

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 6012

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 623 (MCL 206.623), as amended by 2011 PA 312,
and by adding section 31b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 31B. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
2 PART, FOR THE 2013 TAX YEAR AND EACH TAX YEAR AFTER 2013, TAXABLE
3 INCOME FOR PURPOSES OF THIS PART MEANS TAXABLE INCOME AS DETERMINED
4 UNDER SECTION 30 WITH THE FOLLOWING ADJUSTMENT. FOR THE 2013 TAX
5 YEAR AND EACH TAX YEAR AFTER 2013, ELIMINATE ALL OF THE FOLLOWING:

6 (A) INCOME DERIVED FROM A MINERAL TO THE EXTENT INCLUDED IN
7 ADJUSTED GROSS INCOME.

8 (B) EXPENSES RELATED TO THE INCOME DEDUCTIBLE UNDER

1 SUBDIVISION (A) TO THE EXTENT DEDUCTED IN ARRIVING AT ADJUSTED
2 GROSS INCOME.

3 (2) AS USED IN THIS ACT:

4 (A) "MINERAL" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE
5 NONFERROUS METALLIC MINERALS EXTRACTION SEVERANCE TAX ACT.

6 (B) "QUALIFIED TAXPAYER" MEANS A TAXPAYER SUBJECT TO THE
7 MINERALS SEVERANCE TAX LEVIED UNDER THE NONFERROUS METALLIC
8 MINERALS EXTRACTION SEVERANCE TAX ACT.

9 Sec. 623. (1) Except as otherwise provided in this part, there
10 is levied and imposed a corporate income tax on every taxpayer with
11 business activity within this state or ownership interest or
12 beneficial interest in a flow-through entity that has business
13 activity in this state unless prohibited by 15 USC 381 to 384. The
14 corporate income tax is imposed on the corporate income tax base,
15 after allocation or apportionment to this state, at the rate of
16 6.0%.

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

21 (a) Add interest income and dividends derived from obligations
22 or securities of states other than this state, in the same amount
23 that was excluded from federal taxable income, less the related
24 portion of expenses not deducted in computing federal taxable
25 income because of sections 265 and 291 of the internal revenue
26 code.

27 (b) Add all taxes on or measured by net income including the

1 tax imposed under this part to the extent that the taxes were
2 deducted in arriving at federal taxable income.

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

5 (d) To the extent included in federal taxable income, deduct
6 dividends and royalties received from persons other than United
7 States persons and foreign operating entities, including, but not
8 limited to, amounts determined under section 78 of the internal
9 revenue code or sections 951 to 964 of the internal revenue code.

10 (e) Except as otherwise provided under this subdivision, to
11 the extent deducted in arriving at federal taxable income, add any
12 royalty, interest, or other expense paid to a person related to the
13 taxpayer by ownership or control for the use of an intangible asset
14 if the person is not included in the taxpayer's unitary business
15 group. The addition of any royalty, interest, or other expense
16 described under this subdivision is not required to be added if the
17 taxpayer can demonstrate that the transaction has a nontax business
18 purpose, is conducted with arm's-length pricing and rates and terms
19 as applied in accordance with sections 482 and 1274(d) of the
20 internal revenue code, and 1 of the following is true:

21 (i) The transaction is a pass through of another transaction
22 between a third party and the related person with comparable rates
23 and terms.

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

27 (iii) An addition would be unreasonable as determined by the

1 state treasurer.

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

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

7 (g) For tax years beginning after December 31, 2011, eliminate
8 all of the following:

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

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

13 **(H) FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2012, FOR A**
14 **QUALIFIED TAXPAYER, ELIMINATE ALL OF THE FOLLOWING:**

15 **(i) INCOME DERIVED FROM A MINERAL TO THE EXTENT INCLUDED IN**
16 **FEDERAL TAXABLE INCOME.**

17 **(ii) EXPENSES RELATED TO THE INCOME DEDUCTIBLE UNDER**
18 **SUBPARAGRAPH (i) TO THE EXTENT DEDUCTED IN ARRIVING AT FEDERAL**
19 **TAXABLE INCOME.**

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

25 (4) Deduct any available business loss incurred after December
26 31, 2011. As used in this subsection, "business loss" means a
27 negative business income taxable amount after allocation or

1 apportionment. The business loss shall be carried forward to the
2 year immediately succeeding the loss year as an offset to the
3 allocated or apportioned corporate income tax base, then
4 successively to the next 9 taxable years following the loss year or
5 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.

9 Enacting section 1. This amendatory act does not take effect
10 unless House Bill No. 6008 of the 96th Legislature is enacted into
11 law.