

# HOUSE BILL NO. 5008

September 14, 2023, Introduced by Reps. Shannon and Andrews and referred to the Committee on Appropriations.

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

1 corporate income tax is imposed on the corporate income tax base,  
2 after allocation or apportionment to this state, at the rate of  
3 6.0%.

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

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

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

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

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

26 (e) Except as otherwise provided under this subdivision, to  
27 the extent deducted in arriving at federal taxable income, add any  
28 royalty, interest, or other expense paid to a person related to the  
29 taxpayer by ownership or control for the use of an intangible asset

1 if the person is not included in the taxpayer's unitary business  
2 group. The addition of any royalty, interest, or other expense  
3 described under this subdivision is not required to be added if the  
4 taxpayer can demonstrate that the transaction has a nontax business  
5 purpose, is conducted with arm's-length pricing and rates and terms  
6 as applied in accordance with sections 482 and 1274(d) of the  
7 internal revenue code, and 1 of the following is true:

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

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

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

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

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

21 (g) Eliminate all of the following:

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

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

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

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

29 (ii) Expenses related to the income deductible under

1 subparagraph (i) to the extent deducted in arriving at federal  
2 taxable income.

3 (i) To the extent deducted in arriving at federal taxable  
4 income, add any specified outsourcing expenses. For purposes of  
5 this subdivision:

6 (i) "Eligible expenses" means any trade or business expenses  
7 that the taxpayer is allowed to claim as a deduction under section  
8 162 of the internal revenue code and any permit and license fees,  
9 lease brokerage fees, equipment installation costs, and any other  
10 similar expenses.

11 (ii) "Specified outsourcing expenses" means any eligible  
12 expenses paid or incurred by the taxpayer and attributable to the  
13 elimination of any trade or business of the taxpayer that was  
14 located in this state and any eligible expenses paid or incurred by  
15 the taxpayer and attributable to the relocation of any trade or  
16 business of the taxpayer that was previously located in this state  
17 and subsequently reestablished outside of this state.

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

23 (4) Deduct any available business loss incurred after December  
24 31, 2011. As used in this subsection, "business loss" means a  
25 negative business income taxable amount after allocation or  
26 apportionment. For purposes of this subsection, a taxpayer that  
27 acquires the assets of another corporation in a transaction  
28 described under section 381(a)(1) or (2) of the internal revenue  
29 code may deduct any business loss attributable to that distributor

1 or transferor corporation. The business loss shall be carried  
2 forward to the year immediately succeeding the loss year as an  
3 offset to the allocated or apportioned corporate income tax base,  
4 then successively to the next 9 taxable years following the loss  
5 year or until the loss is used up, whichever occurs first.

6 (5) As used in this section, "oil and gas" means oil and gas  
7 that is subject to severance tax under 1929 PA 48, MCL 205.301 to  
8 205.317.