

INCOME TAX ACT OF 1967 (EXCERPT)
Act 281 of 1967

206.625 Exemptions; corporate income tax base of foreign person; sales factor; "business income," "domiciled," and "foreign person" defined.

Sec. 625.

(1) Except as otherwise provided in this section, the following are exempt from the tax imposed by this part:

(a) The United States, this state, other states, and the agencies, political subdivisions, and 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 except the following:

(i) An organization included under section 501(c)(12) or 501(c)(16) of the internal revenue code.

(ii) An organization exempt under section 501(c)(4) of the internal revenue code that would be exempt under 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.

(c) A foreign person that is domiciled in a member country of the North American free trade agreement is not subject to taxation under this part if the foreign person is domiciled in a subnational 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. If a qualifying foreign person is domiciled in a subnational jurisdiction that does not impose an income tax on businesses, but instead imposes some other type of subnational business tax, that foreign person is not subject to taxation under this part if that subnational business tax is not imposed 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.

(d) 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.

(e) A person that is a self-insurer group operating under an agreement entered pursuant to section 611(2) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.611.

(2) Notwithstanding any other provision of this part to the contrary, a foreign person subject to tax under this part 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 part. However, the corporate income tax base shall not include net income from sales of tangible personal property where title passes outside 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 623 that are related to United States business activity.

(4) The sales factor for a foreign person is 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 proportion of the proceeds from 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.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012 ;-- Am. 2011, Act 175, Eff. Jan. 1, 2012 ;-- Am. 2014, Act 15, Imd. Eff. Feb. 25, 2014 ;-- Am. 2017, Act 216, Eff. Mar. 20, 2018

Compiler's Notes: Enacting section 1 of Act 15 of 2014 provides: "Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

