denied under this subsection, the applicant may file an appeal in a form and manner as prescribed by the office or subsequently reapply for the same rehabilitation plan or for another rehabilitation plan, or both. Subject to the limitations under this section, the total of all credits reserved under preapproval letters for rehabilitation plans approved under this section and section 266a shall not exceed $5,000,000.00 per calendar year. To the extent the office receives applications for the rehabilitation of small nonresidential historic resources for credits in excess of $2,000,000.00, not less than $2,000,000.00 of the $5,000,000.00 each calendar year shall be approved for small nonresidential historic resources. To the extent the office receives applications for the rehabilitation of large nonresidential historic resources for credits in excess of $2,000,000.00, not less than $2,000,000.00 of the $5,000,000.00 each calendar year shall be approved for large nonresidential historic resources. To the extent the office receives applications for the rehabilitation of residential historic resources for credits in excess of $1,000,000.00, not less than $1,000,000.00 of the $5,000,000.00 each calendar year shall be approved for residential historic resources. The office shall not issue a preapproval letter or certificate of completed rehabilitation that authorizes a qualified taxpayer to claim a credit of more than $2,000,000.00 in a single tax year for the same historic resource. If, for any calendar year, the office issues preapproval letters and reserves the maximum amount of tax credits allowed under this section for that calendar year, the office shall notify all applicants who have submitted completed applications and rehabilitation plans then awaiting approval or submitted for approval after the calculation is made that no additional preapproval letters for rehabilitation plans will be issued during that calendar year. The office shall also notify those applicants of the priority number given to the owner's application and rehabilitation plan awaiting approval. The applications and plans will remain in priority status for 2 years from the date of the original application and plan and will be considered for approval and reservation of tax credits in the priority order established in this subsection in the event that additional credits become available resulting from the rescission of approvals under this subsection or subsection (5) and at the beginning of the next calendar year. An applicant that has received a preapproval letter shall commence rehabilitation, if it has not previously begun, within 1 year after the issuance of the preapproval letter and complete the rehabilitation plan within 8 years after the issuance of the preapproval letter or the office will rescind the preapproval letter and reallocate the amount of the credit reserved for that rehabilitation plan. Upon completion of a rehabilitation plan for which a preapproval letter was issued, the applicant shall submit to the office documentation that the rehabilitation is complete and the completed rehabilitation of the historic resource meets the criteria under subsection (6) and either of the following:

(a) All of the following criteria:

(*i*) The historic resource contributes to the significance of the historic district in which it is located or is individually listed on the National Register of Historic Places or state register of historic sites.

(*ii*) Both the rehabilitation plan and completed rehabilitation of the historic resource meet the federal Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR part 67.

(*iii*) All rehabilitation work has been done to or within the walls, boundaries, or structures of the historic resource or to historic resources located within the property boundaries of the property.

(b) The applicant has received certification from the National Park Service that the historic resource's significance, the rehabilitation plan, and the completed rehabilitation qualify for the credit allowed under

section 47(a)(2) of the internal revenue code.

(4) The office shall verify that the rehabilitation is complete and meets the criteria under subsection (3). However, if the applicant is eligible for the credit allowed under section 47(a)(2) of the internal revenue code, additional documentation that the rehabilitation is complete for the credit allowed under this section is not required. Within 120 days after receiving verification, in a form and manner as prescribed by the office, that the rehabilitation is complete and meets the requirements of subsection (3), the office shall issue a certificate of completed rehabilitation to the applicant that states the rehabilitation plan submitted by the applicant has been completed, the amount of qualified expenditures, and the total amount of the credit allowed to be claimed by a qualified taxpayer under this section. If the amount of qualified expenditures incurred exceeds the amount of the tax credits reserved by the preapproval letter issued under subsection (3), the applicant may submit a request to the office, in a form and manner as prescribed by the office, for the issuance and approval of a certificate of completed rehabilitation in excess of the amount initially authorized in the preapproval letter. If the office determines that less than $5,000,000.00 has been reserved under preapproval letters issued for the calendar year, after priority has been given to those notified under subsection (3), then the office may issue a certificate of completed rehabilitation in excess of the amount included in the preapproval letter.

(5) The office may inspect a historic resource at any time during the rehabilitation process and may revoke the preapproval letter or the certificate of completed rehabilitation if the rehabilitation was not undertaken as represented in the rehabilitation plan or if unapproved alterations to the completed rehabilitation are made within 5 years after the tax year in which the certificate of completed rehabilitation was issued. The office shall promptly notify the department of a revocation.

(6) Qualified expenditures for the rehabilitation of a historic resource may be used to calculate the credit under this section if the historic resource is 1 of the following during the tax year in which a credit under this section is claimed for those qualified expenditures:

(a) Individually listed on the National Register of Historic Places or state register of historic sites.

(b) A contributing resource located within a historic district listed on the National Register of Historic Places or the state register of historic sites.

(c) A contributing resource located within a historic district designated by a local unit pursuant to an ordinance adopted under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(7) A person that has been issued a certificate of completed rehabilitation under subsection (4) may assign all or any portion of the credit allowed under this section. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completed rehabilitation is issued pursuant to this section. Except as otherwise provided under this subsection, an assignee may subsequently assign the credit or any portion of the credit assigned under this subsection to 1 or more assignees. An assignment or subsequent reassignment of a credit shall be made in the year the certificate of completed rehabilitation is issued. A credit assignment or subsequent reassignment under this section shall be made on a form prescribed by the office. The office shall review and issue a completed assignment or reassignment certificate to the assignee or reassignee. If the qualified taxpayer assigns all or any portion of the credit allowed under this section to a partnership, limited liability company, or subchapter S corporation, then the assignees are its partners, members, or shareholders based on the partner's, member's, or shareholder's proportionate share of ownership or on an alternative method approved by the office. A credit amount assigned under this subsection may be claimed against the assignee's tax liability under this part or part 1. An assignee or subsequent reassignee shall attach a copy of the completed assignment certificate to the annual return required to be filed under this part for the tax year in which the assignment or reassignment is made and the assignee or reassignee first claims the credit, which shall be the same tax year.

(8) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the qualified taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first. If a qualified taxpayer has an unused carryforward of a credit under this section, the amount otherwise added under subsection (9) to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under this section.

(9) Except as otherwise provided under subsection (10), if a certificate of completed rehabilitation is revoked under subsection (5) or a historic resource is sold or disposed of less than 5 years after the certificate of completed rehabilitation is issued, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the qualified taxpayer that received

the certificate of completed rehabilitation and not the assignee in the year of the revocation:

(a) If the revocation is less than 1 year after the certificate of completed rehabilitation is issued, 100%.

(b) If the revocation is at least 1 year but less than 2 years after the certificate of completed rehabilitation is issued, 80%.

(c) If the revocation is at least 2 years but less than 3 years after the certificate of completed rehabilitation is issued, 60%.

(d) If the revocation is at least 3 years but less than 4 years after the certificate of completed rehabilitation is issued, 40%.

(e) If the revocation is at least 4 years but less than 5 years after the certificate of completed rehabilitation is issued, 20%.

(f) If the revocation is at least 5 years or more after the certificate of completed rehabilitation is issued, an addback to the qualified taxpayer tax liability is not required.

(10) Subsection (9) shall not apply if the qualified taxpayer enters into a written agreement with the office that will allow for the transfer or sale of the historic resource and provides the following:

(a) Reasonable assurance that subsequent to the transfer the property will remain a historic resource during the 5-year period after the certificate of completed rehabilitation is issued.

(b) A method that the department can recover an amount from the qualified taxpayer equal to the appropriate percentage of credit added back as described under subsection (9).

(c) An encumbrance on the title to the historic resource being sold or transferred, stating that the property must remain a historic resource throughout the 5-year period after the certificate of completed rehabilitation is issued.

(d) A provision for the payment by the qualified taxpayer of all legal and professional fees associated with the drafting, review, and recording of the written agreement required under this subsection.

(11) The office may impose a fee to cover the administrative cost of implementing the program under this section.

(12) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return required under this part, if applicable, on which the credit is claimed:

(a) Certificate of completed rehabilitation.

(b) Certification of historic significance related to the historic resource and the qualified expenditures used to claim a credit under this section.

(c) A completed assignment form if the qualified taxpayer or assignee has assigned any portion of a credit allowed under this section or if the qualified taxpayer is an assignee of any portion of a credit allowed under this section.

(13) The office may promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(14) The total of the credits claimed under this section and section 266a for a rehabilitation project shall not exceed 25% of the total qualified expenditures eligible for the credit under this section for that rehabilitation project.

(15) The office shall submit an economic impact report that includes, to the extent available, all of the following to the legislature annually for the immediately preceding state fiscal year:

(a) The fee schedule used by the office and the total amount of fees collected.

(b) A description of each rehabilitation project for which a preapproval letter is issued and for each certificate of completed rehabilitation issued. The description must include the total rehabilitation costs, labor hours generated, jobs added, payroll added, total capital investments, gain in property value after rehabilitation, and the amount of income tax and sales tax generated by the rehabilitation project.

(c) The location of each new and ongoing rehabilitation project.

(16) As used in this section:

(a) "Contributing resource" means a historic resource that contributes to the significance of the historic district in which it is located.

(b) "Detroit Consumer Price Index" means the most comprehensive index of consumer prices available for the Detroit area from the United States Department of Labor, Bureau of Labor Statistics.

(c) "Historic district" means an area, or group of areas not necessarily having contiguous boundaries, that contains 1 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

(d) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within a historic district designated by the National Register of Historic Places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215; or that is individually listed on the state register of historic sites or National

Register of Historic Places.

(e) "Large nonresidential historic resource" means a nonowner-occupied, income producing historic resource that has a rehabilitation plan with qualified expenditures of $2,000,000.00 or more.

(f) "Local unit" means a county, city, village, or township.

(g) "Long-term lease" means a lease term of at least 27.5 years for a residential resource or at least 31.5 years for a nonresidential resource.

(h) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

(i) "Qualified expenditures" means capital expenditures that qualify, or would qualify except that the qualified taxpayer entered into an agreement under subsection (10), for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the qualified taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the applicant is not eligible for the credit under section 47(a)(2) of the internal revenue code, the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code that were paid. Qualified expenditures do not include capital expenditures for nonhistoric additions to a historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.

(j) "Qualified taxpayer" means a person that is an assignee under this section or section 266a or that either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource that satisfies either of the following:

(*i*) For the rehabilitation of a historic resource that is not a residential historic resource, qualified expenditures equal to or greater than 10% of the state equalized valuation of the property. If the historic resource to be rehabilitated is a portion of a historic or nonhistoric resource, the state equalized valuation of only that portion of the property shall be used for purposes of this subdivision. If the assessor for the local tax collecting unit in which the historic resource is located determines the state equalized valuation of that portion, that assessor's determination shall be used for purposes of this subdivision. If the assessor does not determine that state equalized valuation of that portion, qualified expenditures, for purposes of this subdivision, shall be equal to or greater than 5% of the appraised value as determined by a certified appraiser. If the historic resource to be rehabilitated does not have a state equalized valuation, qualified expenditures for purposes of this subdivision shall be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.

(*ii*) For the rehabilitation of a residential historic resource, qualified expenditures equal to or greater than $1,000.00. The dollar amount established under this subparagraph must be annually adjusted for inflation using the Detroit Consumer Price Index.

(k) "Rehabilitation plan" means a plan for the rehabilitation of a historic resource that meets the federal Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitation of historic buildings under 36 CFR part 67.

(*l*) "Residential historic resource" means a non-income producing historic resource that is an owner-occupied dwelling.

(m) "Small nonresidential historic resource" means a nonowner-occupied, income producing historic resource that has a rehabilitation plan with qualified expenditures of less than $2,000,000.00.

(n) "State historic preservation office" or "office" means the state historic preservation office created by Executive Order No. 2007-53 and transferred to the Michigan strategic fund by Executive Reorganization Order No. 2019-3, MCL 125.1998.

History: Add. 2020, Act 343, Imd. Eff. Dec. 30, 2020.

***** *206.677.added THIS ADDED SECTION IS EFFECTIVE APRIL 2, 2025* *****

206.677.added Research and development credit.

Sec. 677. (1) Subject to the limitations under this section, for tax years beginning on and after January 1, 2025, a taxpayer that is an authorized business may claim a credit against the tax imposed under this part as follows:

(a) For an authorized business with 250 or more employees, an amount equal to the sum of 3% of the taxpayer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year up to the base amount and 10% of the taxpayer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year in excess of the base amount. The credit amount calculated under this subdivision must not exceed $2,000,000.00 per tax year per taxpayer.

(b) For an authorized business with less than 250 employees, an amount equal to the sum of 3% of the taxpayer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year up to the base amount and 15% of the taxpayer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year in excess of the base amount. The credit amount calculated under this subdivision must not exceed $250,000.00 per tax year per taxpayer.

(2) Subject to the limitations under this section, a taxpayer that is an authorized business may claim an additional credit equal to 5% of the qualifying research and development expenses used to calculate the credit under subsection (1) that were incurred in collaboration with a research university in this state pursuant to a written agreement between the taxpayer and the research university. In order to claim the additional credit under this subsection, if requested by the department, the taxpayer must provide the department with a copy of the written agreement with the research university. The additional credit allowed under this subsection must not exceed $200,000.00 per tax year per taxpayer.

(3) To be eligible for a credit under this section, a taxpayer must submit, in a form and manner as prescribed by the department, a tentative claim for which a credit under this section is sought to the department on or before April 1, 2026 for tentative claims made for qualifying research and development expenses incurred during the 2025 calendar year and for tentative claims made for qualifying research and development expenses incurred for each calendar year after 2025 on or before March 15 after the calendar year ending with or within the tax year for which the taxpayer intends to submit a claim for the credit on the taxpayer's annual return required under this part. The tentative claim required under this subsection must include, at a minimum, all of the following information:

(a) If the credit is to be claimed under subsection (1)(a) or (b).

(b) The amount of qualifying research and development expenses incurred for which a credit is being claimed.

(c) If an additional credit is to be claimed under subsection (2) for collaboration with a research university.

(4) The department shall review all tentative claims submitted under subsection (3) and if the amount of tentative claims submitted exceeds the amount of credits allowed under subsection (5), the department shall publish a notice on its website notifying taxpayers of the adjustment to the tentative claims for that calendar year as required under subsection (5).

(5) The aggregate amount of credits allowed to be claimed by all taxpayers under this section and all employers under section 717 based on qualifying research and development expenses incurred in a single calendar year must not exceed $100,000,000.00. If the aggregate amount of tentative claims submitted under this section and section 717 exceeds $100,000,000.00, the department shall prorate the amount of credits allowed for each claimant as follows:

(a) If the aggregate amount of tentative claims submitted by all taxpayers qualifying under subsection (1)(b) and all employers qualifying under section 717(1)(b) does not exceed $25,000,000.00, the amount of credits claimed by each of those claimants must not be prorated. However, for taxpayers submitting a tentative claim for a credit under subsection (1)(a) or employers submitting a tentative claim for a credit under section 717(1)(a), the amount of tentative claims submitted must be prorated so that each claimant's allowed credits equal that claimant's pro rata share of the remaining amount of credits allowed to be claimed under this subsection and section 717(5).

(b) Except as provided in subdivision (c), if the aggregate amount of tentative claims submitted by all taxpayers qualifying under subsection (1)(b) and all employers qualifying under section 717(1)(b) exceeds $25,000,000.00, the amount of tentative claims submitted by each of those claimants must be prorated so that each claimant's allowed credits equal that claimant's pro rata share of $25,000,000.00, and the amount of tentative claims submitted by each taxpayer qualifying under subsection (1)(a) or employer qualifying under section 717(1)(a) must be prorated so that each claimant's allowed credits equal that claimant's pro rata share of $75,000,000.00.

(c) If the aggregate amount of tentative claims submitted by all taxpayers qualifying under subsection (1)(b) and all employers qualifying under section 717(1)(b) exceeds 25% of the aggregate amount of tentative claims submitted by all taxpayers under this section and employers under section 717, then the proration under subdivision (b) does not apply, and the amount of tentative claims submitted by each taxpayer under this section and employer under section 717 shall be prorated so that each claimant's allowed credits equal that claimant's pro rata share of $100,000,000.00.

(6) A taxpayer shall not assign or transfer all or any portion of a credit allowed under this section. A credit or any portion of a credit allowed under this section is not assignable or transferable either by agreement or by operation of law.

(7) A taxpayer shall, in a form and manner as prescribed by the department, file a claim for a credit under this section with the annual return required to be filed under this part for the same tax year for which a credit

under this section is claimed. The credits allowed under this section must be claimed after all allowable nonrefundable credits under this part. If the amount of the credits allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability of the taxpayer for the tax year must be refunded.

(8) As used in this section:

(a) "Authorized business" means a taxpayer that has incurred during the calendar year ending with or within the tax year for which a credit is being claimed under this section qualifying research and development expenses in excess of the base amount.

(b) "Base amount" means the average annual amount of qualifying research and development expenses incurred during the 3 calendar years immediately preceding the calendar year ending with or within the tax year for which a credit is being claimed under this section. An authorized business with no prior qualifying research and development expenses has a base amount of zero. If qualifying research and development expenses were incurred in only 1 or 2 of the immediately preceding 3 calendar years, the average annual amount must be based on the number of calendar years during which qualifying research and development expenses were incurred.

(c) "Qualifying research and development expenses" means qualified research expenses as that term is defined in section 41(b) of the internal revenue code for research conducted in this state. Qualifying research and development expenses do not include qualified research expenses for research conducted outside of this state.

(d) "Research university" means a public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963 or an independent nonprofit college or university in this state.

History: Add. 2024, Act 186, Eff. Apr. 2, 2025.

CHAPTER 16

206.680 Election to pay tax imposed by Michigan business tax act; duration; taxpayer as member of unitary business group; separate return; annual return; "certificated credit" defined.

Sec. 680. (1) Notwithstanding any other provision of this part, except as otherwise provided in subsection (2) for a certificated credit under section 435 or 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1435 and 208.1437, or in subsection (5) for a certificated credit under section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, a taxpayer that has been approved to receive, has received, or has been assigned a certificated credit that has not been fully claimed or paid prior to January 1, 2012 may, for the taxpayer's first tax year ending after December 31, 2011 only, elect to file a return and pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in lieu of the tax imposed by this part. An election under this subsection shall continue for the period prescribed in section 500(1) of the Michigan business tax act, 2007 PA 36, MCL 208.1500.

(2) A taxpayer with a certificated credit under section 435 or 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1435 and 208.1437, which certificated credit may be claimed in a tax year ending after December 31, 2011 may elect to pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in the tax year in which that certificated credit or any unused carryforward may be claimed in lieu of the tax imposed by this part.

(3) A taxpayer that is a member of a unitary business group and that has a certificated credit under sections 431 and 434(2) and (5) of the Michigan business tax act, 2007 PA 36, MCL 208.1431 and 208.1434, is not required to file a combined return as a unitary business group and may elect to file a separate return and pay the tax, if any, under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(4) A taxpayer that elects to pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, under this section is not required to file an annual return under this part.

(5) A taxpayer that acquires, pursuant to the modification of an existing written agreement approved by a resolution of the Michigan strategic fund board on November 27, 2018 and the subsequent transfer of that written agreement, a certificated credit authorized by the Michigan economic growth authority in 2004 under section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, may, for the first tax year ending after October 1, 2018 only, elect to file the return and pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in lieu of the tax imposed by this part as long as the Michigan economic growth authority or its successor determines that the modification and subsequent transfer of that credit reduces the total amount of the credit. However, if the first tax year ending after October 1, 2018 ends before the effective date of the amendatory act that added this subsection and the taxpayer has already filed a return for that tax year under this part, then the taxpayer may, if within the statute of limitations period

prescribed under section 27a of 1941 PA 122, MCL 205.27a, elect under this subsection to file the return and pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for that tax year by filing the necessary amended return under this part and filing an original return as provided under section 505 of the Michigan business tax act, 2007 PA 36, MCL 208.1505. An election under this subsection shall continue for the period prescribed in section 500 of the Michigan business tax act, 2007 PA 36, MCL 208.1500.

(6) As used in this section, "certificated credit" means that term as defined in section 107 of the Michigan business tax act, 2007 PA 36, MCL 208.1107.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2012, Act 70, Imd. Eff. Mar. 29, 2012;—Am. 2019, Act 92, Imd. Eff. Oct. 10, 2019.

Compiler's note: Enacting section 1 of Act 92 of 2019 provides:
"Enacting section 1. This amendatory act is retroactive and effective for tax years beginning after December 31, 2017."

206.681 Quarterly returns and estimated payments.

Sec. 681. (1) Except as otherwise provided under this section, a taxpayer that reasonably expects liability for the tax year to exceed $800.00 shall file an estimated return and pay an estimated tax for each quarter of the taxpayer's tax year.

(2) For taxpayers on a calendar year basis, the quarterly returns and estimated payments shall be made by April 15, July 15, October 15, and January 15. Taxpayers not on a calendar year basis shall file quarterly returns and make estimated payments on the appropriate due date which in the taxpayer's fiscal year corresponds to the calendar year.

(3) Except as otherwise provided under this subsection, the estimated payment made with each quarterly return of each tax year shall be for the estimated tax base that is applicable to the taxpayer under chapter 11, 12, or 13 for the quarter or 25% of the estimated annual liability. The second, third, and fourth estimated payments in each tax year shall include adjustments, if necessary, to correct underpayments or overpayments from previous quarterly payments in the tax year to a revised estimate of the annual tax liability. For a taxpayer that calculates and pays estimated payments for federal income tax purposes pursuant to section 6655(e) of the internal revenue code, that taxpayer may use the same methodology as used to calculate the annualized income installment or the adjusted seasonal installment, whichever is used as the basis for the federal estimated payment, to calculate the estimated payments required each quarter under this section. The interest and penalty provided by this part shall not be assessed if any of the following occur:

(a) If the sum of the estimated payments equals at least 85% of the liability and the amount of each estimated payment reasonably approximates the tax liability incurred during the quarter for which the estimated payment was made.

(b) For the 2013 tax year and each subsequent tax year, if the preceding year's tax liability under this part was $20,000.00 or less and if the taxpayer submitted 4 equal installments the sum of which equals the immediately preceding tax year's tax liability.

(4) Each estimated return shall be made on a form prescribed by the department and shall include an estimate of the annual tax liability and other information required by the state treasurer. The form prescribed under this subsection may be combined with any other tax reporting form prescribed by the department.

(5) With respect to a taxpayer filing an estimated tax return for the taxpayer's first tax year of less than 12 months, the amounts paid with each return shall be proportional to the number of payments made in the first tax year. A taxpayer with a tax year of less than 4 months is not required to file an estimated tax return or remit estimated payments.

(6) Payments made under this section shall be a credit against the payment required with the annual tax return required in section 685.

(7) If the department considers it necessary to insure payment of the tax or to provide a more efficient administration of the tax, the department may require filing of the returns and payment of the tax for other than quarterly or annual periods.

(8) A taxpayer that elects under the internal revenue code to file an annual federal income tax return by March 1 in the year following the taxpayer's tax year and does not make a quarterly estimate or payment, or does not make a quarterly estimate or payment and files a tentative annual return with a tentative payment by January 15 in the year following the taxpayer's tax year and a final return by April 15 in the year following the taxpayer's tax year, has the same option in filing the estimated and annual returns required by this part.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 186, Eff. Jan. 1, 2012.

206.683 Payment for portion of tax year; computation; methods.

Sec. 683. (1) If a taxpayer's tax year to which this part applies ends before December 31, 2012, then a

taxpayer subject to this part may elect to compute the tax imposed by this part for the portion of that tax year to which this part applies in accordance with 1 of the following methods:

(a) The tax may be computed as if this part were effective on the first day of the taxpayer's annual accounting period and the amount computed shall be multiplied by a fraction, the numerator of which is the number of months in the taxpayer's first tax year and the denominator of which is the number of months in the taxpayer's annual accounting period.

(b) The tax may be computed by determining the corporate income tax base in the first tax year in accordance with an accounting method satisfactory to the department that reflects the actual corporate income tax base attributable to the period.

(2) The method chosen by the taxpayer under this section shall be the same as the method used by that same taxpayer when computing the tax imposed under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the other portion of that same tax year.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 190, Eff. Jan. 1, 2012.

206.685 Annual or final return; filing; form and content; remittance of final liability; calculation; extension.

Sec. 685. (1) An annual or final return shall be filed with the department in the form and content prescribed by the department by the last day of the fourth month after the end of the taxpayer's tax year. Any final liability shall be remitted by the annual due date of the taxpayer's annual or final return, excluding any extension of time to file the return as provided under subsections (2) and (3). A taxpayer, other than a taxpayer subject to the tax imposed under chapter 12 or 13, whose apportioned or allocated gross receipts are less than $350,000.00 does not need to file a return or pay the tax imposed under this part. The apportioned or allocated gross receipts of a flow-through entity shall be imputed to each of its members based upon the same percentage that each member's proportionate share of distributive income is to the total distributive income of the flow-through entity. A taxpayer whose tax liability under this part is less than or equal to $100.00 does not need to file a return or pay the tax imposed under this part.

(2) If a taxpayer has apportioned or allocated gross receipts for a tax year of less than 12 months, the threshold amount of $350,000.00 in subsection (1) shall be multiplied by a fraction, the numerator of which is the number of months in the tax year and the denominator of which is 12.

(3) The department, upon application of the taxpayer and for good cause shown, may extend the date for filing the annual return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension. The state treasurer shall require with the application payment of the estimated tax liability unpaid for the tax period covered by the extension.

(4) If a taxpayer is granted an extension of time within which to file the federal income tax return for any tax year, the filing of a copy of the request for extension together with a tentative return and payment of an estimated tax with the department by the due date provided in subsection (1) shall automatically extend the due date for the filing of an annual or final return under this part until the last day of the eighth month following the original due date of the return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 184, Eff. Jan. 1, 2012.

206.687 Furnishing copy of return filed under internal revenue code; amended return; partnership audit or adjustment reporting.

Sec. 687. (1) A taxpayer required to file a return under this part may be required to furnish a true and correct copy of any return or portion of any return filed under the provisions of the internal revenue code.

(2) Except as provided in subsection (3), a taxpayer shall file an amended return with the department showing any alteration in or modification of a federal income tax return that affects its tax base under this part. The amended return must be filed within 180 days after the final determination date. This subsection does not apply to the reporting of a final federal adjustment arising from a partnership level audit or an administrative adjustment request required to be reported under chapter 18.

(3) For tax years that begin on and after January 1, 2018, a partnership that is not subject to chapter 18, but has determined that the partners' share of income, deductions, and credits previously reported to its partners and included in a return filed under this part requires adjustment, may, at the discretion of the department, file a report with the department and pay the tax due or claim a refund on behalf of its partners in a manner similar to the process set forth in chapter 18. Any refund issued to the partnership under this subsection is in lieu of any overpayment of taxes that may be claimed by the partners.

(4) A taxpayer that expects to owe additional tax as a result of a pending federal audit may make payments, in a form and manner as prescribed by the department, prior to the final determination date. The department

shall credit any payments made under this subsection against any tax liability due on that taxpayer's amended return filed as a result of the federal audit. Payments made under this subsection limit the accrual of any further statutory interest on the amount due. If the department finds that the taxpayer has overpaid the tax due on the amended return, a refund of the overpayment must immediately be made as provided in section 30 of 1941 PA 122, MCL 205.30.

(5) As used in this section:

(a) "Administrative adjustment request", "final federal adjustment", and "partnership level audit" mean those terms as defined in section 721.

(b) "Final determination date" means that term as defined in section 325.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2022, Act 148, Imd. Eff. July 19, 2022.

Compiler's note: Enacting section 1 of Act 148 of 2022 provides:
"Enacting section 1. This amendatory act is retroactive and applies to all tax years that begin on and after January 1, 2018."

206.689 Information return of income paid to others.

Sec. 689. At the request of the department, a taxpayer required by the internal revenue code to file or submit an information return of income paid to others shall, to the extent the information is applicable to residents of this state, at the same time file or submit the information in the form and content prescribed to the department.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.691 Filing of combined return by unitary business group.

Sec. 691. (1) Except as otherwise provided under section 680(3), a unitary business group shall file a combined return that includes each United States person that is included in the unitary business group. Each United States person included in a unitary business group or included in a combined return shall be treated as a single person, and all transactions between those persons included in the unitary business group shall be eliminated from the corporate income tax base, the apportionment formulas, and for purposes of determining exemptions, credits, and the filing threshold under this part. If a United States person included in a unitary business group or included in a combined return is subject to the tax under chapter 12 or 13, any corporate income attributable to that person shall be eliminated from the corporate income tax base and any sales attributable to that person shall be eliminated from the apportionment formula under this part.

(2) A person that is part of an affiliated group may elect without the consent of the department to have all of the persons that are included in that affiliated group to be treated as a unitary business group. A taxpayer that elects to file as a unitary business group pursuant to this subsection shall compute its tax under this part in accordance with all other provisions of this part that apply to a unitary business group. The taxpayer shall make the election under this subsection on a form or in a format as prescribed by the department that is to be filed in a timely manner with the taxpayer's annual return. Each person included in the affiliated group is deemed to have agreed to be bound by the election made under this subsection and any renewal of that election and to have waived any objection to its inclusion in the affiliated group and treatment as a unitary business group. Each person that subsequently enters the affiliated group after the tax year for which the election is made is deemed to have consented to the application of and is bound by the election and to have waived any objection to its inclusion in the affiliated group and treatment as a unitary business group. An election made pursuant to this subsection is irrevocable and binding for and applicable to the tax year for which it is made and for the next 9 tax years. The election shall remain in effect for the time period in which the ownership requirements under this section are met irrespective of whether a federal consolidated group to which the unitary business group belongs discontinues the filing of a federal consolidated return or whether the common parent changes due to a reverse acquisition or acquisition by a related person. Upon the expiration of the election after it has been in effect for 10 tax years, an election may be renewed for another 10 tax years, without the consent of the department; provided however, that in the case of a nonrenewal a new election under this subsection is not permitted in any of the immediately following 3 tax years. The renewal shall be made on a form or in a format as prescribed by the department that is to be filed in a timely manner with the taxpayer's annual return after the completion of a 10-year period for which an election under this subsection was in place.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2012, Act 70, Imd. Eff. Mar. 29, 2012;—Am. 2013, Act 266, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 14, Imd. Eff. Feb. 25, 2014.

Compiler's note: Enacting section 1 of Act 266 of 2013 provides:
"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2012."
Enacting section 1 of Act 14 of 2014 provides:
"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2013."

206.693 Administration of tax; conflicting provisions; rules; forms; additional tax liability; statistics detailing distribution of tax receipts.

Sec. 693. (1) The tax imposed by this part shall be administered by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to 205.31, and this part. If a conflict exists between 1941 PA 122, MCL 205.1 to 205.31, and this part, the provisions of this part apply.

(2) The department may promulgate rules to implement this part pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The department shall prescribe forms for use by taxpayers and may promulgate rules in conformity with this part for the maintenance by taxpayers of records, books, and accounts, and for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this part, the making of returns, and the ascertainment, assessment, and collection of the tax imposed under this part.

(4) The tax imposed by this part is in addition to all other taxes for which the taxpayer may be liable.

(5) The department shall prepare and publish statistics from the records kept to administer the tax imposed by this part that detail the distribution of tax receipts by type of business, legal form of organization, sources of tax base, timing of tax receipts, and types of deductions. The statistics shall not result in the disclosure of information regarding any specific taxpayer.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.695 Distribution of revenue.

Sec. 695. (1) Except as otherwise provided under this section, the revenue collected under this part shall be distributed to the general fund. If the amendatory act that added section 51h takes effect before April 18, 2023, then for the 2021-2022 state fiscal year only, from the tax levied under this part, $800,000,000.00 of the revenue collected is appropriated and must be deposited into the state treasury to the credit of the Michigan taxpayer rebate fund created in section 51h, and the balance of the revenue collected under this part for that state fiscal year shall be deposited to the general fund.

(2) Beginning with the 2022-2023 state fiscal year through the 2024-2025 state fiscal year, from the tax levied under this part, the revenue collected under this part shall be deposited in the following manner:

(a) Up to $1,200,000,000.00 to the general fund.

(b) After the deposit under subdivision (a), up to $50,000,000.00, if available, to the Michigan housing and community development fund created in section 58a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1458a.

(c) After the deposits under subdivisions (a) and (b), up to $50,000,000.00, if available, to the revitalization and placemaking fund created in section 696.

(d) After the deposits under subdivisions (a), (b), and (c), up to $500,000,000.00, if available, to the strategic outreach and attraction reserve fund created in section 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254.

(e) The balance of any revenue collected under this part after the deposits under subdivisions (a), (b), (c), and (d), to the general fund.

(3) Beginning with the 2025-2026 state fiscal year, from the tax levied under this part, $50,000,000.00 of the revenue collected under this part shall be deposited to the Michigan housing and community development fund created in section 58a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1458a, and the balance of the revenue collected under this part for that state fiscal year shall be deposited to the general fund.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2023, Act 4, Eff. Feb. 13, 2024.

206.696 Revitalization and placemaking fund.

Sec. 696. (1) The revitalization and placemaking fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the revitalization and placemaking fund. The state treasurer shall direct the investment of the revitalization and placemaking fund. The state treasurer shall credit to the revitalization and placemaking fund interest and earnings from fund investments.

(2) Money in the revitalization and placemaking fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(3) The Michigan strategic fund shall be the administrator of the revitalization and placemaking fund for auditing purposes.

(4) Beginning with the 2022-2023 state fiscal year and each state fiscal year thereafter, the Michigan

strategic fund shall expend money from the revitalization and placemaking fund, upon appropriation, only to create and operate the revitalization and placemaking grants program to invest in projects that enable population and tax revenue growth through rehabilitation of vacant and blighted buildings and historic structures, rehabilitation and development of vacant properties, and development of permanent place-based infrastructure associated with social zones and traditional downtowns, outdoor dining, and place-based public spaces. If grant funds are used to support residential projects, those projects must comply with other program guidelines and eligibility as determined by the Michigan strategic fund.

(5) By December 31 annually, the Michigan strategic fund shall prepare and submit to the senate and house appropriations committees a report detailing the amount of revenue received by and expenditures from the revitalization and placemaking fund during the prior state fiscal year and the revitalization and placemaking fund balance at the end of the prior state fiscal year.

History: Add. 2023, Act 4, Eff. Feb. 13, 2024.

206.697 Appropriation; carrying forward unexpended funds.

Sec. 697. There is appropriated to the department for the 2011-2012 state fiscal year the sum of $1,000,000.00 to begin implementing the requirements of this part. Any portion of this amount under this section that is not expended in the 2011-2012 state fiscal year shall not lapse to the general fund but shall be carried forward in a work project account that is in compliance with section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a, for the following state fiscal year.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.699 Classification as disregarded entity for federal income tax purposes; treatment of certain conversions into a limited liability company.

Sec. 699. Notwithstanding any other provision of this act, both of the following apply:

(a) A person that is a disregarded entity for federal income tax purposes under the internal revenue code is classified as a disregarded entity for purposes of parts 2 and 3 of this act.

(b) A person that converts into a limited liability company under section 7 of 1883 PA 129, MCL 484.7, is treated as a corporation for purposes of parts 2 and 3 of this act unless that converted entity is a disregarded entity for federal income tax filing purposes under the internal revenue code and its regarded owner is treated as a corporation for state and federal income tax purposes.

History: Add. 2011, Act 309, Eff. Jan. 1, 2012;—Am. 2024, Act 177, Imd. Eff. Dec. 23, 2024.