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

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 Notes: 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."