

**SUBSTITUTE FOR
SENATE BILL NO. 392**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 623 (MCL 206.623), as amended by 2021 PA 135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

9 (a) Through December 31, 2021, 6.0%.



1 **(b) On and after January 1, 2022, 3.9%.**

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

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

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

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

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

24 (e) Except as otherwise provided under this subdivision, to
25 the extent deducted in arriving at federal taxable income, add any
26 royalty, interest, or other expense paid to a person related to the
27 taxpayer by ownership or control for the use of an intangible asset
28 if the person is not included in the taxpayer's unitary business
29 group. The addition of any royalty, interest, or other expense



1 described under this subdivision is not required to be added if the
2 taxpayer can demonstrate that the transaction has a nontax business
3 purpose, is conducted with arm's-length pricing and rates and terms
4 as applied in accordance with sections 482 and 1274(d) of the
5 internal revenue code, and 1 of the following is true:

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

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

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

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

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

19 (g) Eliminate all of the following:

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

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

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

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

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



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

6 (4) Deduct any available business loss incurred after December
7 31, 2011. As used in this subsection, "business loss" means a
8 negative business income taxable amount after allocation or
9 apportionment. For purposes of this subsection, a taxpayer that
10 acquires the assets of another corporation in a transaction
11 described under section 381(a)(1) or (2) of the internal revenue
12 code may deduct any business loss attributable to that distributor
13 or transferor corporation. The business loss shall be carried
14 forward to the year immediately succeeding the loss year as an
15 offset to the allocated or apportioned corporate income tax base,
16 then successively to the next 9 taxable years following the loss
17 year or until the loss is used up, whichever occurs first.

18 (5) As used in this section, "oil and gas" means oil and gas
19 that is subject to severance tax under 1929 PA 48, MCL 205.301 to
20 205.317.

