INITIATION OF LEGISLATION
An initiation of legislation to enacting the Corporate Fair Share of Taxes Act which would, among other things, fund the repair and maintenance of Michigan roads and bridges by increasing the corporate income tax from 6% under current law to 11% by providing for the imposition, levy, computation, collection, assessment, reporting, payment and enforcement of taxes on or measured by net income and on certain commercial, business and financial activities of certain corporations; prescribing the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; permitting the inspection of records of taxpayers; providing for interest and penalties on unpaid taxes; providing exemptions, credits and refunds of the taxes; prescribing penalties for violations; providing for the disposition of the revenue received and collected; and repealing Part 2 of the Income Tax Act of 1967, Public Act 281 of 1967, MCL 206.601–206.699.
If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution of 1963, the proposed legislation is to be voted on at the General Election, November 8, 2016.
FOR THE FULL TEXT OF THE PROPOSED LEGISLATION SEE THE REVERSE SIDE AND ATTACHED PAGES OF THIS PETITION.

We, the undersigned qualified and registered electors, residents in the county of ___________________________, State of Michigan, respectively petition for initiation of legislation.

WARNING—A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

CERTIFICATE OF CIRCULATOR
The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the city or township indicated preceding the signature, and the elector was qualified to sign the petition.

CIRCULATOR—Do not sign or date certificate until after circulating petition.

Signature of Circulator ___________________________ Date _______________/

Printed Name of Circulator ___________________________

Complete Residence Address (Street and Number or Rural Route) Do not enter a post office box ___________________________

County of Registration, if Registered to Vote, of a Circulator Who is not a Resident of Michigan ___________________________

Paid for with regulated funds by Citizens for Fair Taxes, 400 Renaissance Center, Suite 1010, Detroit, MI 48243.
An initiation of legislation to enact the Corporate Fair Share of Taxes Act which would, among other things, fund the repair and maintenance of Michigan roads and bridges by increasing the corporate income tax from 6% under current law to 11% by providing for the imposition, levy, computation, collection, assessment, reporting, payment and enforcement of taxes on or measured by net income and on certain commercial, business and financial activities of certain corporations; prescribing the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; permitting the inspection of records of taxpayers; providing for interest and penalties on unpaid taxes; providing exemptions, credits and refunds of the taxes; prescribing penalties for violations; providing for the disposition of the revenue received and collected; and repealing Part 2 of the Income Tax Act of 1967, Public Act 281 of 1967, MCL 206.601–206.693.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**SHORT TITLE**

Sec. 1. This act shall be known and may be cited as the Corporate Fair Share of Taxes Act.

**CHAPTER 10**

Sec. 2. A term used in this act and not defined differently shall have the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes in effect for the tax year unless a different meaning is clearly required. A reference in this act to the internal revenue code includes other provisions of the laws of the United States relating to federal income taxes.

Sec. 3. (1) “Affiliated group” means that term as defined in section 1504 of the internal revenue code except that it shall include all United States persons that are corporations, insurance companies, or financial institutions, other than a foreign operating entity, that are commonly owned, directly or indirectly, by any member of such affiliated group and other members of which more than 50% of the ownership interests with voting rights or ownership interests that confer comparable rights to voting rights of the member is directly or indirectly owned by a common owner or owners.

(2) “Business activity” means a transfer of legal or equitable title to or rental of property, whether real, personal, or mixed, tangible or intangible, or the performance of services, or a combination thereof, made or engaged in, or caused to be made or engaged in, whether in intrastate, interstate, or foreign commerce, with the object of gain, benefit, or advantage, whether direct or indirect, to the taxpayer or to others, but does not include the services rendered by an employee to his or her employer or services as a director of a corporation. Although an activity of a taxpayer may be incidental to another or to others of his or her business activities, each activity shall be considered to be business engaged in within the meaning of this act.

(3) “Business income” means federal taxable income. For a tax-exempt taxpayer, business income means only that part of federal taxable income derived from unrelated business activity.

Sec. 4. (1) “Corporation” means a person that is required or has elected to file as a C corporation as defined under section 1361(a)(2) and section 7701(a)(3) of the internal revenue code. Corporation does not include an insurance company or a financial institution.

(2) “Department” means the department of treasury.

(3) “Employee” means an employee as defined in section 3401(c) of the internal revenue code. A person from whom an employer is required to withhold for federal income tax purposes is prima facie considered an employee.

(4) “Employer” means an employer as defined in section 3401(d) of the internal revenue code. A person required to withhold for federal income tax purposes is prima facie considered an employer.

Sec. 5. (1) “Federal taxable income” means taxable income as defined in section 63 of the internal revenue code, except that federal taxable income shall be calculated as if section 168(k) and section 199 of the internal revenue code were not in effect.

(2) “Flow-through entity” means an entity that for the applicable tax year is treated as a subchapter S corporation under section 1362(a) of the internal revenue code, a general partnership, a trust, a limited partnership, a limited liability partnership, or a limited liability company, that for the tax year is not taxed as a corporation for federal income tax purposes, or a foreign partnership, or does not include the entity disregarded under section 37.

(3) “Foreign operating entity” means a United States corporation that satisfies each of the following:

(a) Would otherwise be a part of an affiliated group of corporations that has at least 1 corporation included in the unitary business group that is taxable in this state or in any other state similar to the unitary business group that is taxable in this state;

(b) Has substantial operations outside the United States, the District of Columbia, any territory or possession of the United States, except for the Commonwealth of Puerto Rico, or a political subdivision of any of the foregoing;

(c) At least 80% of its income is active foreign business income as defined in section 861(c)(1)(B) of the internal revenue code.

(4) “Gross receipts” means the entire amount received by the taxpayer from any activity whether in intrastate, interstate, or foreign commerce, carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others except for the following:

(a) Proceeds from sales by a principal that the taxpayer collects in an agency capacity solely on behalf of the principal and delivers to the principal.

(b) Amounts received by the taxpayer as an agent solely on behalf of the principal that are expended by the taxpayer for the following:

(i) The performance of a service by a third party for the benefit of the principal that is required by law to be performed by a licensed person.

(ii) The performance of a service by a third party for the benefit of the principal that the taxpayer has not undertaken a contractual duty to perform.

(iii) Principal and interest under a mortgage loan or land contract, lease or rental payments, or taxes, utilities, or insurance premiums relating to real or personal property owned or leased by the principal.

(iv) A capital asset of a type that is, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated cost recovery by the principal for federal income tax purposes, or for real property owned or leased by the principal.

(v) Property not described under subparagraph (iv) purchased by the taxpayer on behalf of the principal and that the taxpayer does not take title to or use in the course of performing its contractual business activities.

(vi) Fees, taxes, assessments, levies, fines, penalties, or other payments established by law that are paid to a governmental entity and that are the legal obligation of the principal.

(c) Amounts that are excluded from gross income of a foreign corporation engaged in the international operation of aircraft under section 883(a) of the internal revenue code.

(d) Amounts received by an advertising agency used to acquire advertising media time, space, production, or talent on behalf of another person.

(e) Notwithstanding any other provision of this section, amounts received by a taxpayer that manages real property owned by the taxpayer’s client that are deposited into a separate account kept in the name of the taxpayer’s client and that are not reimbursements to the taxpayer and are not indirect payments for management services that the taxpayer provides to that client.

(f) Proceeds from the taxpayer’s transfer of an account receivable if the sale that generated the account receivable was included in gross receipts for federal income tax purposes. This subdivision does not apply to a taxpayer that during the tax year both buys and sells any receivables.

(g) Proceeds from any of the following:

(i) The original issue of stock or equity instruments.

(ii) The original issue of debt instruments.

(h) Refunds from returned merchandise.

(i) Cash and in-kind discounts.

(j) Trade discounts.

(k) Federal, state, or local tax refunds.

(l) Security deposits.

(m) Payment of the principal portion of loans.

(n) Value of property received in a like-kind exchange.

(o) Proceeds from a sale, transaction, exchange, involuntary conversion, or other disposition of tangible, intangible, or real property that is a capital asset as defined in section 1221(a) of the internal revenue code or land that qualifies as property used in the trade
Sec. 6. (1) “Person” means an individual, bank, financial institution, insurance company, association, corporation, flow-through entity, receiver, estate, trust, or any other group or combination of groups acting as a unit.

(2) “Flow-through entity” means a partnership, limited liability company, limited liability partnership, a limited partnership, a limited partnership, or a limited liability company, or a beneficiary of a trust that is a flow-through entity.

(3) “Member”, when used in reference to a flow-through entity, means a shareholder of a subchapter S corporation, a partner in a general partnership, a limited partnership, or a limited liability partnership, a member of a limited liability company, or a beneficiary of a trust that is a flow-through entity.

(4) “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or a political subdivision of any of the foregoing.

Sec. 7. (1) “Tangible personal property” means that term as defined in section 2 of the use tax act, 1937 PA 94, MCL 205.92.

(2) “Tax” means the tax imposed under this act, including interest and penalties under this act, unless the term is given a more limited meaning in the context or in a provision of this act.

(3) “Tax-exempt person” means an organization that is exempt from federal income tax under section 501(a) of the internal revenue code, except the following:
   (a) An organization exempt under section 501(c)(2) or (16) of the internal revenue code.
   (b) An organization exempt under section 501(c)(2) of the internal revenue code whose taxable year is not the calendar year, less any more of its income must consist of amounts collected on behalf of other organizations.

(4) “Sale” or “sales” means, except as provided in subdivision (e), the amounts received by the taxpayer as consideration from the following:
   (a) The rental, leasing, or use of tangible or intangible property, including interest that constitutes business activity.
   (b) Any combination of business activities described in subdivisions (a), (b), and (c).

(b) “sale or sales” means, except as provided in subdivision (e), the amounts received by the taxpayer as consideration from the following:
   (a) The rental, leasing, or use of tangible or intangible property, including interest that constitutes business activity.
   (b) Any combination of business activities described in subdivisions (a), (b), and (c).

(5) “Shareholder” means a person who owns outstanding stock in a corporation or is a member of a business entity that files as a corporation for federal income tax purposes. An individual is considered as the owner of the stock, or the equity interest in a business entity that files as a corporation for federal income tax purposes, owned, directly or indirectly, by or for family members as defined by section 318(a)(1) of the internal revenue code.

(6) “Territory” means a territorial possession of the United States, and any foreign country, or a political subdivision of any of the foregoing.

(7) “United States person” means that term as defined in section 7701(a)(30) of the internal revenue code.

(8) “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or a political subdivision of any of the foregoing.

Sec. 8. (1) Except as otherwise provided in this act, a taxpayer has substantial nexus in this state and is subject to the tax imposed under this act if the taxpayer has a physical presence in this state for a period of more than 1 day during the tax year, if the taxpayer actively solicits sales in this state and has gross receipts of $350,000.00 or more sourced to this state, or if the taxpayer has an ownership interest or a beneficial interest in a flow-through entity directly, or indirectly through 1 or more other flow-through entities, that has substantial nexus in this state.

(2) As used in this section:
   (a) “Actively solicits” means either of the following:
      (i) Conduct, or activity that is purposefully directed at or intended to reach persons within this state and that explicitly or implicitly invites an order for a purchase or sale.
      (ii) Conduct, or activity that is purposefully directed at or intended to reach persons within this state that neither explicitly nor implicitly invites an order for a purchase or sale, but is entirely ancillary to requests for an order for a purchase or sale.
   (b) “Physical presence” means any activity conducted by the taxpayer or on behalf of the taxpayer by the taxpayer’s employee, agent, or independent contractor acting in a representative capacity. Physical presence does not include the activities of professionals providing services in a profession or other service providers if the activity is not significantly associated with the taxpayer’s ability to establish and maintain a market in this state.

(3) Except as otherwise provided in this act, there is levied and imposed a corporate income tax on every taxpayer with business activity within this state or ownership interest or beneficial interest in a flow-through entity that has business activity in this state unless prohibited by 15 USC 381 to 384. The corporate income tax is imposed on the corporate income tax base, after allocation or apportionment to this state at the following rates:
(A) Before January 1, 2017, at the rate of 6.0%.
(B) After December 31, 2016, at the rate of 11.0%.

(2) The tax base means the income of the taxpayer's business income subject to the following adjustments, before allocation or apportionment, and the adjustment in subsection (4) after allocation or apportionment:
(a) Add interest income and dividends derived from obligations or securities of states other than this state, in the same amount that was excluded from federal taxable income, less the related portion of expenses not deducted in computing federal taxable income because of sections 265 and 291 of the internal revenue code.
(b) Add all taxes on or measured by net income including the tax imposed under this act to the extent that the taxes were deducted in arriving at federal taxable income.
(c) Add any carryback or carryover of a net operating loss to the extent deducted in arriving at federal taxable income.
(d) Deduct any dividends and other nondeductible income to the extent included in federal taxable income. Deduct dividends and other nondeductible income received from persons other than United States persons and foreign operating entities, including, but not limited to, amounts determined under section 78 of the internal revenue code or sections 951 to 964 of the internal revenue code.
(e) Except as otherwise provided under this subsection, to the extent deducted in arriving at federal taxable income, add any royalty, interest, or other expense paid to a person related to the taxpayer by ownership or control for the use of an intangible asset if the person is not included in the taxpayer's unitary business group. The addition of any royalty, interest, or other expense described under this subsection is not required to be added if the taxpayer can demonstrate that the transaction has a nontax business purpose, is conducted with arm's-length pricing and rates and terms as applied in accordance with sections 482 and 1231(d) of the internal revenue code, and 1 of the following is true:
(i) The transaction is a pass through of another transaction between a third party and the related person with comparable rates and terms.
(ii) An addition would result in double taxation. For purposes of this subparagraph, double taxation exists if the transaction is subject to tax in another jurisdiction.
(iii) An addition would be unreasonable as determined by the state treasurer.
(iv) The related person recipient of the transaction is organized under the laws of a foreign nation which has in force a comprehensive income tax treaty with the United States.
(f) To the extent included in federal taxable income, deduct interest income derived from United States obligations.
(g) For tax years beginning after December 31, 2017, eliminate all of the following:
(i) Income from producing oil and gas to the extent included in federal taxable income.
(ii) Expenses of producing oil and gas to the extent deducted in arriving at federal taxable income.
(h) For tax years beginning after December 31, 2012, for a qualified taxpayer, eliminate all of the following:
(i) Income derived from a mineral produced within the United States, this state, or a political subdivision of this state.
(ii) Expenses related to the income deductible under subparagraph (i) to the extent deducted in arriving at federal taxable income.
(i) Except as otherwise provided in subsection (2), the business income of a unitary business group is the sum of the business income of each person included in the unitary business group less any items of income and related deductions arising from transactions including dividends between persons included in the unitary business group.
(j) Deduct any available business loss incurred after December 31, 2011. As used in this subsection, “business loss” means a negative business income taxable amount after allocation or apportionment. For purposes of this subsection, a taxpayer that acquires the assets of another corporation in a transaction described under section 381(a)(1) or (2) of the internal revenue code may deduct any business loss attributable to that distribution or transfer in the year of the distribution or transfer.
(k) Deduct any interest income derived from United States obligations, but instead imposes some other type of subnational business tax, that foreign person is not subject to taxation under this act if the transaction is a pass through of another transaction between a third party and the related person with comparable rates and terms as applied in accordance with sections 482 and 1231(d) of the internal revenue code.
(l) At the rate of 6.0%.

Sec. 10. (1) Except as otherwise provided in this section, the following are exempt from the tax imposed by this act:
(a) The United States, state, other, federal, this state, or other United States agencies, political subdivisions, or enterprises of the United States, this state, and other states.
(b) A person who is exempt from federal income tax under the internal revenue code excepting the following:
(i) An organization described in section 501(c)(1) or 501(c)(16) of the internal revenue code.
(ii) An organization described in section 501(c)(12) of the internal revenue code except that it failed to meet the requirements in section 501(c)(12) that 85% or more of its income consist of amounts collected from members.
(iii) The tax base attributable to unrelated business activities giving rise to the unrelated business taxable income of an exempt person.
(iv) A foreign person that is domiciled in a member country of the North American free trade agreement is not subject to taxation under this act if the foreign person is domiciled in a jurisdiction that does not impose an income tax on a similarly situated person domiciled in this state whose presence in the foreign country is the same as the foreign person's presence in the United States. The foreign person's presence in the foreign country is considered to be in a jurisdiction in which the foreign person is domiciled, but instead imposes some other type of subnational business tax, that foreign person is not subject to taxation under this act if the foreign person's presence in the foreign country is considered to be in a jurisdiction that does not impose an income tax on a similarly situated person domiciled in this state whose presence in the foreign country is the same as the foreign person's presence in the United States.
(a) A person that qualifies as a domestic international sales corporation as defined in section 992 of the internal revenue code for the portion of the year that it has in effect a valid election to be treated as a domestic international sales corporation.
(2) Notwithstanding any other provision of this act to the contrary, a foreign person subject to tax under this act shall calculate its corporate income tax base under this section. Except as otherwise provided in this section, the corporate income tax base of a foreign person is subject to all adjustments and other provisions of this act. However, the corporate income tax base shall not include net income from sales of tangible personal property where the person is subject to the United States.
(3) Except as otherwise provided in this section, the corporate income tax base of a foreign person includes the sum of business income and the adjustments under section 7 that are related to United States business activity.
(4) The tax base for a foreign person for a fraction, the numerator of which is the taxpayer's total sales in this state during the tax year and the denominator of which is the taxpayer's total sales in the United States during the tax year. For purposes of this subsection, for sales of tangible personal property, only those sales where title passes inside the United States shall be used in the sales factor, and for sales of property other than tangible personal property, those sales shall be apportioned in accordance with chapter 14.
(5) As used in this section:
(a) “Business income” means, for a foreign person, gross income attributable to the taxpayer's United States business activity and gross income derived from sources within the United States minus the deductions allowed under the internal revenue code that are related to that gross income. Gross income includes the proceeds from sales shipped or delivered to any purchaser within the United States and for which title transfers within the United States; proceeds from services performed within the United States; and a pro rata portion of the proceeds of the services performed both within and outside the United States to the extent the recipient receives benefit of the services within the United States.
(b) “Domiciled” means the location of the headquarters of the trade or business from which the trade or business of the foreign person is principally managed and directed.
(c) “Foreign person” means a person formed under the laws of a foreign country or a political subdivision of a foreign country, whether or not the person is subject to taxation under the internal revenue code.

ChAPTER 12

Sec. 11. (1) Except as otherwise provided under subsection (4), each insurance company shall pay a tax determined under this chapter.
(2) The tax imposed by this chapter on each insurance company shall be a tax equal to 1.25% of gross direct premiums written on property or risk located or residing in this state. Direct premiums do not include any of the following:
(a) Premiums on policies not taken.
(b) Returns premiums on canceled policies.
(c) Receipts from the sale of annuities.
Sample or out of which they are working, irrespective of where the services of such employees are performed, as of the last day of the tax year.

managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected managed and directed. It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed, or if a financial institution is organized under the laws of a foreign country, of the Commonwealth of Puerto Rico, or

account is mailed.

employee or authorized representative of, or anyone connected with the department from divulging any facts or information obtained in connection

company under this chapter or under section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, shall be considered the insurance

the tax year, and an automatic extension under section 31(3) is not available.

500.476a, if applicable, whichever is greater.

required under this act.

refunded, without interest, by the department to the insurance company within 60 calendar days of receipt of a properly completed annual return

amount claimed for payments made by the insurance company shall be reflected in the amount of the credit taken for the calendar quarter in which


company subject to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may claim a credit against the tax imposed

under this chapter for the tax year in an amount equal to the amount paid during that tax year by the insurance company pursuant to section

against the estimated tax payments made under section 29. Any credit in excess of an estimated payment shall be refunded to the insurance company

quarterly basis within 60 calendar days after receipt of a properly completed estimated tax return. Any subsequent increase or decrease in the

company shall be reflected in the amount of the credit taken for the calendar quarter in which the amount of the adjustment is finalized.

(3) The credit under this section is in addition to any other credits the insurance company is eligible for under this chapter.

(4) Any amount of the credit under this section that is in excess of the tax liability of the insurance company for the tax year shall be

the amount of the credit under this section that is in excess of the tax liability of the insurance company for the tax year shall be

annual return required under this act.

Any amount of the credit under this section that is in excess of the tax liability of the insurance company for the tax year shall be

credit taken for the calendar quarter in which the amount of the adjustment is finalized.

The tax year of an insurance company is the calendar year.

Withholding section 31, an insurance company shall file the annual return required under this act before March 2 after the end of

The requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, that prohibit an employee or authorized representative of, a former

insurance premiums, of each insurance company subject to tax under this chapter. This exemption shall be reduced by $2.00 for

The tax imposed and levied under this chapter does not apply to an insurance company authorized under chapter 46 or 47 of the

interest and dividends received.

Any other gross proceeds resulting from the operation as a financial institution.

“Loan” means any extension of credit resulting from direct negotiations between the financial institution and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under section 595 of the internal revenue code, futures or forward
contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, non-interest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment conduit, or other mortgage-backed or asset-backed securities, and other similar items.

(i) "Loan secured by real property" means that 50% or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(ii) "Loan secured by personal property" means that the fee interest which the lender holds in the collateral constitutes an insurable interest in the property for the purpose of insuring the lender against loss from the destruction of the property. A lease, whether under a written or oral agreement, is not considered a lease if the lease is an agreement that the lessee has the right to use the property, and the property is leased to the lessee for a period of less than one year, and the lessee is not charged a fixed or ascertainable amount by the lessor at intervals during the term of the lease.

(iii) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(iv) "Principal base of operations", with respect to transportation property, means the place or more of or less permanent nature from which said property is regularly directed or controlled. With respect to an employee, the principal base of operations means the place or more of or less permanent nature from which the employee regularly performs his or her work.

(v) "Prominent base of operations", with respect to transportation property, means the place or more of or less permanent nature from which said property is regularly directed or controlled. With respect to an employee, the principal base of operations means the place or more of or less permanent nature from which the employee regularly performs his or her work.

(vi) "Real and tangible personal property" means real and tangible personal property respectively on which the financial institution may claim depreciation for federal income tax purposes or to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal properties do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure, etc.

(vii) "Regular place of business" means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution.

(viii) The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than 1 regular place of business and 1 such regular place of business is in this state and 1 such regular place of business is outside this state, such asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, such policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.

(ix) "Rolling stock" means railroad freight or passenger cars, locomotives, or other rail cars.

(x) "Syndication" means an extension of credit in which 2 or more persons finance the credit and each person is at risk only up to a specified percentage of the total extension of the credit or up to a specified dollar amount.

Sec. 17. Every financial institution with substantial nexus in this state is subject to a franchise tax. The franchise tax is imposed upon the tax base of the financial institution as determined under section 18 after allocation or apportionment to this state, at the rate of 0.29%.

Sec. 18. For purposes of this section, a financial institution has substantial nexus in this state if the financial institution satisfies any of the following:

(a) Has a physical presence in this state for a period of 1 day during the year.

(b) Actively solicits sales in this state and has gross receipts of $15,000.00 or more associated with this state. As used in this subdivision, "actively solicits" means that term as defined under section 6.

(c) Has an ownership interest in a beneficial interest in a flow-through entity of a type or form described in section 6.

(d) The tax under this chapter in lieu of the tax levied and imposed under chapter 11 of this act.

Sec. 19. For a financial institution, tax base means the financial institution's net capital. Net capital means equity capital as computed in accordance with generally accepted accounting principles less the average daily book value of United States obligations and Michigan obligations.

Sec. 20. Net capital does not maintain its books and records in accordance with generally accepted accounting principles, net capital shall be computed in accordance with the books and records used by the financial institution, so long as the method fairly reflects the financial institution's net capital for purposes of the tax imposed by this chapter. Net capital does not include up to 25% of the minimum regulatory capital requirement of a person subject to the tax imposed under chapter 12.

Sec. 21. Net capital shall be determined by adding the financial institution's net 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 been in existence for less than 4 tax years, net capital shall be determined by adding the financial institution's net capital as of the close of the current tax year and preceding 3 tax years and dividing the resulting sum by 4.

Sec. 22. Every financial institution with substantial nexus in this state is subject to a franchise tax. The franchise tax is imposed upon the tax base of the financial institution as determined under section 18 after allocation or apportionment to this state, at the rate of 0.29%.

Sec. 23. For purposes of this section, a financial institution has substantial nexus in this state if the financial institution satisfies any of the following:

(a) Has a physical presence in this state for a period of 1 day during the year.

(b) Actively solicits sales in this state and has gross receipts of $15,000.00 or more associated with this state. As used in this subdivision, "actively solicits" means that term as defined under section 6.

(c) Has an ownership interest in a beneficial interest in a flow-through entity of a type or form described in section 6.

(d) The tax under this chapter in lieu of the tax levied and imposed under chapter 11 of this act.

Sec. 24. For a financial institution, tax base means the financial institution's net capital. Net capital means equity capital as computed in accordance with generally accepted accounting principles less the average daily book value of United States obligations and Michigan obligations.

Sec. 25. Net capital does not maintain its books and records in accordance with generally accepted accounting principles, net capital shall be computed in accordance with the books and records used by the financial institution, so long as the method fairly reflects the financial institution's net capital for purposes of the tax imposed by this chapter. Net capital does not include up to 25% of the minimum regulatory capital requirement of a person subject to the tax imposed under chapter 12.
holder is located in this state.

(b) Credit card issuer's reimbursement fees are in this state if the billing address of the credit card holder is located in this state.

(c) Receipts from merchant discounts are in this state if the commercial domicile of the merchant is in this state.

(d) Loan servicing fees are in this state under any of the following circumstances:

(i) For a loan secured by real property, if the real property for which the loan is secured is in this state.

(ii) For a loan secured by real property, if the real property for which the loan is secured is located both within and without this state and 10 or more other states and more than 50% of the fair market value of the real property is located in this state.

(iii) For a loan secured by real property, if more than 50% of the fair market value of the real property for which the loan is secured is not located within any 1 state but the borrower is located in this state.

(iv) For a loan not secured by real property, the borrower is located in this state.

(e) Receipts from services are in this state if the recipient of the services receives one of the benefit of the services in this state. If the recipient of the services receives some of the benefit of the services in this state, the receipts are included in the numerator of the apportionment factor in proportion to the extent that the recipient receives benefit of the services in this state.

(f) Receipts from investment assets and activities and trading assets and activities, including interest and dividends, are in this state if the financial institution's customer is in this state. If the location of the financial institution's customer cannot be determined, both of the following apply:

(i) Interest, dividends, and other income from investment assets and activities and from trading assets and activities, including, but not limited to, investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. Interest from federal funds sold and purchased and from securities purchased under repurchase agreements and securities sold under repurchase agreements are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. The amount of receipts and other income from investment assets and activities, or other intangible assets, or from positions in any of the above which are assigned to a regular place of business of the taxpayer within this state and are assigned to a regular place of business of the taxpayer within this state.

(ii) The amount of receipts from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts otherwise sourced in this section, is in this state if the assets are assigned to a regular place of business of the taxpayer within this state.

(g) Interest charged to customers for carrying debit balances on margin accounts without deduction of any costs incurred in carrying the accounts is in this state if the customer is located in this state.

(h) Interest from loans secured by real property is in this state if the property is located in this state, if the property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located in this state, or if more than 50% of the fair market value of the real property is not located within any 1 state but the borrower is located in this state.

(i) Interest from loans not secured by real property is in this state if the borrower is located in this state.

(j) Net gains from the sale of loans secured by real property or mortgage service rights relating to real property are in this state if the property is located in this state. If the property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located in this state, or if more than 50% of the fair market value of the real property is not located in any 1 state but the borrower is located in this state.

(k) Net gains from the sale of loans not secured by real property or any other intangible assets are in this state if the depositor or borrower is located in this state.

(l) Receipts from the lease of real property are in this state if the property is located in this state.

(m) Receipts from the lease of tangible personal property are in this state if the property is located in this state when it is first placed in service by the lessee.

(n) Receipts from the lease of transportation tangible personal property are in this state if the property is used in this state or if the extent of use of the property within this state cannot be determined but the property has its principal base of operations in this state.

### Chapter 10

Sec. 21. (1) Except as otherwise provided in this section, the tax base established under subsection (2) shall be apportioned in accordance with this chapter.

(2) The tax base of a taxpayer whose business activities are confined solely to this state shall be allocated to this state. The tax base of a taxpayer whose business activities are subject to tax both within and outside of this state shall be apportioned to this state by multiplying the tax base by the sales factor calculated under section 22. For a taxpayer that has a direct, or indirect through 1 or more other flow-through entities, ownership interest or beneficial interest in a flow-through entity, the taxpayer's business income that is directly attributable to the business activity of the flow-through entity shall be apportioned to this state by multiplying the tax base by the sales factor determined under section 22 based on the business activity of the flow-through entity unless the flow-through entity is unitary with the taxpayer for apportionment purposes as provided under section 22.

(3) A taxpayer is subject to tax in another state in either of the following circumstances:

(a) A separate purpose entity is subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax.

(b) That state has jurisdiction to subject the taxpayer to 1 or more of the taxes listed in subdivision (a) regardless of whether that state does or does not subject the taxpayer to that tax.

Sec. 22. (1) Except as otherwise provided in subsection (2) and section 25, the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax year and the denominator of which is the total sales of the taxpayer everywhere during the tax year.

The numerator of a taxpayer shall include its proportionate share of the total sales in this state of a flow-through entity that is unitary with the taxpayer. The denominator of a taxpayer shall include its proportionate share of the total sales everywhere of a flow-through entity that is unitary with the taxpayer.

A flow-through entity is unitary with a taxpayer when that taxpayer owns or controls, directly or indirectly, more than 50% of the ownership interests or ownership interests that confer comparable rights to voting rights of the flow-through entity, and that has business activities or operations which result in a flow of value between the taxpayer and the flow-through entity, or between the flow-through entity and another flow-through entity unitary with the taxpayer, or has business activities or operations that are integrated with, are dependent upon, or contribute to each other.

(2) Except as otherwise provided under this subsection, for a taxpayer that is a unitary business group, sales include sales in this state in which persons included in the unitary business group without regard to whether the person has nexus in this state. Sales between persons included in a unitary business group must be eliminated in calculating the sales factor. Sales between a taxpayer and a flow-through entity unitary with that taxpayer shall, to the extent of the taxpayer's interest in the flow-through entity, be eliminated in calculating the sales factor. Sales between a flow-through entity unitary with a taxpayer and another flow-through entity unitary with that same taxpayer shall, to the extent of the taxpayer's interest in the selling flow-through entity unitary, be eliminated in calculating the sales factor.

(3) It is the intent of the legislature that the tax base of a taxpayer is apportioned to this state by multiplying the tax base by the sales factor multiplied by 100% and that apportionment shall not be based on property, payroll, or any other factor notwithstanding section 1 of 1969 PA 343, MCL 205.581.

Sec. 23. (1) Sales of the taxpayer in this state are determined as follows:

(a) Sales of tangible personal property are in this state if the property is shipped or delivered, or, in the case of electricity and gas, the property is used or consumed by the person at the point of sale, or the property is stored in transit for 60 days or more, shall be deemed to have come to rest at this ultimate destination. Property stored in transit for fewer than 60 days prior to receipt by the purchaser or the purchaser's designee, or in the case of a dock sale picked up before 60 days is not deemed to have come to rest at this ultimate destination. For purposes of this subdivision:

(i) “Dock sale” means a sale in which the purchaser uses its own or rented vehicles, or makes arrangements with a carrier, to pick up the property at the seller's location.

(ii) “Stored in transit” means storing, staging, forwarding, or consolidating activities undertaken for further shipment or transfer of the property to the purchaser or purchaser's designee.

(b) Receipts from the sale, lease, rental, or licensing of real property are in this state if that property is located in this state.

6
(c) Receipts from the lease or rental of tangible personal property are sales in this state to the extent that the property is utilized in this state. The extent of utilization of tangible personal property in this state is determined by multiplying the receipts by a fraction, the numerator of which is the number of days of physical location of the property within this state during the lease or rental period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all lease or rental periods in the tax year. If the physical location of the property during the lease or rental period is unknown or cannot be determined, the tangible personal property is utilized in this state in which the property was located at the time the lease or rental period began or was in its possession.

(d) Receipts from the lease or rental of mobile transportation property owned by the taxpayer are in this state to the extent that the property is used in this state. The extent to which an aircraft will be deemed to be used in this state and the amount of receipts that are attributable to this state shall be equal to the total receipts received by each regulated investment company multiplied by a fraction, the numerator of which is the sales of securities brokerage services to or on behalf of a regulated investment company or its beneficial owners, including receipts derived directly or indirectly from trustees, sponsors, or participants of employee benefit plans that have accounts in a registered investment company, and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the receipts are in this state if the property has its principal base of operations in this state.

(e) Royalties and other income received for the use of or for the privilege of using intangible property, including patents, know-how, formulas, designs, processes, patterns, copyrights, trade names, service names, franchises, licenses, contracts, customer lists, computer software, or similar assets, are attributable to this state to the extent that they are derived from the use in this state of such assets and are used by the taxpayer in the regular course of its business operations in this state, regardless of the location of the purchaser’s customers.

(2) Sales from the performance of services are in this state and attributable to this state as follows:

(a) Except as otherwise provided in this section, all receipts from the performance of services are included in the numerator of the apportionment factor if the recipient of the services receives all of the benefit of the services in this state. If the recipient of the services receives some of the benefit of the services in this state, the receipts are included in the numerator of the apportionment factor in proportion to the extent that the recipient receives benefit of the services in this state.

(b) Sales derived from securities brokerage services attributable to this state are determined by multiplying the total dollar amount of receipts from securities brokerage services by a fraction, the numerator of which is the sales of securities brokerage services to customers within this state, and the denominator of which is the sales of securities brokerage services to all customers. Receipts from securities brokerage services include commissions on transactions, the spread earned on principal transactions in which the broker buys or sells from its account, total margin interest paid on behalf of brokerage accounts owned by the broker’s customers, and the net of any cardholder chargebacks, but not reduced by any interchange transaction fees or by any issuer’s reimbursement fees paid to another for cardholder chargeback transactions in which the cardholder is a particular customer, but it is impractical to associate the receipts with the address of the customer, then the address of the customer shall be presumed to be the address of the branch office that generates the transactions for the customer.

(c) Sales of services that are derived directly or indirectly from the sale of management, distribution, administration, or securities brokerage services attributable to, or on behalf of, a regulated investment company or its beneficial owners, including receipts derived directly or indirectly from trustees, sponsors, or participants of employee benefit plans that have accounts in a registered investment company, shall be attributable to this state to the extent that the shareholders of the regulated investment company are domiciled within this state.

For purposes of this subdivision, “domicile” means the shareholder’s mailing address on the records of the regulated investment company. If the regulated investment company or the person providing management services to the regulated investment company has actual knowledge that the shareholder’s primary residence or principal place of business is different than the shareholder’s mailing address, then the shareholder’s primary residence or principal place of business is the shareholder’s domicile. A separate computation shall be made in respect of each shareholder of receipts derived from such services attributable to the state to the extent that the shareholder’s domicile is in this state.

(d) The numerator of the fraction is the sum of the beginning-of-year and end-of-year number of shares owned by the regulated investment company on behalf of the shareholder.

(e) The denominator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by all shareholders.

(f) For purposes of the fraction, the year shall be the tax year of the regulated investment company that ends with or within the tax year of the shareholder.

(g) Receipts from the origination of a loan or gains from the sale of a loan secured by residential real property are deemed a sale in this state only if 1 or more of the following apply:

(i) The real property is located in this state.

(ii) The real property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located within this state.

(iii) More than 50% of the real property is not located in any 1 state and the borrower is located in this state.

(h) Sales of services that are derived directly or indirectly from the sale of management, distribution, administration, or securities brokerage services attributable to, or on behalf of, a regulated investment company or its beneficial owners, including receipts derived directly or indirectly from trustees, sponsors, or participants of employee benefit plans that have accounts in a registered investment company, shall be attributable to this state to the extent that the shareholders of the regulated investment company are domiciled within this state.

(i) Royalties and other income received for the use of or for the privilege of using intangible property, including patents, know-how, formulas, designs, processes, patterns, copyrights, trade names, service names, franchises, licenses, contracts, customer lists, computer software, or similar assets, are attributable to this state to the extent that they are derived from the use in this state of such assets and are used by the taxpayer in the regular course of its business operations in this state, regardless of the location of the purchaser’s customers.

(j) Royalties and other income received for the use of or for the privilege of using intangible property, including patents, know-how, formulas, designs, processes, patterns, copyrights, trade names, service names, franchises, licenses, contracts, customer lists, computer software, or similar assets, are attributable to this state to the extent that they are derived from the use in this state of such assets and are used by the taxpayer in the regular course of its business operations in this state, regardless of the location of the purchaser’s customers.
state if the assets are assigned to a regular place of business of the taxpayer within this state.

(11) Receipts from transportation services rendered by a person subject to tax in another state in this state and shall be attributable to this state as follows:

(a) Except as otherwise provided in subdivisions (b) through (e), receipts shall be proportioned based on the ratio of revenue miles of the person in this state to the revenue miles of the person everywhere.

(b) Receipts from maritime transportation services shall be attributable to this state as follows:

(i) 50% of those receipts that originate or terminate in this state.

(ii) 100% of those receipts that both originate and terminate in this state.

(c) Receipts attributable to this state of a person whose business activity consists of the transportation of property and individuals shall be proportioned based on the total receipts for passenger miles and ton miles, separately computed and individually weighted by the ratio of receipts from passenger transportation to total receipts from all transportation, and by the ratio of receipts from freight transportation to total receipts from all transportation, respectively.

(d) Receipts attributable to this state of a person whose business activity consists of the transportation of oil by pipeline shall be proportioned based on the ratio of the receipts for the barrel miles transported in this state to the receipts for the barrel miles transported by the person everywhere.

(e) Receipts attributable to this state of a person whose business activities consist of the transportation of gas by pipeline shall be proportioned based on the ratio of the receipts for the 1,000 cubic feet miles transported in this state to the receipts for the 1,000 cubic feet miles transported by the person everywhere.

(12) For purposes of subsection (11), if a taxpayer can show that revenue mile information is not available or cannot be obtained without unreasonable expense, a reasonable and consistent method of apportionment shall be used.

(a) The call both originates and terminates in this state.

(b) The call either originates or terminates in this state and the service address is located in this state.

(c) The call is not attributable to this state if the customer’s place of primary use of the service is in this state. As used in this subsection, “place of primary use” means the customer’s residential street address or primary business street address where the customer’s use of the telecommunications service primarily occurs. For mobile telecommunications service, the customer’s residential street address or primary business street address is the place of primary use only if it is within the licensed service area of the customer’s home service provider.

(14) Receipts from the sale of telecommunications services sold on an individual call-by-call basis are in this state if either of the following applies:

(a) The call both originates and terminates in this state.

(b) The call either originates or terminates in this state and the service address is located in this state.

(c) Terms used in subsections (13) through (19), receipts from the sale of telecommunications service or mobile telecommunications service are in this state if the customer’s place of primary use of the service is in this state. As used in this subsection, “place of primary use” means the customer’s residential street address or primary business street address where the customer’s use of the telecommunications service primarily occurs. For mobile telecommunications service, the customer’s residential street address or primary business street address is the place of primary use only if it is within the licensed service area of the customer’s home service provider.

(15) Receipts from the sale of private communication services and the sale of private communication services are in this state if the customer’s place of primary use of the service is in this state. As used in this subsection, “place of primary use” means the customer’s residential street address or primary business street address where the customer’s use of the telecommunications service primarily occurs. For mobile telecommunications service, the customer’s residential street address or primary business street address is the place of primary use only if it is within the licensed service area of the customer’s home service provider.

(16) Receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service are in this state if the purchaser obtains the prepaid card or similar means of conveyance at a location in this state. Receipts from recharging a prepaid telecommunications service or prepaid mobile telecommunications service are in this state if the purchaser’s billing information indicates a location in this state.

(17) Receipts from the sale of private communication services are in this state if:

(a) 100% of the receipts from the sale of each channel termination point within this state.

(b) 100% of the receipts from the sale of the total channel mileage between each termination point within this state.

(c) 50% of the receipts from the sale of service segments for a channel between 2 customer channel termination points, 1 of which is located outside of this state, which segment is separately charged.

(d) The receipts from the sale of service segments with a channel termination point located in this state and in 2 or more other states or equivalent jurisdictions shall be proportioned based on the number of customer channel termination points in this state and in the other states, respectively.

(e) Receipts from the sale of service for segments with a channel termination point located in this state and in 2 or more other states or equivalent jurisdictions shall be proportioned based on the number of customer channel termination points in this state and in the other states, respectively.

(18) Receipts from the sale of service for segments with a channel termination point located in this state and in 2 or more other states or equivalent jurisdictions shall be proportioned based on the number of customer channel termination points in this state and in the other states, respectively.

(19) Receipts to access a carrier’s network or from the sale of telecommunications services for resale are in this state as follows:

(a) 100% of the receipts from access fees attributable to intrastate telecommunications service that both originate and terminate in this state.

(b) 50% of the receipts from access fees attributable to interstate telecommunications service if the interstate call either originates or terminates in this state.

(c) 50% of the receipts from interstate end user access line charges, if the customer’s service address is in this state. As used in this subdivision, “end user access line charges” includes, but is not limited to, the surcharge approved by the federal communications commission and levied pursuant to 47 CFR 69.

(d) Receipts from sales of telecommunications services to other telecommunications service providers for resale shall be sourced to this state using the apportionment concept used for non-resale receipts of telecommunications services if the information is readily available to make that determination. If the information is not readily available, then the taxpayer may use any other reasonable and consistent method.

(20) Except as otherwise provided under this subsection, for a taxpayer whose business activities include live radio or television programming as described in subsection code 7922 of industry group 792 under the standard industrial classification code as compiled by the United States department of labor, or any combination of the business activities included in those groups, media receipts are in this state and shall be attributable to this state as follows:

(a) “Media property” means motion pictures, television programs, internet programs and websites, other audiovisual works, and any other similar property embodying words, ideas, concepts, images, or sound without regard to the means or methods of distribution or the medium in which the property is embodied.

(b) “Media receipts” means receipts from the sale, license, broadcast, transmission, distribution, exhibition, or other use of media property and receipts from the sale of media services. Media receipts do not include receipts from the sale of media property that is a consumer product that is ultimately sold at retail.

(c) “Media services” means services in which the use of the media property is integral to the performance of those services.

(21) Terms used in subsections (13) through (20) have the same meaning as those terms defined in the streamlined sales and use tax agreement administered under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.601 to 205.833.

For purposes of this section, a borrower is considered located in this state if the borrower’s billing address is in this state.

Sec. 24. (1) If the apportionment provisions of this act do not fairly represent the extent of the taxpayer’s business activity in this state, the taxpayer may petition for an alternate method of apportionment to be applied by the department, with respect to all or a portion of the taxpayer’s business activity, if reasonable:

(a) Separate accounting.

(b) The inclusion of 1 or more additional or alternative factors that will fairly represent the taxpayer’s business activity in this state.

(c) The use of any other method to effectuate an equitable allocation and apportionment of the taxpayer’s tax base.

(2) An alternate method may be used only if it is approved by the department.

(3) The apportionment provisions of this act shall be rebuttably presumed to fairly represent the business activity attributed to the taxpayer in this state, taken as a whole and without a separate examination of the specific elements of the tax base unless it can be demonstrated that the
business activity attributed to the taxpayer in this state is of all appropriate proportion to the actual business activity transacted in this state and leads to a grossly distorted result or would operate unconstitutionally to tax the extraterritorial activity of the taxpayer.

(4) The filing of a return or an amended return is not considered a petition for the purposes of subsection (1).

Sec. 25. All other receipts not otherwise sourced under this act shall be sourced based on where the benefit to the customer is received or, if where the benefit to the customer is received cannot be determined, to the customer's billing address.

CHAPTER 15

Sec. 26. (1) The credit provided in this section shall be taken before any other credit under this act and is available to any taxpayer, other than those taxpayers subject to the tax imposed under chapter 12 or 13, with gross receipts that do not exceed $20,000,000.00 and with adjusted business income minus the loss adjustment that does not exceed $13,000,000.00 as adjusted annually for inflation using the Detroit consumer price index, and subject to the following:

(a) A corporation or unitary business group is disqualified if either of the following occurs for the respective tax year:
   (i) Compensation and directors’ fees of a shareholder or officer exceed $180,000,000.
   (ii) The sum of the following amounts exceeds $180,000,000:
      (A) Compensation and directors’ fees of a shareholder.
      (B) The product of the percentage of outstanding ownership or of outstanding stock owned by that shareholder multiplied by the difference between the following:
         (I) The sum of business income and, to the extent deducted in determining federal taxable income, a carryback or a carryover of a net operating loss or capital loss.
         (II) The loss adjustment.
   (b) Subject to the reduction percentage determined under subsection (3), the credit determined under this subsection shall be reduced by the following percentages in the following circumstances:
      (i) If compensation and directors’ fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(i)(A) and (B) is, more than $160,000,000 but less than $165,000,000, the credit is reduced by 20%.
      (ii) If compensation and directors’ fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(i)(A) and (B) is, $165,000,000 or more but less than $170,000,000, the credit is reduced by 40%.
      (iii) If compensation and directors’ fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(i)(A) and (B) is, $170,000,000 or more but less than $175,000,000, the credit is reduced by 60%.
      (iv) If compensation and directors’ fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(i)(A) and (B) is, $175,000,000 or more but not in excess of $180,000,000, the credit is reduced by 60%.

(2) For the purposes of determining disqualification under subsection (1), both of the following apply:
   (a) An active shareholder’s share of business income shall not be attributed to another active shareholder.
   (b) If the taxpayer is a unitary business group, the amount of all items paid or allocable by all persons included in the unitary business group to any 1 individual who is a shareholder or officer of a single person included in the unitary business group shall be combined.

(3) The reduction percentage is the greater of the following:
   (a) The reduction percentage based on the compensation and directors’ fees of the shareholder or officer with the greatest amount of compensation and directors’ fees.
   (b) The reduction percentage based on the sum of the amounts in subsection (1)(a)(i)(A) and (B) for the shareholder or officer with the greatest sum of the amounts in subsection (1)(a)(i)(A) and (B).

(4) A taxpayer that qualifies under subsection (1) is allowed a credit against the tax imposed under this act. The credit under this subsection is equal to the amount by which the tax imposed under this act exceeds 1.8% of adjusted business income.

(5) If gross receipts exceed $19,000,000.00, the credit shall be reduced by a fraction, the numerator of which is the amount of gross receipts over $19,000,000.00 and the denominator of which is $1,000,000.00.

The credit shall not exceed 100% of the tax liability imposed under this act.

(6) For a taxpayer that qualifies for a tax year, and any tax year that is included in this section for gross receipts, adjusted business income, and share of business income of a unitary business group that is a member of a unitary business group to any 1 individual who is a shareholder or officer of a single person included in the unitary business group shall be combined.

(7) Compensation paid by a professional employer organization to the officer of the client and to employees of the professional employer organization who are assigned to and perform services for the client shall be included in determining eligibility of the client under this section.

(8) A disqualifier or reduction under subsection (1) applies to a taxpayer that is a unitary business group if a disqualifier or reduction applies to any member of a unitary business group.

(9) As used in this section:
   (a) "Active shareholder" means a shareholder who receives at least $10,000,000 in compensation, directors’ fees, or dividends from the business, and who owns at least 5% of the outstanding stock or other ownership interest.
   (b) "Adjusted business income" means business income as defined in section 3 with all of the following adjustments:
      (i) Add compensation and directors’ fees of active shareholders of a corporation.
      (ii) Add, to the extent deducted in determining federal taxable income, a carryback or carryover of a net operating loss.
      (iii) Add compensation and directors’ fees of active shareholders of a corporation. (iv) Add compensation and directors’ fees of active shareholders of a corporation.
   (c) "Client" means an entity whose employment operations are managed by a professional employer organization.
   (d) "Compensation" means all wages, salaries, fees, bonuses, commissions, and other payments made in the tax year on behalf of or for the benefit of employees, officers, or directors of the taxpayers. Compensation includes, but is not limited to, payments that are subject to or specifically exempt or excepted from withholding under sections 3401 to 3406 of the internal revenue code. Compensation also includes, on a cash or accrual basis consistent with the taxpayer’s method of accounting for federal income tax purposes, payments to a pension, retirement, or profit sharing plan other than those payments attributable to unfunded accrued actuarial liabilities, and payments for insurance for which employees are the beneficiaries, including payments under health and welfare and noninsured benefit plans and payment of fees for the administration of health and welfare and noninsured benefit plans. Compensation does not include any of the following:
      (i) Discounts on the price of the taxpayer’s merchandise or services sold to the taxpayer’s employees, officers, or directors that are not available to other customers.
      (ii) Except as otherwise provided in this subdivision, payments to an independent contractor.
      (iii) Payments to state and federal unemployment compensation funds.
      (iv) The employer’s portion of payments under the federal insurance contributions act, chapter 21 of subtitle C of the internal revenue code, chapter 22 of subtitle C of the internal revenue code, chapter 22 of subtitle C of the internal revenue code, 26 USC 3201 to 3233, and similar social insurance programs.
      (v) Payments, including self-insurance payments, for worker’s compensation insurance or federal employers’ liability act insurance pursuant to 45 USC 51 to 60.
      (vi) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.
   (f) "Loss adjustment" means the amount by which adjusted business income was less than zero in any of the 5 tax years immediately preceding the tax year for which eligibility for the credit under this section is being determined. In determining the loss adjustment for a tax year, it is not required to use more of the taxpayer’s total negative adjusted business income than the amount needed to qualify the corporation for the credit under this section. A corporation shall not be considered to have used any portion of the taxpayer’s negative adjusted business income amount unless the portion used is necessary to qualify for the credit under this section. A corporation shall not reapply a negative adjusted business income amount used as a loss adjustment in a previous tax year or use a negative adjusted business income amount from a year in which the corporation did not receive the credit under this section.
   (g) "Officer" means an officer of a corporation including all of the following:
      (i) The chairperson of the board.
      (ii) The president, vice president, secretary, or treasurer of the corporation or board. Sample
Sample
return, excluding any extension of time to file the return as provided under subsections (2) and (3). A taxpayer, other than a taxpayer subject to the tax imposed under chapter 12 or 13, whose apportioned or allocated gross receipts are less than $350,000.00 does not need to file a return or pay the tax imposed under this act. The apportioned or allocated gross receipts of a flow-through entity shall be imputed to each of its members based upon the same percentage that each member's proportionate share of distributive income is to the total distributive income of the flow-through entity. A taxpayer whose tax liability under this act is less than or equal to $100,000 does not need to file a return or pay the tax imposed under this act.

(2) If a taxpayer has apportioned or allocated gross receipts for a tax year of less than 12 months, the threshold amount of $350,000.00 in subsection (1) shall be multiplied by a fraction, the numerator of which is the number of months in the tax year and the denominator of which is 12.

(3) The department, upon application of the taxpayer and for good cause shown, may extend the date for filing the annual return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension. The state treasurer shall require with the application payment of the estimated tax liability unpaid for the tax period covered by the extension.

(4) If a taxpayer is granted an extension of time within which to file the federal income tax return for any tax year, the filing of a copy of the request for extension together with a ten percent refund and payment of an estimated tax with the department by the date prescribed in subsection (1) shall automatically extend the due date for the filing of an annual or final return under this act until the last day of the eighth month following the original due date of the return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension.

Sec. 32. (1) A taxpayer required to file a return under this act may be required to furnish a true and correct copy of any return or portion of any return filed under the provisions of the internal revenue code.

(2) A taxpayer shall file an amended return with the department showing any alteration or in modification of a federal income tax return that affects its tax base under this act. The amended return shall be filed within 120 days after the final determination by the internal revenue service.

Sec. 33. At the request of the department, a taxpayer required by the internal revenue code to file or submit an information return of income paid to others, to the extent the information is applicable to residents of this state, at the same time file or submit the information in the form and content prescribed to the department.

Sec. 34. (1) Except as otherwise provided under section 28(3), a unitary business group shall file a combined return that includes each United States person that is included in the unitary business group. Each United States person included in a unitary business group or included in a combined return shall be treated as a single person, and all transactions between those persons included in the unitary business group shall be eliminated from the corporate income tax base, the apportionment formulas, and for purposes of determining exemptions, credits, and the filing threshold under this act. If a United States person included in a unitary business group or included in a combined return is subject to the tax under chapter 12 or 13, any corporate income attributable to that person shall be eliminated from the corporate income tax base and any sales attributable to that person shall be eliminated from the apportionment formula under this act.

(2) A person that is an affiliated group may elect without the consent of the department to have all of the persons that are included in that affiliated group to be treated as a unitary business group. A taxpayer that elects to file as a unitary business group pursuant to this subsection shall compute its tax under this act in accordance with all other provisions of this act that apply to a unitary business group. The taxpayer shall make the election under this subsection on a form or in a format as prescribed by the department that is to be filed in a timely manner with the taxpayer's annual return. Each person included in the affiliated group is deemed to have agreed to be bound by the election made under this subsection and any renewal of that election and to have waived any objection to its inclusion in the affiliated group and treatment as a unitary business group. Each person that subsequently enters the affiliated group after the tax year for which the election is made is deemed to have consented to the application of and is bound by the election and to have waived any objection to its inclusion in the affiliated group and treatment as a unitary business group. An election made pursuant to this subsection is irrevocable and binding for and applicable to the tax year for which it is made and for the next 10 years. The election shall remain in effect for the time period in which the ownership requirements under this section are met irrespective of whether a federal consolidated group to which the unitary business group belongs discontinues the filing of a federal consolidated return or whether the common parent changes due to a reverse acquisition or acquisition by a related person. Upon the expiration of the election after it has been in effect for 10 tax years, an election may be renewed for another 10 tax years, without the consent of the department; provided, however, that in the case of a nonrenewal a new election under this subsection is not permitted in any of the immediately following 3 tax years. The renewal shall be made on a form or in a format as prescribed by the department that is to be filed in a timely manner with the taxpayer's annual return after the completion of a 10-year period for which an election under this subsection was in place.

(1) The tax imposed by this act shall be apportioned among the cities and villages in accordance with section 13 of 1951 PA 51, MCL 247.663. The department shall prepare and publish statistics from the records kept to administer the tax imposed by this act that detail the tax base, the corporation income tax base, and the apportioned or allocated gross receipts of a flow-through entity.

(2) The department shall prescribe forms for use by taxpayers and may promulgate rules in conformity with this act for the maintenance by taxpayers of records, books, and accounts, and for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this act, the making of returns, and the ascertainment, assessment, and collection of the tax imposed under this act.

(4) The tax imposed by this act is in addition to all other taxes for which the taxpayer may be liable.

(5) The department shall prepare and publish statistics from the records kept to administer the tax imposed by this act that detail the distribution of tax receipts by type of business, legal form of organization, sources of tax base, timing of tax receipts, and types of deductions. The statistics shall not result in the disclosure of information regarding any specific taxpayer.

Sec. 35. The revenue collected under this act shall be distributed as follows:

(1) Proceeds from the collections of the tax levied at a rate of 6.0% shall be deposited into the state's General Fund;

(2) Except as provided in subsection 3, proceeds from collection of the tax levied at a rate in excess of 6.0% shall be distributed to the state trunkline fund, county road commissions, and cities and villages in the same percentages described in section 10(1)(a) of 1951 PA 51, MCL 247.660, to be used for the repair and maintenance of roads and bridges. Funds distributed to county road commissions under this subsection shall be distributed among the county road commissions in accordance with section 12 of 1951 PA 51, MCL 247.662. Funds distributed to cities and villages under this section shall be distributed among cities and villages in accordance with section 13 of 1951 PA 51, MCL 247.663.

(3) If section 10 of 1951 PA 51, MCL 247.660 authorizes the deposits of proceeds from this tax into the state transportation fund established by that section, then subsection (2) shall not apply and proceeds from collection of the tax levied at a rate in excess of 6.0% shall be deposited into the state transportation fund and used for the repair and maintenance of roads and bridges.

Sec. 36. Notwithstanding any other provision of this act, a person that is a disregarded entity for federal income tax purposes under the internal revenue code shall be classified as a disregarded entity for purposes of this act.

Sec. 38. This act applies to tax years that end after December 31, 2016.

Sec. 39. This act is amended, entitled "Income tax act of 1967," MCL 260.601 to 260.699, and a reference to part 2 of 1967 PA 281 in another statute of this state shall be considered a reference to this act.