Single business tax; rate; reduce rate; provide for, create research and development tax credit, revise sales factor apportionment, and provide for other amendments.
Single business tax: rate; Single business tax: apportionment; Single business tax: tax base; Single business tax: credit

A bill to amend 1975 PA 228, entitled

"Single business tax act,"

(MCL 208.1 to 208.145) by adding chapter 5A; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **CHAPTER 5A**

2 **SEC. 101. THE AMENDATORY ACT THAT ADDED THIS CHAPTER SHALL BE**
3 **KNOWN AS THE "MICHIGAN JOBS AND INVESTMENT ACT".**

4 **SEC. 102. THE LEGISLATURE FINDS THAT REDUCING THE TAX RATE AND**
5 **BROADENING THE TAX BASE THROUGH THE ELIMINATION OF CREDITS AND**
6 **DEDUCTIONS AND INCREASED RELIANCE ON POSITIVE BUSINESS INCOME AS**
7 **PROVIDED BY THIS CHAPTER IMPROVE THE MEASUREMENT OF VALUE ADDED**
8 **FROM ALL FORMS OF BUSINESS ACTIVITY WITHIN THIS STATE AND MAINTAIN**
9 **THE TAX IMPOSED UNDER THIS ACT AS A MODIFIED VALUE ADDED TAX.**

1 SEC. 103. AS USED IN THIS ACT:

2 (A) "ADJUSTED GROSS INCOME" MEANS ADJUSTED BUSINESS INCOME AS
3 DEFINED IN SECTION 108.

4 (B) "BUSINESS INCOME" MEANS FEDERAL TAXABLE INCOME PLUS THE
5 AMOUNT OF A DEDUCTION CLAIMED UNDER SECTION 199 OF THE INTERNAL
6 REVENUE CODE RELATED TO DOMESTIC PRODUCTION ACTIVITIES, EXCEPT THAT
7 FOR A PERSON OTHER THAN A CORPORATION, BUSINESS INCOME MEANS THAT
8 PART OF FEDERAL TAXABLE INCOME DERIVED FROM BUSINESS ACTIVITY PLUS
9 THE AMOUNT OF A DEDUCTION CLAIMED UNDER SECTION 199 OF THE INTERNAL
10 REVENUE CODE RELATED TO DOMESTIC PRODUCTION ACTIVITIES. FOR A
11 PARTNERSHIP, BUSINESS INCOME INCLUDES PAYMENTS AND ITEMS OF INCOME
12 AND EXPENSE THAT ARE ATTRIBUTABLE TO BUSINESS ACTIVITY OF THE
13 PARTNERSHIP AND ARE SEPARATELY REPORTED TO THE PARTNERS OF THE
14 PARTNERSHIP.

15 (C) "CLIENT" MEANS AN ENTITY WHOSE EMPLOYMENT OPERATIONS ARE
16 MANAGED BY A PROFESSIONAL EMPLOYER ORGANIZATION.

17 (D) "CORPORATION" MEANS A TAXPAYER THAT IS REQUIRED OR HAS
18 ELECTED TO FILE AS A CORPORATION FOR FEDERAL INCOME TAX PURPOSES.

19 (E) "PROFESSIONAL EMPLOYER ORGANIZATION" MEANS AN ORGANIZATION
20 THAT PROVIDES THE MANAGEMENT AND ADMINISTRATION OF THE HUMAN
21 RESOURCES OF ANOTHER ENTITY BY CONTRACTUALLY ASSUMING SUBSTANTIAL
22 EMPLOYER RIGHTS AND RESPONSIBILITIES THROUGH A PROFESSIONAL
23 EMPLOYER AGREEMENT THAT ESTABLISHES AN EMPLOYER RELATIONSHIP WITH
24 THE LEASED OFFICERS OR EMPLOYEES ASSIGNED TO THE OTHER ENTITY BY
25 DOING ALL OF THE FOLLOWING:

26 (*i*) MAINTAINING THE RIGHT OF DIRECTION AND CONTROL OF
27 EMPLOYEES' WORK, ALTHOUGH THIS RESPONSIBILITY MAY BE SHARED WITH

1 THE OTHER ENTITY.

2 (*ii*) PAYING WAGES AND EMPLOYMENT TAXES OF THE EMPLOYEES OUT OF
3 ITS OWN ACCOUNTS.

4 (*iii*) REPORTING, COLLECTING, AND DEPOSITING STATE AND FEDERAL
5 EMPLOYMENT TAXES FOR THE EMPLOYEES.

6 (*iv*) RETAINING THE RIGHT TO HIRE AND FIRE EMPLOYEES.

7 (F) "TEMPORARY EMPLOYEE" MEANS AN EMPLOYEE WHO MEETS BOTH OF
8 THE FOLLOWING CRITERIA:

9 (*i*) THE WAGES AND OTHER COMPENSATION OF THE EMPLOYEE ARE
10 DETERMINED EXCLUSIVELY BY THE ENTITY THAT SUPPLIES THE TEMPORARY
11 EMPLOYEE.

12 (*ii*) THE EMPLOYEE IS EMPLOYED BY AN ENTITY THAT PROVIDES THE
13 EMPLOYEE PRIMARILY FOR THE PURPOSE OF MEETING TEMPORARY OR SEASONAL
14 EMPLOYEE NEEDS OF THE ENTITY'S CUSTOMERS.

15 SEC. 104. FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1,
16 2006, THE TAX RATE UNDER SECTION 31 SHALL BE 1.2%.

17 SEC. 105. FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1,
18 2006, ALL OF THE TAX BASE, OTHER THAN THE TAX BASE DERIVED
19 PRINCIPALLY FROM TRANSPORTATION, FINANCIAL, OR INSURANCE CARRIER
20 SERVICES OR SPECIFICALLY ALLOCATED SHALL BE APPORTIONED TO THIS
21 STATE BY MULTIPLYING THE TAX BASE BY THE SALES FACTOR.

22 SEC. 106. (1) FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1,
23 2006, A TAXPAYER THAT IS AN INDUSTRIAL PROCESSOR OR A RESEARCH AND
24 DEVELOPMENT COMPANY MAY CLAIM A CREDIT EQUAL TO 35% OF THE PROPERTY
25 TAXES PAID IN THE TAX YEAR BY THE TAXPAYER ON TANGIBLE PERSONAL
26 PROPERTY USED FOR INDUSTRIAL PROCESSING, INCLUDING RESEARCH OR
27 EXPERIMENTAL ACTIVITIES. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION

1 (9)(A), TANGIBLE PERSONAL PROPERTY USED BY AN INDUSTRIAL PROCESSOR
2 OR RESEARCH AND DEVELOPMENT COMPANY FOR INDUSTRIAL PROCESSING
3 INCLUDES PROPERTY DESCRIBED IN SECTION 4T(4) OF THE GENERAL SALES
4 TAX ACT, 1933 PA 167, MCL 205.54T, AND EXCLUDES PROPERTY DESCRIBED
5 IN SECTION 4T(5) OF THE GENERAL SALES TAX ACT, 1933 PA 167, MCL
6 205.54T.
7 (2) PERSONAL PROPERTY TAXES PAID ON ANY TANGIBLE PERSONAL
8 PROPERTY, INCLUDING PROPERTY USED FOR INDUSTRIAL PROCESSING OR
9 RESEARCH OR EXPERIMENTAL ACTIVITIES, THAT HAS AS ITS PRIMARY
10 PURPOSE THE SUPPORT OF SALES AT RETAIL OF TANGIBLE PERSONAL
11 PROPERTY, OTHER THAN SALES TO EMPLOYEES, OR OTHER COMMERCIAL
12 ACTIVITIES SHALL NOT BE USED IN THE CALCULATION OF THE CREDIT UNDER
13 SUBSECTIONS (4) TO (6).
14 (3) TO QUALIFY FOR THE CREDIT UNDER THIS SECTION FOR AN ITEM
15 OF TANGIBLE PERSONAL PROPERTY, A TAXPAYER THAT IS OTHERWISE
16 ELIGIBLE TO CLAIM THE CREDIT ALLOWED UNDER THIS SECTION SHALL FILE
17 WITHIN THE TIME REQUIRED THE STATEMENT OF PERSONAL PROPERTY
18 DESCRIBED IN SECTION 19 OF THE GENERAL PROPERTY TAX ACT, 1893 PA
19 206, MCL 211.19, FOR THAT ITEM OF TANGIBLE PERSONAL PROPERTY USED
20 FOR INDUSTRIAL PROCESSING OR FOR A RESEARCH OR EXPERIMENTAL
21 ACTIVITY FOR THE LOCATION AT WHICH THE TANGIBLE PERSONAL PROPERTY
22 THAT IS THE BASIS OF THE CREDIT ALLOWED UNDER THIS SECTION IS
23 LOCATED. TAXPAYERS SHALL CLAIM AND CALCULATE THE CREDIT IN THE
24 MANNER PRESCRIBED IN SUBSECTIONS (4) TO (6).
25 (4) FOR A TAXPAYER THAT IS AN INDUSTRIAL PROCESSOR WHOSE ONLY
26 SIGNIFICANT BUSINESS ACTIVITY IS INDUSTRIAL PROCESSING AND
27 ACTIVITIES THAT SUPPORT ITS INDUSTRIAL PROCESSING, THE AMOUNT OF

1 PERSONAL PROPERTY TAXES USED TO CALCULATE THE CREDIT ALLOWED UNDER
2 SUBSECTION (1) SHALL BE 90% OF THE PERSONAL PROPERTY TAXES PAID AND
3 REPORTED ON PERSONAL PROPERTY BY THE INDUSTRIAL PROCESSOR.
4 (5) A TAXPAYER THAT IS AN INDUSTRIAL PROCESSOR THAT IS NOT
5 SUBJECT TO SUBSECTION (4) OR (6) SHALL COMPLETE AND FILE WITHIN THE
6 TIME REQUIRED BY SECTION 19 OF THE GENERAL PROPERTY TAX ACT, 1893
7 PA 206, MCL 211.19, STATEMENTS OF PERSONAL PROPERTY SEPARATELY FOR
8 BOTH THE PROPERTY USED FOR INDUSTRIAL PROCESSING AND PROPERTY USED
9 FOR OTHER PURPOSES AND SHALL CLAIM THE CREDIT AS PROVIDED IN
10 SUBSECTION (1) ON PERSONAL PROPERTY USED FOR INDUSTRIAL PROCESSING
11 AND SEPARATELY REPORTED AS REQUIRED BY THIS SUBSECTION.
12 (6) A TAXPAYER THAT IS A RESEARCH AND DEVELOPMENT COMPANY
13 SHALL COMPLETE AND FILE WITHIN THE TIME REQUIRED THE STATEMENT OF
14 PERSONAL PROPERTY DESCRIBED IN SECTION 19 OF THE GENERAL PROPERTY
15 TAX ACT, 1893 PA 206, MCL 211.19, SEPARATELY FOR THE PROPERTY USED
16 FOR RESEARCH OR EXPERIMENTAL ACTIVITIES AND THE PROPERTY USED FOR
17 OTHER PURPOSES AND SHALL CALCULATE THE CREDIT ALLOWED UNDER
18 SUBSECTION (1) BASED ON TAXES PAID FOR RESEARCH OR EXPERIMENTAL
19 PROPERTY AND SEPARATELY REPORTED AS REQUIRED IN THIS SUBSECTION.
20 (7) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE TAX
21 LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THE EXCESS SHALL BE
22 REFUNDED TO THE TAXPAYER. THE STATE TREASURER SHALL ESTABLISH A
23 RESERVE ACCOUNT IN THE DEPARTMENT TO FUND AND PROVIDE FOR PAYMENT
24 OF THE AMOUNT OF REFUNDS FOR CREDITS UNDER THIS SECTION THAT ARE
25 ATTRIBUTABLE TO THE FISCAL YEARS ENDING IN THE TAX YEARS FOR WHICH
26 CREDITS ARE CLAIMED.
27 (8) AN AFFILIATED GROUP AS DEFINED IN THIS ACT, A CONTROLLED

1 GROUP OF CORPORATIONS AS DEFINED IN SECTION 1563 OF THE INTERNAL
2 REVENUE CODE AND FURTHER DESCRIBED IN 26 CFR 1.414(B)-1 AND
3 1.414(C)-1 TO 1.414(C)-5, OR AN ENTITY UNDER COMMON CONTROL AS
4 DEFINED BY THE INTERNAL REVENUE CODE SHALL NOT CLAIM THE CREDIT
5 ALLOWED BY THIS SECTION AS A RESEARCH AND DEVELOPMENT COMPANY
6 UNLESS THE BUSINESS ACTIVITIES OF THE ENTITIES ARE CONSOLIDATED FOR
7 THE PURPOSE OF DETERMINING WHETHER THE TAXPAYER IS A RESEARCH AND
8 DEVELOPMENT COMPANY. FOR PURPOSES OF THIS SUBSECTION, BUSINESS
9 ACTIVITIES INCLUDE ALL ACTIVITIES WITHIN AND OUTSIDE OF THIS STATE.
10 (9) AS USED IN THIS SECTION:
11 (A) "INDUSTRIAL PROCESSING" MEANS THAT TERM AS DEFINED IN
12 SECTION 4T(7)(A) OF THE GENERAL SALES TAX ACT, 1933 PA 167, MCL
13 205.54T, AND DESCRIBED IN SECTION 4T(3) OF THE GENERAL SALES TAX
14 ACT, 1933 PA 167, MCL 205.54T, AND EXCLUDES THOSE ACTIVITIES
15 DESCRIBED IN SECTION 4T(6) OF THE GENERAL SALES TAX ACT, 1933 PA
16 167, MCL 205.54T, EXCEPT THAT FOR PURPOSES OF THIS SECTION,
17 INDUSTRIAL PROCESSING INCLUDES TANGIBLE PERSONAL PROPERTY USED FOR
18 THE RECEIVING AND STORAGE OF MATERIALS PURCHASED BY AN INDUSTRIAL
19 PROCESSOR OR USED AT A FIXED LOCATION FOR THE PRESERVATION,
20 MAINTENANCE, WAREHOUSING, OR SHIPPING OF A FINISHED GOOD.
21 (B) "INDUSTRIAL PROCESSOR" MEANS THAT TERM AS DEFINED IN
22 SECTION 4T(7)(B) OF THE GENERAL SALES TAX ACT, 1933 PA 167, MCL
23 205.54T, BUT DOES NOT INCLUDE A PUBLIC UTILITY.
24 (C) "PROPERTY TAXES" MEANS A TAX LEVIED UNDER ANY OF THE
25 FOLLOWING ACTS:
26 (*i*) THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO
27 211.157.

1 (*ii*) 1974 PA 198, MCL 207.551 TO 207.572.

2 (*iii*) THE OBSOLETE PROPERTY REHABILITATION ACT, 2000 PA 146, MCL
3 125.2781 TO 125.2797.

4 (D) "RESEARCH OR EXPERIMENTAL ACTIVITIES" MEANS THAT TERM AS
5 DEFINED IN SECTION 4T(7)(E) OF THE GENERAL SALES TAX ACT, 1933 PA
6 167, MCL 205.54T.

7 (E) "RESEARCH AND DEVELOPMENT COMPANY" MEANS A TAXPAYER THAT
8 IS EXCLUSIVELY PERFORMING RESEARCH OR EXPERIMENTAL ACTIVITIES.

9 SEC. 107. (1) FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1,
10 2006, A TAXPAYER THAT IS A RESEARCH AND DEVELOPMENT COMPANY MAY
11 CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT EQUAL TO 1.2% OF
12 COMPENSATION AS DEFINED IN SECTION 4 FOR SERVICES PERFORMED IN THIS
13 STATE THAT ARE RESEARCH OR EXPERIMENTAL ACTIVITIES.

14 (2) AN AFFILIATED GROUP AS DEFINED IN THIS ACT, A CONTROLLED
15 GROUP OF CORPORATIONS AS DEFINED IN SECTION 1563 OF THE INTERNAL
16 REVENUE CODE AND FURTHER DESCRIBED IN 26 CFR 1.414(B)-1 AND
17 1.414(C)-1 TO 1.414(C)-5, OR AN ENTITY UNDER COMMON CONTROL AS
18 DEFINED BY THE INTERNAL REVENUE CODE SHALL NOT CLAIM THE CREDIT
19 ALLOWED BY THIS SECTION AS A RESEARCH AND DEVELOPMENT COMPANY
20 UNLESS THE BUSINESS ACTIVITIES OF THE ENTITIES ARE CONSOLIDATED FOR
21 THE PURPOSE OF DETERMINING WHETHER THE TAXPAYER IS A RESEARCH AND
22 DEVELOPMENT COMPANY. FOR PURPOSES OF THIS SUBSECTION, BUSINESS
23 ACTIVITIES INCLUDE ALL ACTIVITIES WITHIN AND OUTSIDE OF THIS STATE.

24 (3) THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX YEAR
25 SHALL NOT BE REFUNDED AND SHALL NOT BE CARRIED FORWARD AS AN OFFSET
26 TO THE TAX LIABILITY IN SUBSEQUENT TAX YEARS.

27 (4) THE CREDIT UNDER THIS SECTION SHALL BE CLAIMED AGAINST THE

1 TAXPAYER'S TAX LIABILITY AS DETERMINED AFTER THE APPLICATION OF THE
2 CREDIT ALLOWED UNDER SECTION 106.
3 SEC. 108. (1) AS USED IN THIS CHAPTER:
4 (A) "ACTIVE SHAREHOLDER" MEANS A SHAREHOLDER WHO RECEIVES AT
5 LEAST $10,000.00 IN COMPENSATION, DIRECTOR'S FEES, OR DIVIDENDS
6 FROM THE BUSINESS, AND WHO OWNS AT LEAST 5% OF THE OUTSTANDING
7 STOCK.
8 (B) "ADJUSTED BUSINESS INCOME" MEANS BUSINESS INCOME AS
9 DEFINED IN SECTION 103 WITH ALL OF THE FOLLOWING ADJUSTMENTS:
10 (*i*) ADD COMPENSATION AND DIRECTOR'S FEES OF ACTIVE SHAREHOLDERS
11 OF A CORPORATION.
12 (*ii*) MAKE THE ADJUSTMENTS PROVIDED IN SECTION 9(4)(A) AND (B).
13 (*iii*) ADD COMPENSATION AND DIRECTOR'S FEES OF OFFICERS OF A
14 CORPORATION.
15 (C) "LOSS ADJUSTMENT" MEANS THE AMOUNT BY WHICH ADJUSTED
16 BUSINESS INCOME WAS LESS THAN ZERO IN ANY OF THE 5 TAX YEARS
17 IMMEDIATELY PRECEDING THE TAX YEAR FOR WHICH ELIGIBILITY FOR THE
18 CREDIT PROVIDED BY THIS SECTION IS BEING DETERMINED. IN DETERMINING
19 THE LOSS ADJUSTMENT FOR A TAX YEAR, A TAXPAYER IS NOT REQUIRED TO
20 USE MORE OF THE TAXPAYER'S TOTAL NEGATIVE ADJUSTED BUSINESS INCOME
21 THAN THE AMOUNT NEEDED TO QUALIFY THE TAXPAYER FOR THE CREDIT UNDER
22 THIS SECTION. A TAXPAYER SHALL NOT BE CONSIDERED TO HAVE USED ANY
23 PORTION OF THE TAXPAYER'S NEGATIVE ADJUSTED BUSINESS INCOME AMOUNT
24 UNLESS THE PORTION USED IS NECESSARY TO QUALIFY FOR THE CREDIT
25 UNDER THIS SECTION. A TAXPAYER SHALL NOT REUSE A NEGATIVE ADJUSTED
26 BUSINESS INCOME AMOUNT USED AS A LOSS ADJUSTMENT IN A PREVIOUS TAX
27 YEAR OR USE A NEGATIVE ADJUSTED BUSINESS INCOME AMOUNT FROM A YEAR

1 IN WHICH THE TAXPAYER DID NOT RECEIVE THE CREDIT UNDER THIS
2 SECTION.
3 (D) "OFFICER" MEANS AN OFFICER OF A CORPORATION OTHER THAN A
4 SUBCHAPTER S CORPORATION INCLUDING THE CHAIRPERSON OF THE BOARD,
5 PRESIDENT, VICE PRESIDENT, SECRETARY, AND TREASURER, OR PERSONS
6 PERFORMING SIMILAR DUTIES.
7 (E) "SHAREHOLDER" MEANS A PERSON WHO OWNS OUTSTANDING STOCK IN
8 THE BUSINESS OR A MEMBER OF A BUSINESS ENTITY THAT FILES AS A
9 CORPORATION FOR FEDERAL INCOME TAX PURPOSES. AN INDIVIDUAL IS
10 CONSIDERED AS THE OWNER OF THE STOCK OWNED, DIRECTLY OR INDIRECTLY,
11 BY OR FOR FAMILY MEMBERS AS DEFINED IN SECTION 318(A)(1) OF THE
12 INTERNAL REVENUE CODE.
13 (F) "SUBCHAPTER S CORPORATION" MEANS A CORPORATION ELECTING
14 TAXATION UNDER SUBCHAPTER S OF CHAPTER 1 OF SUBTITLE A OF THE
15 INTERNAL REVENUE CODE, 26 USC 1361 TO 1379.
16 (2) THE CREDIT PROVIDED IN THIS SECTION SHALL BE TAKEN AFTER
17 THE CREDIT ALLOWED UNDER SECTION 35A BUT BEFORE ANY OTHER CREDIT
18 UNDER THIS ACT, AND IS AVAILABLE TO ANY PERSON WHOSE GROSS RECEIPTS
19 DO NOT EXCEED $10,000,000.00 AND WHOSE ADJUSTED BUSINESS INCOME
20 MINUS THE LOSS ADJUSTMENT DOES NOT EXCEED $475,000.00, SUBJECT TO
21 THE FOLLOWING:
22 (A) AN INDIVIDUAL, A PARTNERSHIP, A BUSINESS ENTITY THAT FILES
23 AS A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES, OR A SUBCHAPTER S
24 CORPORATION IS DISQUALIFIED IF THE INDIVIDUAL, ANY 1 PARTNER OF THE
25 PARTNERSHIP, ANY 1 MEMBER OF THE BUSINESS ENTITY THAT FILES AS A
26 PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES, OR ANY 1 SHAREHOLDER
27 OF THE SUBCHAPTER S CORPORATION RECEIVES MORE THAN $115,000.00 AS A

1 DISTRIBUTIVE SHARE OF THE ADJUSTED BUSINESS INCOME MINUS THE LOSS
2 ADJUSTMENT OF THE INDIVIDUAL, THE PARTNERSHIP, THE BUSINESS ENTITY
3 THAT FILES AS A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES, OR THE
4 SUBCHAPTER S CORPORATION.
5 (B) A CORPORATION OTHER THAN A SUBCHAPTER S CORPORATION IS
6 DISQUALIFIED IF EITHER OF THE FOLLOWING OCCUR FOR THE RESPECTIVE
7 TAX YEAR:
8 (*i*) COMPENSATION AND DIRECTOR'S FEES OF A SHAREHOLDER OR
9 OFFICER EXCEED $115,000.00.
10 (*ii*) THE SUM OF THE FOLLOWING AMOUNTS EXCEEDS $115,000.00:
11 (A) COMPENSATION AND DIRECTOR'S FEES OF A SHAREHOLDER.
12 (B) THE PRODUCT OF THE PERCENTAGE OF OUTSTANDING OWNERSHIP OR
13 OF OUTSTANDING STOCK OWNED BY THAT SHAREHOLDER MULTIPLIED BY THE
14 DIFFERENCE BETWEEN THE SUM OF BUSINESS INCOME AND THE ADJUSTMENTS
15 PROVIDED IN SECTION 9(4)(A) AND (B) MINUS THE LOSS ADJUSTMENT.
16 (C) SUBJECT TO THE PROVISIONS FOR DETERMINING THE REDUCTION
17 PERCENTAGE UNDER SECTION 36D AS IT IS APPLIED THROUGH FORMER
18 SECTION 36, THE CREDIT DETERMINED UNDER THIS SUBSECTION SHALL BE
19 REDUCED BY THE FOLLOWING PERCENTAGES IN THE FOLLOWING
20 CIRCUMSTANCES:
21 (*i*) IF AN INDIVIDUAL, ANY 1 PARTNER OF THE PARTNERSHIP, ANY 1
22 MEMBER OF THE BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR
23 FEDERAL INCOME TAX PURPOSES, OR ANY 1 SHAREHOLDER OF THE SUBCHAPTER
24 S CORPORATION RECEIVES AS A DISTRIBUTIVE SHARE OF ADJUSTED GROSS
25 INCOME MINUS THE LOSS ADJUSTMENT OF THE INDIVIDUAL, PARTNERSHIP,
26 BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL INCOME TAX
27 PURPOSES, OR SUBCHAPTER S CORPORATION; IF COMPENSATION AND

1 DIRECTORS' FEES OF A SHAREHOLDER OR OFFICER OF A CORPORATION OTHER
2 THAN A SUBCHAPTER S CORPORATION ARE; OR IF THE SUM OF THE AMOUNTS
3 IN SUBDIVISION (B)(*ii*)(A) AND (B) IS MORE THAN $95,000.00 BUT LESS
4 THAN $100,000.00, THE CREDIT IS REDUCED BY 20%.
5 (*ii*) IF AN INDIVIDUAL, ANY 1 PARTNER OF THE PARTNERSHIP, ANY 1
6 MEMBER OF A BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL
7 INCOME TAX PURPOSES, OR ANY 1 SHAREHOLDER OF THE SUBCHAPTER S
8 CORPORATION RECEIVES AS A DISTRIBUTIVE SHARE OF ADJUSTED GROSS
9 INCOME MINUS THE LOSS ADJUSTMENT OF THE INDIVIDUAL, PARTNERSHIP,
10 BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL INCOME TAX
11 PURPOSES, OR SUBCHAPTER S CORPORATION; IF COMPENSATION AND
12 DIRECTORS' FEES OF A SHAREHOLDER OR OFFICER OF A CORPORATION OTHER
13 THAN A SUBCHAPTER S CORPORATION ARE; OR IF THE SUM OF THE AMOUNTS
14 IN SUBDIVISION (B)(*ii*)(A) AND (B) IS $100,000.00 OR MORE BUT LESS
15 THAN $105,000.00, THE CREDIT IS REDUCED BY 40%.
16 (*iii*) IF AN INDIVIDUAL, ANY 1 PARTNER OF THE PARTNERSHIP, ANY 1
17 MEMBER OF A BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL
18 INCOME TAX PURPOSES, OR ANY 1 SHAREHOLDER OF THE SUBCHAPTER S
19 CORPORATION RECEIVES AS A DISTRIBUTIVE SHARE OF ADJUSTED GROSS
20 INCOME MINUS THE LOSS ADJUSTMENT OF THE INDIVIDUAL, PARTNERSHIP,
21 BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL INCOME TAX
22 PURPOSES, OR SUBCHAPTER S CORPORATION; IF COMPENSATION AND
23 DIRECTORS' FEES OF A SHAREHOLDER OR OFFICER OF A CORPORATION OTHER
24 THAN A SUBCHAPTER S CORPORATION ARE; OR IF THE SUM OF THE AMOUNTS
25 IN SUBDIVISION (B)(*ii*)(A) AND (B) IS $105,000.00 OR MORE BUT LESS
26 THAN $110,000.00, THE CREDIT IS REDUCED BY 60%.
27 (*iv*) IF AN INDIVIDUAL, ANY 1 PARTNER OF THE PARTNERSHIP, ANY 1

1 MEMBER OF A BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL
2 INCOME TAX PURPOSES, OR ANY 1 SHAREHOLDER OF THE SUBCHAPTER S
3 CORPORATION RECEIVES AS A DISTRIBUTIVE SHARE OF ADJUSTED GROSS
4 INCOME MINUS THE LOSS ADJUSTMENT OF THE INDIVIDUAL, PARTNERSHIP,
5 BUSINESS ENTITY THAT FILES AS A PARTNERSHIP FOR FEDERAL INCOME TAX
6 PURPOSES, OR SUBCHAPTER S CORPORATION; IF COMPENSATION AND
7 DIRECTORS' FEES OF A SHAREHOLDER OR OFFICER OF A CORPORATION OTHER
8 THAN A SUBCHAPTER S CORPORATION ARE; OR IF THE SUM OF THE AMOUNTS
9 IN SUBDIVISION (B)(*ii*)(A) AND (B) IS $110,000.00 OR MORE BUT LESS
10 THAN $115,000.00, THE CREDIT IS REDUCED BY 80%.
11 (3) FOR THE PURPOSES OF DETERMINING DISQUALIFICATION UNDER
12 SUBSECTION (2), AN ACTIVE SHAREHOLDER'S SHARE OF BUSINESS INCOME
13 SHALL NOT BE ATTRIBUTED TO ANOTHER ACTIVE SHAREHOLDER.
14 (4) A PERSON WHO QUALIFIES PURSUANT TO SUBSECTION (2) IS
15 ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY SECTION 31. THE CREDIT
16 IS THE GREATER OF THE AMOUNT BY WHICH THE TAX IMPOSED BY SECTION 31
17 EXCEEDS 1.2% OF ADJUSTED BUSINESS INCOME OR A PERCENTAGE REDUCTION
18 IN TAX LIABILITY.
19 (5) THE PERCENTAGE REDUCTION PROVIDED IN SUBSECTION (4) IS
20 CALCULATED BY SUBTRACTING FROM 100% THE PERCENTAGE COMPUTED BY
21 DIVIDING ADJUSTED BUSINESS INCOME BY 45% OF THE TAX BASE.
22 (6) IF GROSS RECEIPTS EXCEED $9,000,000.00, THE CREDIT SHALL
23 BE REDUCED BY A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF
24 GROSS RECEIPTS OVER $9,000,000.00 AND THE DENOMINATOR OF WHICH IS
25 $1,000,000.00. THE CREDIT SHALL NOT EXCEED 100% OF THE TAX
26 LIABILITY IMPOSED BY SECTION 31.
27 (7) AN AFFILIATED GROUP AS DEFINED IN THIS ACT, A CONTROLLED

1 GROUP OF CORPORATIONS AS DEFINED IN SECTION 1563 OF THE INTERNAL
2 REVENUE CODE AND FURTHER DESCRIBED IN 26 CFR 1.414(B)-1 AND
3 1.414(C)-1 TO 1.414(C)-5, OR AN ENTITY UNDER COMMON CONTROL AS
4 DEFINED BY THE INTERNAL REVENUE CODE SHALL NOT TAKE THE CREDIT
5 ALLOWED BY THIS SECTION UNLESS THE BUSINESS ACTIVITIES OF THE
6 ENTITIES ARE CONSOLIDATED. FOR PURPOSES OF THIS SUBSECTION,
7 BUSINESS ACTIVITIES INCLUDE ALL ACTIVITIES WITHIN AND OUTSIDE OF
8 THIS STATE.
9 (8) THE DEPARTMENT SHALL PERMIT A TAXPAYER WHO ELECTS TO CLAIM
10 THE CREDIT ALLOWED BY THIS SECTION BASED ON THE AMOUNT BY WHICH THE
11 TAX IMPOSED BY SECTION 31 EXCEEDS THE PERCENTAGE OF ADJUSTED
12 BUSINESS INCOME FOR THE TAX YEAR AS DETERMINED UNDER SUBSECTION
13 (4), AND WHO IS NOT REQUIRED TO REDUCE THE CREDIT PURSUANT TO
14 SUBSECTION (2) OR (6), TO FILE AND PAY THE TAX IMPOSED BY THIS ACT
15 WITHOUT COMPUTING THE TAX IMPOSED UNDER SECTION 31.
16 (9) THIS SECTION SHALL APPLY TO TAX YEARS THAT BEGIN ON AND
17 AFTER JANUARY 1, 2006.
18 SEC. 109. FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1,
19 2006, THE TAX BASE FOR A CORPORATION OTHER THAN AN S CORPORATION
20 SHALL BE DETERMINED BY ADDING THE SUM OF THE FOLLOWING AMOUNTS, IF
21 THE SUM IS GREATER THAN ZERO, MULTIPLYING THAT RESULT BY 2 AND
22 ADDING THE TOTAL TO THE TAX BASE AS CALCULATED UNDER SECTION 9:
23 (A) BUSINESS INCOME AS DEFINED IN SECTION 103, REDUCED BY THE
24 AMOUNT OF DIVIDENDS DEDUCTED BY THE TAXPAYER FOR THE TAX YEAR UNDER
25 SECTION 9(7).
26 (B) THE ADJUSTMENT PROVIDED IN SECTION 9(4)(A).
27 SEC. 110. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), FOR TAX

1 YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2006, COMPENSATION OF A
2 CLIENT INCLUDES COMPENSATION PAID BY A PROFESSIONAL EMPLOYER
3 ORGANIZATION TO THE OFFICERS OF THE CLIENT.
4 (2) FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1, 2006 WITH
5 RESPECT TO A PROFESSIONAL EMPLOYER ORGANIZATION THAT HAS 1% OR MORE
6 OF THE COMMON OWNERSHIP WITH A CLIENT, A PROFESSIONAL EMPLOYER
7 ORGANIZATION IN WHICH A CLIENT HAS MORE THAN 1% OWNERSHIP INTEREST,
8 OR A PROFESSIONAL EMPLOYER ORGANIZATION THAT HAS MORE THAN A 1%
9 OWNERSHIP INTEREST IN A CLIENT, COMPENSATION OF THE CLIENT INCLUDES
10 COMPENSATION PAID BY THE PROFESSIONAL EMPLOYER ORGANIZATION TO THE
11 OFFICERS OF THE CLIENT AND TO EMPLOYEES OF THE PROFESSIONAL
12 EMPLOYER ORGANIZATION WHO ARE ASSIGNED TO AND PERFORM SERVICES FOR
13 THE CLIENT. HOWEVER, A PROFESSIONAL EMPLOYER ORGANIZATION AND ITS
14 CLIENT MAY JOINTLY ELECT, IN A MANNER DETERMINED BY THE DEPARTMENT,
15 NOT TO BE SUBJECT TO THE PROVISIONS OF THIS SUBSECTION AND TO
16 INCLUDE COMPENSATION THAT IS REQUIRED BY THIS SUBSECTION TO BE
17 INCLUDED IN THE TAX BASE OF THE CLIENT TO BE INCLUDED IN THE TAX
18 BASE OF THE PROFESSIONAL EMPLOYER ORGANIZATION. TAXPAYERS MAKING
19 THIS ELECTION SHALL NOT CLAIM THE CREDIT UNDER SECTION 108.
20 (3) FOR PURPOSES OF THIS SECTION, OFFICERS AND EMPLOYEES OF
21 THE CLIENT ALSO INCLUDES EMPLOYEES FOR WHOM THE PROFESSIONAL
22 EMPLOYER ORGANIZATION IS REQUIRED TO WITHHOLD TAXES FOR FEDERAL
23 INCOME TAX PURPOSES. HOWEVER, THIS SUBSECTION DOES NOT APPLY TO
24 COMPENSATION PAID TO A TEMPORARY EMPLOYEE.
25 (4) A PROFESSIONAL EMPLOYER ORGANIZATION TO WHICH SUBSECTION
26 (1) OR (2) APPLIES SHALL, WITHIN 30 DAYS AFTER THE END OF EACH
27 CLIENT'S TAX YEAR, SUBMIT TO THE CLIENT A STATEMENT REPORTING THE

1 COMPENSATION AS DEFINED IN SECTION 4 PAID TO EMPLOYEES AND OFFICERS
2 OF THE CLIENT THAT WAS REIMBURSED BY THE CLIENT. IF THE REPORT
3 REQUIRED BY THIS SUBSECTION IS NOT SUBMITTED, THE AMOUNT OF
4 COMPENSATION SHALL BE CONSIDERED TO BE THE ENTIRE AMOUNT PAID BY
5 THE CLIENT TO THE PROFESSIONAL EMPLOYER ORGANIZATION.
6 (5) AS USED IN THIS SECTION, "OFFICER" MEANS THAT TERM AS
7 DEFINED IN SECTION 108.
8 SEC. 111. (1) FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2006,
9 EACH INSURANCE COMPANY SHALL PAY A TAX DETERMINED UNDER THIS
10 SECTION.
11 (2) EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, THE TAX
12 IMPOSED BY THIS ACT ON EACH INSURANCE COMPANY SHALL BE A TAX EQUAL
13 TO 2% OF GROSS DIRECT PREMIUMS WRITTEN ON PROPERTY OR RISK LOCATED
14 OR RESIDING IN THIS STATE. DIRECT PREMIUMS DO NOT INCLUDE ANY OF
15 THE FOLLOWING:
16 (A) PREMIUMS ON POLICIES NOT TAKEN.
17 (B) RETURNED PREMIUMS ON CANCELED POLICIES.
18 (C) RECEIPTS FROM THE SALE OF ANNUITIES.
19 (D) RECEIPTS ON REINSURANCE PREMIUMS IF THE TAX HAS BEEN PAID
20 ON THE ORIGINAL PREMIUMS.
21 (3) AN INSURANCE COMPANY IS SUBJECT TO THE TAX UNDER
22 SUBSECTION (2) OR UNDER SECTION 476A OF THE INSURANCE CODE OF 1956,
23 1956 PA 218, MCL 500.476A, IF APPLICABLE, WHICHEVER IS GREATER.
24 (4) THE TAX YEAR FOR AN INSURANCE COMPANY SHALL BE THE
25 CALENDAR YEAR.
26 (5) NOTWITHSTANDING SECTION 73, AN INSURANCE COMPANY SHALL
27 FILE THE ANNUAL RETURN REQUIRED UNDER THIS ACT BEFORE MARCH 2 AFTER

1 THE END OF THE INSURANCE COMPANY'S TAX YEAR, AND AN AUTOMATIC
2 EXTENSION UNDER SECTION 73(3) IS NOT AVAILABLE.
3 (6) FOR THE PURPOSE OF CALCULATING AN ESTIMATED PAYMENT
4 REQUIRED BY SECTION 71, THE GREATER OF THE AMOUNT OF TAX IMPOSED ON
5 AN INSURANCE COMPANY UNDER THIS ACT OR UNDER SECTION 476A OF THE
6 INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.476A, SHALL BE
7 CONSIDERED THE INSURANCE COMPANY'S TAX LIABILITY FOR THE
8 IMMEDIATELY PRECEDING TAX YEAR.
9 (7) THE REQUIREMENTS OF SECTION 28(1)(F) OF 1941 PA 122, MCL
10 205.28, THAT PROHIBIT AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF,
11 A FORMER EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF, OR ANYONE
12 CONNECTED WITH THE DEPARTMENT FROM DIVULGING ANY FACTS OR
13 INFORMATION OBTAINED IN CONNECTION WITH THE ADMINISTRATION OF A TAX
14 DO NOT APPLY TO DISCLOSURE OF A TAX RETURN REQUIRED BY THIS
15 SECTION.
16 (8) THE TAX CALCULATED UNDER THIS SECTION IS IN LIEU OF ALL
17 OTHER PRIVILEGE OR FRANCHISE FEES OR TAXES IMPOSED BY ANY OTHER LAW
18 OF THIS STATE, EXCEPT TAXES ON REAL AND PERSONAL PROPERTY, AND
19 EXCEPT AS OTHERWISE PROVIDED IN THIS ACT AND IN THE INSURANCE CODE
20 OF 1956, 1956 PA 218, MCL 500.100 TO 500.8302.
21 (9) SECTION 35A DOES NOT APPLY TO AN INSURANCE COMPANY SUBJECT
22 TO TAX UNDER THIS SECTION.
23 SEC. 112. IF A FINAL ORDER OF A COURT OF COMPETENT
24 JURISDICTION FOR WHICH ALL RIGHTS OF APPEAL HAVE BEEN EXHAUSTED OR
25 HAVE EXPIRED DETERMINES THAT ANY PROVISION OF THIS ACT THAT
26 PROVIDES A DEDUCTION, CREDIT, OR EXEMPTION WITH RESPECT TO
27 EMPLOYMENT, PERSONS, SERVICES, TAXES, INVESTMENT, OR ANY OTHER

1 ACTIVITY THAT IS LIMITED ONLY TO THIS STATE IS UNCONSTITUTIONAL OR
2 APPLIES TO EMPLOYMENT, PERSONS, SERVICES, TAXES, INVESTMENT, OR ANY
3 OTHER ACTIVITY OUTSIDE OF THIS STATE, THEN THAT DEDUCTION, CREDIT,
4 OR EXEMPTION SHALL BE SEVERED FROM THIS ACT IN ITS ENTIRETY AND
5 SHALL NOT BE EFFECTIVE FOR ANY TAX YEAR FOR WHICH THE FINAL RULING
6 APPLIES AND THE REMAINING PROVISIONS OF THIS ACT SHALL REMAIN IN
7 EFFECT.
8 SEC. 113. IF A FINAL ORDER OF A COURT OF COMPETENT
9 JURISDICTION FOR WHICH ALL RIGHTS OF APPEAL HAVE BEEN EXHAUSTED OR
10 HAVE EXPIRED DETERMINES THAT ANY PROVISION OF THIS ACT IS SUBJECT
11 TO THE LIMITATIONS OF 15 USC 381(A), THEN ALL OF THE FOLLOWING
12 APPLY FOR ANY TAX YEAR FOR WHICH THE RULING APPLIES:
13 (A) SECTION 109 IS SEVERED FROM THIS ACT.
14 (B) ALL OF THE REMAINING PROVISIONS OF THIS ACT SHALL REMAIN
15 IN EFFECT.
16 (C) AS A REPLACEMENT FOR THE PORTION OF THE TAX LEVIED UNDER
17 SECTION 31 ATTRIBUTABLE TO THE ADDITION REQUIRED UNDER SECTION 109,
18 THERE IS IMPOSED ON CORPORATIONS, OTHER THAN S CORPORATIONS, AND
19 SUBJECT TO THE PROVISIONS OF 15 USC 381(A), FOR THE PRIVILEGE OF
20 DOING BUSINESS IN THIS STATE, A SEPARATE LEVY EQUAL TO 2.4% OF THE
21 SUM OF THE FOLLOWING AMOUNTS SUBJECT TO CONSOLIDATION AS PROVIDED
22 IN THIS ACT AND APPORTIONED AS PROVIDED IN SECTION 105:
23 (*i*) BUSINESS INCOME AS DEFINED IN SECTION 103 AND REDUCED BY
24 THE AMOUNT OF DIVIDENDS DEDUCTED UNDER SECTION 9(7).
25 (*ii*) THE ADJUSTMENT PROVIDED IN SECTION 9(4)(A).
26 SEC. 114. THE FOLLOWING PROVISIONS OF THIS ACT SHALL NOT BE
27 EFFECTIVE FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1, 2006:

1 **(A) SECTION 4(4).**

2 **(B) SECTION 3(3).**

3 **(C) SECTIONS 22A TO 22F.**

4 **(D) SECTION 31(2), (4), AND (5).**

5 **(E) SECTION 36.**

6 **(F) SECTION 37.**

7 **(G) SECTION 39.**

8 **(H) SECTION 45.**

9 **(I) SECTION 45A.**

10 **SEC. 115. FOR PURPOSES OF THIS ACT, A TAXPAYER THAT HAS A 52-**
11 **OR 53-WEEK TAX YEAR BEGINNING NOT MORE THAN 7 DAYS BEFORE DECEMBER**
12 **31 OF ANY YEAR IS CONSIDERED TO HAVE A TAX YEAR THAT BEGINS AFTER**
13 **DECEMBER 31 OF THAT YEAR.**

14 Enacting section 1. Enacting section 1 of 2002 PA 531 is
15 repealed.

16 Enacting section 2. Enacting section 3 of 1999 PA 115 is
17 repealed.

18 Enacting section 3. This amendatory act does not take effect
19 unless Senate Bill No.____ or House Bill No.____ (request no.
20 01993'05) of the 93rd Legislature is enacted into law.