

SINGLE BUSINESS TAX ACT (EXCERPT)
Act 228 of 1975

***** 208.23b THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.23b Adjustment of tax base.

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

(a) If the cost of an asset was paid or accrued in a tax year ending before March 31, 1991 for which a deduction under section 23(c) is not in effect, add the gross proceeds or benefit derived from the sale or other disposition of the tangible assets described in section 23(a) minus the gain and plus the loss from the sale reflected in federal taxable income and minus the gain from the sale or other disposition added to the tax base in section 9(6). This addition shall be multiplied by a fraction, the numerator of which is the payroll factor plus the property factor and the denominator of which is 2. As used in this subdivision, "sale or other disposition" does not include the transfer of tangible assets that are leased back to the transferor under the former provisions of section 168(f)(8) of the internal revenue code as that section provided immediately before the tax reform act of 1986, Public Law 99-514, became effective or to a lease back of property to which the amendments made by the tax reform act of 1986 do not apply as provided in section 204 of the tax reform act of 1986.

(b) If the cost of an asset was paid or accrued in a tax year ending before March 31, 1991 for which a deduction under section 23(c) is not in effect, add the gross proceeds or benefit derived from the sale or other disposition of the tangible assets described in section 23(b) for a tax year beginning before January 1, 1991 minus the gain, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3, and plus the loss, multiplied by the apportionment factor as prescribed in chapter 3, from the sale or other disposition reflected in federal taxable income and minus the gain from the sale or other disposition added to the tax base in section 9(6).

(c) If the cost of an asset was paid or accrued in a tax year beginning after September 30, 1989 but before January 1, 1997 or paid or accrued in a tax year beginning after December 31, 1996 and before January 1, 2000 as provided in subdivision (f), add the gross proceeds or benefit derived from the sale or other disposition of the tangible assets described in section 23(c) minus the gain and plus the loss from the sale reflected in federal taxable income and minus the gain from the sale or other disposition added to the tax base in section 9(6). This addition shall be multiplied by the apportionment factor for the tax year as prescribed by chapter 3.

(d) Except as provided in subdivisions (f) and (g) and if the cost of tangible assets described in section 23(e), (f), or (g) was paid or accrued in a tax year beginning after December 31, 1996 and before January 1, 2000, add the gross proceeds or benefit derived from the sale or other disposition of the tangible assets minus the gain and plus the loss from the sale or other disposition reflected in federal taxable income and minus the gain from the sale or other disposition added to the tax base in section 9(6). This addition shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 3.

(e) Except as provided in subdivision (f) and if section 23(e) is in effect, for assets other than mobile tangible assets purchased or acquired in a tax year beginning after December 31, 1996 and before January 1, 2000 that were eligible for a deduction under section 23(e) or (g) and that were transferred out of this state, add the federal basis used for determining gain or loss as of the date of the transfer. This addition shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 3.

(f) For tax years beginning after December 31, 1996 and if section 23(e) is in effect, subdivisions (d) and (e) do not apply and subdivision (c) does apply to a taxpayer that meets all of the following criteria:

(i) The taxpayer has its headquarters in this state.

(ii) The taxpayer's date of incorporation, as filed with the corporate division of the corporation, securities, and land development bureau of the department of consumer and industry services, is on or before January 9, 1996.

(iii) The taxpayer's sales at retail of prescriptions are more than 2% and less than 10% of the taxpayer's total sales at retail.

(iv) The taxpayer sells at retail all of the following and, for tax years that begin before January 1, 1998, more than 50% or, for tax years that begin on and after January 1, 1998, more than 20% of the taxpayer's total sales is comprised of the retail sales of the following:

(A) Fresh, frozen, or processed food, food products, or consumable necessities.

- (B) Household products.
- (C) Prescriptions.
- (D) Health and beauty care products.
- (E) Cosmetics.
- (F) Pet products.
- (G) Carbonated beverages.
- (H) Beer, wine, or liquor.

(g) If section 23(e) is not in effect and if the cost of tangible assets described in section 23(i) was paid or accrued in a tax year beginning after December 31, 1996 and before January 1, 2000, add the gross proceeds or benefit derived from the sale or other disposition of the tangible assets minus the gain and plus the loss from the sale or other disposition reflected in federal taxable income and minus the gain from the sale or other disposition added to the tax base in section 9(6). This addition shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 3.

(h) Deduct any available business loss. As used in this subdivision, “business loss” means a negative amount after allocation or apportionment as provided in chapter 3 and after adjustments as provided in section 23 and subdivisions (a) to (g) without regard to the deduction under this subdivision. The business loss shall be carried forward to the year next following the loss year as an offset to the allocated or apportioned tax base including the adjustments provided in subdivisions (a) to (g), then successively to the next 9 taxable years following the loss year or until the loss is used up, whichever occurs first, but for not more than 10 taxable years after the loss year.

History: Add. 1991, Act 77, Imd. Eff. July 16, 1991;—Am. 1995, Act 282, Imd. Eff. Jan. 9, 1996;—Am. 1998, Act 504, Imd. Eff. Jan. 5, 1999;—Am. 1999, Act 115, Imd. Eff. July 14, 1999.