

**SUBSTITUTE FOR
HOUSE BILL NO. 4187**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending sections 623 and 695 (MCL 206.623 and 206.695), section
623 as amended by 2021 PA 135 and section 695 as amended by 2023 PA
4.

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

1 6.0%.

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

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~~**that** 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.

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.

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

1 ~~deposited to the general fund.~~

2 **(1)** ~~(2)~~ Beginning with the 2022-2023 state fiscal year **and**,
 3 **except as otherwise provided under this subsection**, through the
 4 2024-2025 state fiscal year, from the tax levied under this part,
 5 the revenue collected under this part ~~shall~~**must** be deposited in
 6 the following manner:

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

8 (b) **After** the deposit under subdivision (a), up to
 9 \$50,000,000.00, if available, to the Michigan housing and community
 10 development fund created in section 58a of the state housing
 11 development authority act of 1966, 1966 PA 346, MCL 125.1458a.

12 (c) ~~After~~**For the state fiscal years ending before October 1,**
 13 **2024, after** the deposits under subdivisions (a) and (b), up to
 14 \$50,000,000.00, if available, to the revitalization and placemaking
 15 fund created in section 696.

16 (d) ~~After~~**For the state fiscal years ending before October 1,**
 17 **2024, after** the deposits under subdivisions (a), (b), and (c), up
 18 to \$500,000,000.00, if available, to the strategic outreach and
 19 attraction reserve fund created in section 4 of the Michigan trust
 20 fund act, 2000 PA 489, MCL 12.254.

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

24 **(2)** ~~(3)~~ Beginning with the 2025-2026 state fiscal year **through**
 25 **the 2029-2030 state fiscal year**, from the tax levied under this
 26 part, **\$50,000,000.00** of the revenue collected under this part ~~shall~~
 27 **must** be deposited **to the Michigan housing and community development**
 28 **fund created in section 58a of the state housing development**
 29 **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~~ and expended as provided under section
 58c(1) (a), (b), (c), (d), (e), and (f) of the state housing
 development authority act of 1966, 1966 PA 346, MCL 125.1458c, and
 up to \$2,200,000,000.00 of the revenue collected under this part
 must be deposited in the following manner and the balance of any
 revenue after the following distributions to the general fund:

(a) Ninety percent to local road agencies as follows:

(i) 18.94% to the neighborhood roads fund created in section
 13c of 1951 PA 51, MCL 247.663c.

(ii) 44.58% to the department of transportation for county road
 commissions of this state. Funds distributed to county road
 commissions under this subparagraph must be distributed among
 county road commissions in accordance with section 12 of 1951 PA
 51, MCL 247.662.

(iii) 36.48% to the department of transportation for cities and
 villages of this state. Funds distributed to cities and villages
 under this subparagraph must be distributed among cities and
 villages in accordance with section 13 of 1951 PA 51, MCL 247.663.

(b) Ten percent to the state trunk line fund created in
 section 11 of 1951 PA 51, MCL 247.661.

~~to the general fund.~~

(3) Beginning with the 2030-2031 state fiscal year and each
 subsequent state fiscal year, from the tax levied under this part,
 \$50,000,000.00 of the revenue collected under this part must 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 expended as provided
 under section 58c(1) (a), (b), (c), (d), (e), and (f) of the state

housing development authority act of 1966, 1966 PA 346, MCL 125.1458c, and up to \$2,200,000,000.00 of the revenue collected under this part must be deposited in the following manner and the balance of any revenue after the following distributions to the general fund:

(a) Ninety percent to local road agencies as follows:

(i) 13.89% to the neighborhood roads fund created in section 13c of 1951 PA 51, MCL 247.663c.

(ii) 47.36% to the department of transportation for county road commissions of this state. Funds distributed to county road commissions under this subparagraph must be distributed among county road commissions in accordance with section 12 of 1951 PA 51, MCL 247.662.

(iii) 38.75% to the department of transportation for cities and villages of this state. Funds distributed to cities and villages under this subparagraph must be distributed among cities and villages in accordance with section 13 of 1951 PA 51, MCL 247.663.

(b) Ten percent to the state trunk line fund created in section 11 of 1951 PA 51, MCL 247.661.

(4) As used in this section, "county road commissions" means that term as defined in section 10c of 1951 PA 51, MCL 247.660c.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 103rd Legislature are enacted into law:

(a) House Bill No. 4180.

(b) House Bill No. 4181.

(c) House Bill No. 4182.

(d) House Bill No. 4183.

(e) House Bill No. 4184.

- 1 (f) House Bill No. 4185.
- 2 (g) House Bill No. 4186.
- 3 (h) House Bill No. 4230.