

## HOUSE BILL NO. HB0064

National corporate tax recapture.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation; creating the National  
2 Corporate Tax Recapture Act; imposing a tax on businesses  
3 as specified; providing for administration of the Act;  
4 providing penalties; requiring rulemaking; requiring a  
5 report; and providing for effective dates.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 39-12-102 through 39-12-111 are  
10 created to read:

11

12 **39-12-102. Administration; confidentiality.**

13

14 (a) This chapter is known and may be cited as the  
15 "National Corporate Tax Recapture Act".

16

1           (b) The administration of this chapter is vested in  
2 the department of revenue. The department shall administer  
3 this chapter in accordance with the multistate tax compact  
4 to the extent that the compact does not conflict with this  
5 chapter or Wyoming law.

6

7           (c) The department shall, to the extent practical,  
8 obtain information from the federal Internal Revenue  
9 Service to verify taxable income under this chapter. The  
10 department shall adopt rules and regulations necessary to  
11 efficiently secure the payment, collection and accounting  
12 for taxes imposed by this chapter.

13

14           (d) Notices required to be mailed by the department  
15 under this chapter if mailed to the address shown on the  
16 records of the department shall be sufficient for the  
17 purposes of this chapter.

18

19           (e) No state employee or other person who by his  
20 employment has knowledge of the business affairs of any  
21 person filing or required to file any tax returns under  
22 this chapter shall make known their contents in any manner  
23 or permit any person to have access to any returns or

1 information contained therein except as provided by law.

2 The department may also allow the following:

3

4 (i) The delivery to the taxpayer or his legal  
5 representatives upon written request of a copy of any  
6 return or report in connection with the tax imposed by this  
7 chapter;

8

9 (ii) The publication of statistics formatted to  
10 prevent the identification of particular returns or  
11 reports;

12

13 (iii) The inspection by the Wyoming attorney  
14 general of the report or return of any person who brings an  
15 action against the state relating to the report or return,  
16 or against whom an action is contemplated or has been  
17 instituted;

18

19 (iv) The introduction into evidence of any  
20 report or return or information therefrom in any  
21 administrative or court proceeding relating to the report  
22 or return and to which the person making the report or  
23 return is a party;

1

2           (v) The furnishing of any information to the  
3 United States government and its territories, the District  
4 of Columbia, any state allowing similar privileges to the  
5 department or to the multistate tax commission for relay to  
6 tax officials of cooperating states. Information furnished  
7 shall be only for tax purposes;

8

9           (vi) The inspection of tax returns and records  
10 by the state department of audit;

11

12           (vii) The sharing of information with local  
13 governmental entities and other state agencies, provided a  
14 written request is made to the department and the  
15 governmental entity or agency demonstrates sufficient  
16 reason to obtain the information for official business  
17 purposes. Information furnished shall be used for official  
18 business purposes only.

19

20           (f) The district court of the county in which  
21 violations of this subsection occur shall have jurisdiction  
22 over those violations. No person shall:

23

1           (i) Fail or refuse to make any return or payment  
2 required by this chapter;

3

4           (ii) Make any false return or statement;

5

6           (iii) Evade the payment of any tax due;

7

8           (iv) Aid or abet another in any attempt to evade  
9 payment of the tax due;

10

11           (v) Knowingly attest by signature to a false or  
12 fraudulent return.

13

14           **39-12-103. Imposition.**

15

16           (a) Taxable event. There is levied a franchise tax  
17 upon the taxable income of each taxpayer in this state as  
18 defined in W.S. 39-12-101(b)(iv).

19

20           (b) A taxpayer having income from business activity  
21 in Wyoming shall allocate and apportion the taxable income  
22 of the taxpayer as provided in this subsection for the  
23 purposes of W.S. 39-12-101(b)(iv)(F). Allocation and

1 appportionment of taxable business income shall be as  
2 follows:

3

4 (i) If a taxpayer has no income from activity  
5 that is taxable outside of Wyoming, the taxpayer's entire  
6 taxable business income shall be allocated to Wyoming;

7

8 (ii) A taxpayer having income from activity that  
9 is taxable both within and without Wyoming shall apportion  
10 and allocate the taxable business income as provided in  
11 this section;

12

13 (iii) Income is taxable in another state if:

14

15 (A) In that other state, the income is  
16 subject to a net income tax, a franchise tax measured by  
17 net income, a franchise tax for the privilege of doing  
18 business, a corporate stock tax or any similar tax; or

19

20 (B) That other state has jurisdiction to  
21 subject the income to a net income tax regardless of  
22 whether, in fact, the state subjects the taxpayer to such  
23 tax.

1

2 (iv) Taxable business income shall be  
3 apportioned to Wyoming by multiplying the income by a  
4 fraction, the numerator of which is the property factor as  
5 provided under subsection (c) of this section plus the  
6 payroll factor under subsection (d) of this section plus  
7 the sales factor under subsection (e) of this section, and  
8 the denominator of which is three (3).

9

10 (c) The property factor shall be calculated as  
11 follows:

12

13 (i) The property factor is a fraction, the  
14 numerator of which is the average value of the taxpayer's  
15 real and tangible personal property owned or rented and  
16 used in this state during the tax period and the  
17 denominator of which is the average value of all the  
18 taxpayer's real and tangible personal property owned or  
19 rented and used during the tax period;

20

21 (ii) Property owned by the taxpayer shall be  
22 valued at its original cost. Property rented by the  
23 taxpayer shall be valued at eight (8) times the net annual

1 rental rate. As used in this paragraph, "net annual rental  
2 rate" means the annual rental rate paid by the taxpayer  
3 less any annual rental rate received by the taxpayer from  
4 subrentals;

5

6 (iii) The average value of property shall be  
7 determined by averaging the values at the beginning and  
8 ending of the tax period but the director of the department  
9 of revenue may require the averaging of monthly values  
10 during the tax period if reasonably required to reflect  
11 properly the average value of the taxpayer's property.

12

13 (d) The payroll factor shall be calculated as  
14 follows:

15

16 (i) The payroll factor is a fraction, the  
17 numerator of which is the total amount paid in this state  
18 during the tax period by the taxpayer for compensation and  
19 the denominator of which is the total compensation paid  
20 everywhere by the taxpayer during the tax period;

21

22 (ii) Compensation is paid in this state if:

23

1                   (A) The individual's service is performed  
2 entirely within the state;

3

4                   (B) The individual's service is performed  
5 both inside and outside the state, but the service  
6 performed outside the state is incidental to the  
7 individual's service within this state; or

8

9                   (C) Some of the individual's service is  
10 performed in the state and the base of operations:

11

12                   (I) For the service or, if there is no  
13 base of operations, the place from which the service is  
14 directed or controlled is in the state; or

15

16                   (II) The place from which the service  
17 is directed or controlled is not in any state in which some  
18 part of the service is performed, but the individual's  
19 residence is in this state.

20

21                   (e) The sales factor shall be calculated as follows:

22

1           (i) The sales factor is a fraction, the  
2 numerator of which is the total sales of the taxpayer in  
3 this state during the tax period, and the denominator of  
4 which is the total sales of the taxpayer everywhere during  
5 the tax period;

6

7           (ii) Sales of tangible personal property are in  
8 this state if the property is:

9

10           (A) Delivered or shipped to a purchaser  
11 within this state regardless of the f.o.b. shipping point  
12 or other conditions of the sale; or

13

14           (B) Shipped from an office, store,  
15 warehouse, factory or other place of storage in this state  
16 and the taxpayer is not taxable in the state of the  
17 purchaser.

18

19           (iii) Sales, other than sales of tangible  
20 personal property, are in this state if the income  
21 producing activity is performed:

22

23           (A) In this state; or

1

2                   (B) Receipts, other than receipts described  
3 in subparagraph (A) of this paragraph are in this state if  
4 the taxpayer's market for the sales is in this state. The  
5 taxpayer's market for sales is in this state:

6

7                   (I) In the case of sale, rental, lease  
8 or license of real property, if and to the extent the  
9 property is located in this state;

10

11                   (II) In the case of rental, lease or  
12 license of tangible personal property, if and to the extent  
13 the property is located in this state;

14

15                   (III) In the case of sale of a  
16 service, if and to the extent the benefit of the service is  
17 received in this state;

18

19                   (IV) In the case of intangible  
20 property that is rented, leased or licensed, if and to the  
21 extent the property is used in this state, provided that  
22 intangible property used in marketing a good or service to

1 a consumer is "used in this state" if that good or service  
2 is purchased by a consumer who is in this state; and

3

4 (V) In the case of intangible property  
5 that is sold, if and to the extent the property is used in  
6 this state, provided that:

7

8 (1) A contract right, government  
9 license, or similar intangible property that authorizes the  
10 holder to conduct a business activity in a specific  
11 geographic area is "used in this state" if the geographic  
12 area includes all or part of this state;

13

14 (2) Receipts from intangible  
15 property sales that are contingent on the productivity,  
16 use, or disposition of the intangible property shall be  
17 treated as receipts from the rental, lease or licensing of  
18 the intangible property under subdivision (IV) of this  
19 subparagraph; and

20

21 (3) All other receipts from a  
22 sale of intangible property shall be excluded from the  
23 numerator and denominator of the receipts factor.

1

2 (C) If the state or states of attribution  
3 under subparagraph (B) of this paragraph cannot be  
4 determined, the state or states of attribution shall be  
5 determined by the state or states in which the delivery of  
6 the service occurs;

7

8 (D) If the state of attribution cannot be  
9 determined under subparagraph (B) or (C) of this paragraph,  
10 the receipt shall be excluded from the denominator of the  
11 receipts factor.

12

13 (f) Rents and royalties from real or tangible  
14 personal property, capital gains, interest, dividends or  
15 patent or copyright royalties, to the extent they  
16 constitute nonbusiness income, shall be allocated, net of  
17 related expenses, as provided in this section.

18

19 (g) The department may require taxpayers to provide  
20 additional information and documentation related to  
21 apportionment, allocation of income and the property  
22 factor, payroll factor and sales factor to support an  
23 income tax return under this chapter.

1

2 (h) If the allocation and apportionment provisions of  
3 this chapter do not fairly represent the extent of the  
4 taxpayer's business activity in this state, the taxpayer  
5 may petition for or the director of the department of  
6 revenue may require any or all of the following, if  
7 reasonable:

8

9 (i) A separate accounting of all or a part of  
10 the business activity of the taxpayer;

11

12 (ii) The exclusion of one (1) or more of the  
13 apportionment factors;

14

15 (iii) The inclusion of one (1) or more  
16 additional factors which will fairly represent the  
17 taxpayer's business activity in this state;

18

19 (iv) The use of any other method to effectuate  
20 an equitable allocation and apportionment of the taxpayer's  
21 income.

22

23 **39-12-104. Taxation rate.**

1

2 There is levied and shall be paid by the taxpayer a tax on  
3 that portion of taxable income of the taxpayer that is  
4 allocated and apportioned to Wyoming at a rate of seven  
5 percent (7%).

6

7 **39-12-105. Exemptions.**

8

9 There are no specific applicable provisions for exemptions  
10 for this chapter.

11

12 **39-12-106. Licenses and permits.**

13

14 There are no specific applicable provisions for licenses  
15 and permits for this chapter.

16

17 **39-12-107. Compliance; collection procedures.**

18

19 (a) Returns and reports. Except as otherwise provided  
20 in this subsection, each taxpayer shall report their total  
21 taxable income and the portion of the income that is  
22 apportioned to Wyoming as provided in W.S. 39-12-103 to the  
23 department not more than thirty (30) days after the date

1 the taxpayer is required to file a federal income tax  
2 return under the provisions of the Internal Revenue Code  
3 including any extensions authorized for filing of the  
4 federal income tax return. The following shall apply to  
5 affiliated groups:

6

7 (i) An affiliated group of corporations may make  
8 or the director of the department of revenue may require  
9 them to make a consolidated return for the tax year in  
10 place of separate returns using the combined method of  
11 accounting. For purposes of calculating the amount of tax  
12 payable by the group under a consolidated filing, the  
13 provisions of 26 U.S.C. § 1552 shall apply;

14

15 (ii) A corporation that is a member of an  
16 affiliated group shall file a return using the water's edge  
17 reporting method. A return under this section shall include  
18 the following corporations that are part of an affiliated  
19 group with the filing corporation:

20

21 (A) An affiliated corporation that is  
22 eligible to be included in a federal consolidated return  
23 under 26 U.S.C. § 1501 through 1505 if the corporation's

1 property, payroll and sale factors in the United States  
2 average twenty percent (20%) or more or average under  
3 twenty percent (20%) if the corporation does not meet the  
4 requirements of 26 U.S.C. § 861(c);

5

6 (B) A domestic international sales  
7 corporation as defined in 26 U.S.C. § 992(a);

8

9 (C) A foreign sales corporation or FSC as  
10 defined in 26 U.S.C. § 922(a);

11

12 (D) A corporation, regardless of the place  
13 where the corporation was incorporated, if the  
14 corporation's property, payroll and sales factors in the  
15 United States average twenty percent (20%) or more.

16

17 (iii) As used in this section:

18

19 (A) "Affiliated corporation" means a member  
20 of an affiliated group to which the taxpayer filing a  
21 return under this section belongs;

22

1                   (B) "Affiliated group" means a group of two  
2 (2) or more corporations in which fifty percent (50%) or  
3 more of the voting stock of each member of the group is  
4 directly or indirectly owned by one (1) or more corporate  
5 or noncorporate owners or by one (1) or more of the members  
6 of the group;

7  
8                   (C) "Foreign corporation" means a  
9 corporation created or organized outside of the United  
10 States, the District of Columbia, the Commonwealth of  
11 Puerto Rico or a possession of the United States;

12  
13                   (D) "Water's edge reporting method" means a  
14 reporting method in which the only corporations besides the  
15 taxpayer that may be included in the return are  
16 corporations listed in paragraph (ii) of this subsection.

17  
18           (b) Payment. Any taxpayer owing a tax under this  
19 chapter shall pay the tax once each year at the same time  
20 the report under subsection (a) of this section is  
21 provided. The tax shall be collected by the department.

22

1           (c) Timelines. There are no specific applicable  
2 provisions for timelines for this chapter.

3

4           **39-12-108. Enforcement.**

5

6           (a) Audits. To assess credits and deficiencies  
7 against taxpayers, the department is authorized to rely on  
8 final audit findings made by the department of audit,  
9 taxpayer information or information reported by the  
10 taxpayer to the Internal Revenue Service or to the  
11 department of revenue subject to the following conditions:

12

13           (i) Audits shall commence when the taxpayer  
14 receives written notice of the engagement of the audit. The  
15 issuance of the written notice of the audit shall toll the  
16 statute of limitations provided in W.S. 39-12-110 for the  
17 audit period specified in this subsection;

18

19           (ii) After receiving notice of an audit under  
20 this subsection, the taxpayer shall preserve all records  
21 and books necessary to determine the amount of tax due for  
22 the time period that is being audited;

23

1           (iii) Except as otherwise provided in this  
2 paragraph, audits shall encompass a time period not to  
3 exceed three (3) years immediately preceding the reporting  
4 period when the audit is engaged. The three (3) year limit  
5 shall not apply to an audit if there is evidence of gross  
6 negligence or intent to evade by the taxpayer in reporting  
7 or remitting taxes for the reporting period being audited;

8  
9           (iv) If a taxpayer is not willing or able to  
10 produce adequate records to demonstrate taxes due, the  
11 department or the department of audit may project taxes  
12 based on the best information available;

13  
14           (v) The department of audit may contract with or  
15 employ auditors or other technical assistance necessary to  
16 determine whether the taxes imposed by this chapter have  
17 been properly reported and paid;

18  
19           (vi) Audits under this subsection are subject to  
20 the authority and procedures provided in W.S. 9-2-2003.

21  
22           (b) Interest. The following shall apply:

23

1           (i) Interest at an annual rate equal to the  
2 average prime interest as determined by the state treasurer  
3 during the preceding fiscal year, plus four percent (4%),  
4 shall be added to all delinquent taxes under this chapter.  
5 To determine the average prime interest rate, the state  
6 treasurer shall average the prime interest for at least  
7 seventy-five percent (75%) of the thirty (30) largest banks  
8 in the United States. The interest rate on delinquent  
9 taxes shall be adjusted on January 1 of each year following  
10 the year in which the taxes first became delinquent. In no  
11 instance shall the delinquent interest rate be less than  
12 twelve percent (12%) nor greater than eighteen percent  
13 (18%);

14

15           (ii) The department may credit or waive interest  
16 imposed by this subsection as part of a settlement or for  
17 any other good cause.

18

19           (c) Penalties. The following shall apply:

20

21           (i) If any part of a deficiency is due to  
22 negligence or intentional disregard of rules and  
23 regulations but without intent to defraud there shall be

1 added a penalty of ten percent (10%) of the amount of the  
2 deficiency plus interest as provided by paragraph (b)(i) of  
3 this section. The taxes, penalty and interest shall be paid  
4 by the taxpayer within ten (10) days after notice and  
5 demand is made by the department;

6

7 (ii) If any part of the deficiency is due to  
8 fraud with intent to evade there shall be added a penalty  
9 of twenty-five percent (25%) of the amount of the  
10 deficiency plus interest as provided by paragraph (b)(i) of  
11 this section. The taxes, penalty and interest shall be paid  
12 by the taxpayer within ten (10) days after notice and  
13 demand is made by the department;

14

15 (iii) Any person who files a false or fraudulent  
16 return is subject to the provisions of W.S. 6-5-303;

17

18 (iv) Any person who violates any provision of  
19 this chapter for which there are no specific penalties is  
20 guilty of a misdemeanor and upon conviction shall be fined  
21 not more than one thousand dollars (\$1,000.00). Each  
22 violation is a separate offense;

23

1           (v) If a taxpayer fails to file a return as  
2 required by this chapter, the department shall give written  
3 notice by mail to the taxpayer to file a return on or  
4 before the last day of the month following the notice of  
5 delinquency. If a taxpayer then fails to file a return the  
6 department shall make a return from the best information  
7 available which will be prima facie correct and the tax due  
8 therein is a deficiency and subject to penalties and  
9 interest as provided by this chapter;

10

11           (vi) The department may credit or waive  
12 penalties imposed by this subsection as part of a  
13 settlement or for any other good cause.

14

15           (d) Liens. The following shall apply:

16

17           (i) Any tax due under this chapter constitutes a  
18 debt to the state from the taxpayer, and is a lien from the  
19 date the tax is due on all the real and personal property  
20 of the taxpayer. Notice of the lien shall be filed with the  
21 county clerk of the county in which the taxpayer resides or  
22 conducts business. The lien does not have preference over  
23 preexisting secured indebtedness but shall have priority

1 from and after the date of filing or recording. The  
2 department shall cancel lien statements within sixty (60)  
3 days after taxes due are paid or collected. No other action  
4 by the department is required to perfect a lien under this  
5 paragraph regardless of the type of property involved.

6

7 (e) Tax sales. The following shall apply:

8

9 (i) The tax due together with interest,  
10 penalties and costs may be collected by appropriate  
11 judicial proceedings or the department, with board  
12 approval, or its representative, may seize and sell at  
13 public auction so much of the taxpayer's property as will  
14 pay all the tax then due plus interest, penalties and  
15 costs. Notice of the auction shall be published for four  
16 (4) weeks in a newspaper published in the resident county  
17 of the taxpayer or the county in which the majority of the  
18 property is located.

19

20 **39-12-109. Taxpayer remedies.**

21

22 (a) Interpretation requests. A taxpayer may request  
23 and the department shall provide written interpretations of

1 these statutes and rules adopted by the department. When  
2 requesting an interpretation, a taxpayer shall set forth  
3 the facts and circumstances pertinent to the issue. If the  
4 department deems the facts and circumstances provided to be  
5 insufficient, it may request additional information. A  
6 taxpayer may act in reliance upon a written interpretation  
7 through the end of the calendar year in which the  
8 interpretation was issued, or until revoked by the  
9 department, whichever occurs last if the pertinent facts  
10 and circumstances were substantially correct and fully  
11 disclosed.

12

13 (b) Appeals. Except as provided by this subsection,  
14 no person aggrieved by the payment of the taxes, penalty  
15 and interest imposed by this chapter may appeal a decision  
16 of the state board of equalization until all taxes, penalty  
17 and interest have been paid. For good cause shown, the  
18 court to which the decision of the board is appealed may  
19 stay enforcement of the tax during the pendency of the  
20 appeal. The court's stay of enforcement shall not affect  
21 the accruing of interest upon any assessment and levy.

22

23 (c) Refunds. The following shall apply:

1

2 (i) Any tax, penalty or interest which has been  
3 erroneously paid, computed or remitted to the department by  
4 a taxpayer shall either be credited against any subsequent  
5 tax liability of the taxpayer or refunded. No credit or  
6 refund shall be allowed after three (3) years from the date  
7 of overpayment. The receipt of a claim for a refund by the  
8 department shall toll the statute of limitations under W.S.  
9 39-12-110. All refund requests received by the department  
10 shall be approved or denied within ninety (90) days of  
11 receipt. Any refund or credit erroneously made or allowed  
12 may be recovered in an action brought by the attorney  
13 general in any court of competent jurisdiction.

14

15 (d) Credits. The following shall apply:

16

17 (i) Each taxpayer is entitled to a credit  
18 against tax liability under this chapter for all excise,  
19 sales, use, severance and ad valorem taxes paid in the tax  
20 year by the same taxpayer to any taxing authority in  
21 Wyoming. No credit shall be allowed for any tax collected  
22 or remitted by the taxpayer on behalf of another person  
23 including property taxes paid by the taxpayer on property

1 that is not owned by the taxpayer. The taxpayer shall  
2 report the credit to the department on the return filed  
3 under W.S. 39-12-107. The department may require supporting  
4 documentation on the credit claimed under this paragraph.  
5 In no case shall any refund be due or payable if the amount  
6 of the credit claimed by any taxpayer under this paragraph  
7 exceeds the amount of tax due under this chapter. False  
8 claims are punishable as provided by W.S. 6-5-303;

9

10 (ii) The taxpayer is entitled to receive an  
11 offsetting credit for any overpaid tax identified by an  
12 audit that is within the scope of the audit period, without  
13 regard to the limitation period for requesting refunds.

14

15 (e) Redemption. There are no specific applicable  
16 provisions for redemption for this chapter.

17

18 (f) Escrow. There are no specific applicable  
19 provisions for escrow for this chapter.

20

21 **39-12-110. Statute of limitations.**

22

1           (a) Except as otherwise provided in this chapter, no  
2 credit or refund shall be allowed after three (3) years  
3 from the date of overpayment. The receipt of a claim for a  
4 refund by the department shall toll the statute of  
5 limitations.

6

7           (b) The department may bring an action to recover any  
8 delinquent taxes, penalty or interest in any appropriate  
9 court within three (3) years following the delinquency. In  
10 the case of an assessment created by an audit, the  
11 delinquency period is deemed to start thirty (30) days  
12 after the date the assessment letter is sent. Any tax  
13 penalty and interest related to the audit assessment shall  
14 be calculated from the date on which the deficiency  
15 occurred. In any such action a certificate by the  
16 department is prima facie evidence of the amount due.

17

18           **39-12-111. Distribution.**

19

20 Revenues collected under W.S. 39-12-104 during each fiscal  
21 year shall be recognized as revenue during that fiscal year  
22 for accounting purposes. For all revenue collected by the  
23 department under W.S. 39-12-104 the department shall credit

1 one hundred percent (100%) to the school foundation program  
2 account.

3

4 **Section 2.** W.S. 39-12-101 is amended to read:

5

6 **39-12-101. Preemption by state; definitions.**

7

8 (a) The state of Wyoming does hereby preempt for  
9 itself the field of imposing and levying income taxes,  
10 earning taxes, or any other form of tax based on wages or  
11 other income and no county, city, town or other political  
12 subdivision shall have the right to impose, levy or collect  
13 such taxes.

14

15 (b) To the extent they do not conflict with the  
16 provisions of this chapter, the terms and definitions of  
17 the Internal Revenue Code shall apply to this chapter. As  
18 used in this chapter:

19

20 (i) "Business income" means income arising from  
21 transactions and activity in the regular course of the  
22 taxpayer's trade or business and includes income from  
23 tangible and intangible property if the acquisition,

1 management and disposition of the property constitute  
2 integral parts of the taxpayer's regular trade or business  
3 operations;

4  
5 (ii) "Nonbusiness income" means all income other  
6 than business income;

7  
8 (iii) "Tax year" means the taxable year used by  
9 the taxpayer for purposes of the federal income tax;

10

11 (iv) "Taxable income" means the federal taxable  
12 income of a taxpayer as computed under the Internal Revenue  
13 Code and reported by the taxpayer to the Internal Revenue  
14 Service on federal form 1120, adjusted as follows:

15

16 (A) Reduced by any interest received from  
17 obligations of the United States that is included in  
18 taxable income or in the computation of taxable income on  
19 the federal tax return;

20

21 (B) Reduced by any other income included in  
22 the taxable income or in the computation of taxable income  
23 which is exempt from taxation by this state because of the

1 provisions of the Constitution of Wyoming or the  
2 Constitution of the United States;

3  
4 (C) Increased by the amount of any income  
5 taxes, including income taxes of foreign countries, or  
6 franchise or privilege taxes measured by income, to the  
7 extent that the taxes were deducted to determine federal  
8 taxable income;

9  
10 (D) Increased to remove any deductions  
11 taken for sales, use and ad valorem taxes paid in the tax  
12 year by the same taxpayer to any taxing authority in  
13 Wyoming;

14  
15 (E) Increased by the amount of any special  
16 deductions and net operating loss deductions to the extent  
17 that these items were deducted in determining federal  
18 taxable income;

19  
20 (F) Reduced by the amount of income not  
21 allocated and apportioned to this state under the  
22 provisions of W.S. 39-12-103, but only to the extent that  
23 the amount of net income not allocated and apportioned to

1 this state under the provisions of that section is not  
2 included in any adjustment made pursuant to the preceding  
3 subparagraphs of this paragraph;

4  
5 (G) The total sum calculated pursuant to  
6 the preceding subparagraphs of this paragraph shall be  
7 reduced by the amount of any net operating loss that is  
8 attributable to Wyoming sources. If the net operating loss  
9 that is attributable to Wyoming sources exceeds the taxable  
10 income calculated pursuant to the preceding subparagraphs  
11 of this paragraph, the excess may be carried forward for  
12 the same time period that an identical federal net  
13 operating loss may be carried forward. If a corporation  
14 uses an apportionment formula to determine the amount of  
15 income that is attributable to Wyoming, the corporation  
16 shall use the same formula to determine the amount of net  
17 operating loss that is attributable to Wyoming. No  
18 deduction may be taken for a carryforward when determining  
19 the amount of net operating loss that is attributable to  
20 Wyoming sources.

21  
22 (v) "Taxpayer" means any person who has taxable  
23 income earned in Wyoming and who files or is required to

1 file federal form 1120 with the Internal Revenue Service if  
2 the corporation or the affiliated group as defined in W.S.  
3 39-12-107(a)(iii)(B) has more than one hundred (100)  
4 shareholders. For purposes of this paragraph, an employee  
5 stock ownership plan shall count as one (1) shareholder  
6 regardless of the number of employees in the plan.  
7 "Taxpayer" shall not include any person who makes an  
8 election as an unincorporated entity and shall not include  
9 a limited liability company that makes an election to file  
10 taxes on federal form 1120 to the Internal Revenue Service  
11 regardless of the number of members of the limited  
12 liability company.

13

14 **Section 3.** The department of revenue shall adopt  
15 rules under W.S. 39-11-102 as necessary to begin collection  
16 of the tax created by this act for tax years beginning in  
17 2021.

18

19 **Section 4.** The department of revenue shall  
20 investigate the advisability of Wyoming becoming a member  
21 state of the multistate tax commission and the advisability  
22 of adopting all or a portion of the multistate tax compact.  
23 The investigation shall include a determination of what

1 statutory changes would be required for Wyoming to become a  
2 member of the multistate tax commission and any other  
3 actions that would be necessary for membership. The  
4 department shall report the results of the investigation  
5 under this section to the joint revenue interim committee  
6 not later than September 1, 2020.

7

8 **Section 5.**

9

10 (a) Sections 3 through 5 of this act are effective  
11 immediately upon completion of all acts necessary for a  
12 bill to become law as provided by Article 4, Section 8 of  
13 the Wyoming Constitution.

14

15 (b) Except as otherwise provided in subsection (a) of  
16 this section, this act is effective January 1, 2021.

17

18 (END)