

# HOUSE BILL No. 4717

April 16, 1991, Introduced by Rep. Bryant and referred to the Committee on Taxation.

A bill to amend section 23 of Act No. 228 of the Public Acts of 1975, entitled

"Single business tax act,"

as amended by Act No. 208 of the Public Acts of 1981, being section 208.23 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 23 of Act No. 228 of the Public Acts of  
2 1975, as amended by Act No. 208 of the Public Acts of 1981, being  
3 section 208.23 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5       Sec. 23. After allocation as provided in section 40 or  
6 apportionment as provided in section 41, the tax base shall be  
7 adjusted by the following:

8       (a) Deduct the cost, including fabrication and installation,  
9 paid or accrued in the taxable year of tangible assets of a type

1 ~~which~~ THAT are, or under the internal revenue code will become,  
 2 eligible for depreciation, amortization, or accelerated capital  
 3 cost recovery for federal income tax purposes excluding costs of  
 4 assets ~~which~~ THAT are defined in section 1250 of the internal  
 5 revenue code, except that for tangible assets ~~which~~ THAT are  
 6 subject to a lease back agreement under THE FORMER PROVISIONS OF  
 7 section 168(f)(8) of the internal revenue code AS THAT SECTION  
 8 PROVIDED IMMEDIATELY BEFORE THE TAX REFORM ACT OF 1986, PUBLIC  
 9 LAW 99-514, BECAME EFFECTIVE OR TO A LEASE BACK OF PROPERTY TO  
 10 WHICH THE AMENDMENTS MADE BY THE TAX REFORM ACT OF 1986 DO NOT  
 11 APPLY AS PROVIDED IN SECTION 204 OF THE TAX REFORM ACT OF 1986,  
 12 the deduction shall be allowed only to the lessee or sublessee as  
 13 the case may be under the 168(f)(8) agreement. This deduction  
 14 shall be ~~multiplied by a fraction, the numerator of which is the~~  
 15 ~~payroll factor plus the property factor and the denominator of~~  
 16 ~~which is~~ DIVIDED BY 2.

17 (b) Add the gross proceeds or benefit derived from the sale  
 18 or other disposition of the tangible assets ~~defined in~~  
 19 DESCRIBED IN, AND FOR WHICH A DEDUCTION WAS TAKEN UNDER, subdivi-  
 20 sion (a) minus the gain and plus the loss from the sale reflected  
 21 in federal taxable income and minus the gain from the sale or  
 22 other disposition added to the tax base in section 9(6). This  
 23 addition shall be multiplied by a fraction, the numerator of  
 24 which is the payroll factor plus the property factor and the  
 25 denominator of which is 2. As used in this subdivision, "sale or  
 26 other disposition" ~~shall~~ DOES not include the transfer of  
 27 tangible assets that are leased back to the transferor under THE

1 FORMER PROVISIONS OF section 168(f)(8) of the internal revenue  
2 code AS THAT SECTION PROVIDED IMMEDIATELY BEFORE THE TAX REFORM  
3 ACT OF 1986, PUBLIC LAW 99-514, BECAME EFFECTIVE OR TO A LEASE  
4 BACK OF PROPERTY TO WHICH THE AMENDMENTS MADE BY THE TAX REFORM  
5 ACT OF 1986 DO NOT APPLY AS PROVIDED IN SECTION 204 OF THE TAX  
6 REFORM ACT OF 1986.

7 (c) Deduct the cost, including fabrication and installation,  
8 excluding the cost deducted under subdivision (a) paid or accrued  
9 in the taxable year of tangible assets of a type ~~which~~ THAT  
10 are, or under the internal revenue code will become eligible for  
11 depreciation, amortization, or accelerated capital cost recovery  
12 for federal income tax purposes. ~~, provided that the assets are~~  
13 ~~physically located in Michigan.~~ THIS DEDUCTION SHALL BE DIVIDED  
14 BY 2.

15 (d) Add the gross proceeds or benefit derived from the sale  
16 or other disposition of the tangible assets ~~defined in~~  
17 ~~subsection~~ DESCRIBED IN, AND FOR WHICH A DEDUCTION WAS TAKEN  
18 UNDER, SUBDIVISION (c), minus the gain, multiplied by the  
19 APPLICABLE apportionment factor for the taxable year as ~~defined~~  
20 PRESCRIBED in chapter 3, and plus the loss, multiplied by the  
21 apportionment factor as defined in chapter 3, from the sale or  
22 other disposition reflected in federal taxable income and minus  
23 the gain from the sale or other disposition added to the tax base  
24 in section 9(6).

25 (e) Deduct any available business loss. ~~"Business"~~ AS USED  
26 IN THIS SUBDIVISION, "BUSINESS loss" means ~~any~~ A negative  
27 amount after allocation or apportionment as ~~provided~~ PRESCRIBED

1 in chapter 3 and adjustments as provided in subdivisions (a) to  
2 (d) without regard to the deduction under this subdivision. The  
3 business loss shall be carried forward to the year next following  
4 the loss year as an offset to the allocated or apportioned tax  
5 base including the adjustments provided in subdivisions (a) to  
6 (d), then successively to the next 9 taxable years following the  
7 loss year or until the loss is used up, whichever occurs first,  
8 but for not more than 10 taxable years after the loss year.

9 ~~-(f) Deduct any unused net operating loss carryover arising~~  
10 ~~under former sections 32(3) and 34(3) of Act No. 281 of the~~  
11 ~~Public Acts of 1967, pertaining to net operating losses of corpo-~~  
12 ~~rations and financial institutions. This deduction shall not be~~  
13 ~~made for a tax year ending after December 31, 1980.~~