

HOUSE BILL No. 6012

November 8, 2012, Introduced by Rep. Huuki and referred to the Committee on Tax Policy.

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, TO DETERMINE TAXABLE INCOME, A
6 QUALIFIED TAXPAYER MAY DEDUCT, TO THE EXTENT INCLUDED IN ADJUSTED
7 GROSS INCOME, ANY INCOME DERIVED FROM A PRODUCING MINE OR MINERAL-
8 PRODUCING PROPERTY, OR BOTH.

1 (2) AS USED IN THIS SECTION:

2 (A) "MINERAL-PRODUCING PROPERTY" AND "PRODUCING MINE" MEAN
3 THOSE TERMS AS DEFINED IN SECTION 2 OF THE NONFERROUS METALLIC
4 MINERALS EXTRACTION SEVERANCE TAX ACT.

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

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

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

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

26 (b) Add all taxes on or measured by net income including the
27 tax imposed under this part to the extent that the taxes were

1 deducted in arriving at federal taxable income.

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

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

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

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

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

26 (iii) An addition would be unreasonable as determined by the
27 state treasurer.

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

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

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

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

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

12 **(H) FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2012, FOR A**
13 **QUALIFIED TAXPAYER, TO THE EXTENT INCLUDED IN FEDERAL TAXABLE**
14 **INCOME, DEDUCT ANY INCOME DERIVED FROM A PRODUCING MINE OR MINERAL-**
15 **PRODUCING PROPERTY, OR BOTH.**

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

21 (4) Deduct any available business loss incurred after December
22 31, 2011. As used in this subsection, "business loss" means a
23 negative business income taxable amount after allocation or
24 apportionment. The business loss shall be carried forward to the
25 year immediately succeeding the loss year as an offset to the
26 allocated or apportioned corporate income tax base, then
27 successively to the next 9 taxable years following the loss year or

1 until the loss is used up, whichever occurs first.

2 (5) As used in this section: ~~,"oil~~

3 (A) "MINERAL-PRODUCING PROPERTY" AND "PRODUCING MINE" MEAN
4 THOSE TERMS AS DEFINED IN SECTION 2 OF THE NONFERROUS METALLIC
5 MINERALS EXTRACTION SEVERANCE TAX ACT.

6 (B) "OIL and gas" means oil and gas that is subject to
7 severance tax under 1929 PA 48, MCL 205.301 to 205.317.

8 (C) "QUALIFIED TAXPAYER" MEANS A TAXPAYER SUBJECT TO THE
9 MINERALS SEVERANCE TAX LEVIED UNDER THE NONFERROUS METALLIC
10 MINERALS EXTRACTION SEVERANCE TAX ACT.

11 Enacting section 1. This amendatory act does not take effect
12 unless Senate Bill No.____ or House Bill No. 6008(request no.
13 02659'11 ***) of the 96th Legislature is enacted into law.