

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO.

National corporate tax recapture.

Sponsored by: Representative(s) Obermueller

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 tax;  
4 providing penalties; authorizing 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

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

3

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

9

10           (c) The department shall, to the extent practical,  
11 obtain information from the federal internal revenue  
12 service to verify taxable income under this chapter. The  
13 department shall adopt rules and regulations necessary to  
14 efficiently secure the payment, collection and accounting  
15 for taxes imposed by this chapter.

16

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

21

22           (e) No state employee or other person who by his  
23 employment has knowledge of the business affairs of any

1 person filing or required to file any tax returns under  
2 this chapter shall make known their contents in any manner  
3 or permit any person to have access to any returns or  
4 information contained therein except as provided by law.

5 The department may also allow the following:

6

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

11

12 (ii) The publication of statistics formatted to  
13 prevent the identification of particular returns or  
14 reports;

15

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

21

22 (iv) The introduction into evidence of any  
23 report or return or information therefrom in any

1 administrative or court proceeding relating to the report  
2 or return and to which the person making the report or  
3 return is a party;

4

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

11

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

14

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

22

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

4

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

7

8           (ii) Make any false return or statement;

9

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

11

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

14

15          (v) Knowingly attest by signature to a false or  
16 fraudulent return.

17

18           **39-12-103. Imposition.**

19

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

23

1           (b) A taxpayer having income from business activity  
2 in Wyoming shall allocate and apportion the taxable income  
3 of the taxpayer as provided in this subsection for the  
4 purposes of W.S. 39-12-101(b)(iv)(F). Allocation and  
5 apportionment of taxable business income shall be as  
6 follows:

7

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

11

12           (ii) A taxpayer having income from activity that  
13 is taxable both within and without Wyoming shall apportion  
14 and allocate the taxable business income as provided in  
15 this section;

16

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

18

19           (A) In that other state, the income is  
20 subject to a net income tax, a franchise tax measured by  
21 net income, a franchise tax for the privilege of doing  
22 business, a corporate stock tax or any similar tax; or

23

1                   (B) That other state has jurisdiction to  
2 subject the income to a net income tax regardless of  
3 whether, in fact, the state subjects the taxpayer to such  
4 tax.

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

13  
14                  (c) The property factor shall be calculated as  
15 follows:

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

1

2           (ii) Property owned by the taxpayer shall be  
3 valued at its original cost. Property rented by the  
4 taxpayer is valued at eight (8) times the net annual rental  
5 rate. As used in this paragraph, "net annual rental rate"  
6 means the annual rental rate paid by the taxpayer less any  
7 annual rental rate received by the taxpayer from  
8 subrentals;

9

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

16

17           (d) The payroll factor shall be calculated as  
18 follows:

19

20           (i) The payroll factor is a fraction, the  
21 numerator of which is the total amount paid in this state  
22 during the tax period by the taxpayer for compensation and



1 the denominator of which is the total compensation paid  
2 everywhere during the tax period;

3

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

5

6 (A) The individual's service is performed  
7 entirely within the state;

8

9 (B) The individual's service is performed  
10 both inside and outside the state, but the service  
11 performed outside the state is incidental to the  
12 individual's service within this state; or

13

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

16

17 (I) For the service or, if there is no  
18 base of operations, the place from which the service is  
19 directed or controlled is in the state; or

20

21 (II) The place from which the service  
22 is directed or controlled is not in any state in which some

1 part of the service is performed, but the individual's  
2 residence is in this state.

3

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

5

6 (i) The sales factor is a fraction, the  
7 numerator of which is the total sales of the taxpayer in  
8 this state during the tax period, and the denominator of  
9 which is the total sales of the taxpayer everywhere during  
10 the tax period;

11

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

14

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

18

19 (B) Shipped from an office, store,  
20 warehouse, factory or other place of storage in this state  
21 and the taxpayer is not taxable in the state of the  
22 purchaser.

23

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

4

5                   (A) In this state; or

6

7                   (B) Receipts, other than receipts described  
8 in subparagraph (A) are in this state if the taxpayer's  
9 market for the sales is in this state. The taxpayer's  
10 market for sales is in this state:

11

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

15

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

19

20                   (III) In the case of sale of a  
21 service, if and to the extent the benefit of the service is  
22 received in this state;

23

1                   (IV) In the case of intangible  
2 property that is rented, leased or licensed, if and to the  
3 extent the property is used in this state, provided that  
4 intangible property used in marketing a good or service to  
5 a consumer is "used in this state" if that good or service  
6 is purchased by a consumer who is in this state; and

7

8                   (V) In the case of intangible property  
9 that is sold, if and to the extent the property is used in  
10 this state, provided that:

11

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

17

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

1

2

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

5

6

(C) If the state or states of attribution under subparagraph (B) of this paragraph cannot be determined, the state or states of attribution shall be determined by the state or states in which the delivery of the service occurs.

11

12

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

16

17

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

22

1           (g) The department may require taxpayers to provide  
2 additional information and documentation related to  
3 apportionment, allocation of income and the property  
4 factor, payroll factor and sales factor to support an  
5 income tax return under this chapter.

6

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

13

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

16

17           (ii) The exclusion of one (1) or more of the  
18 apportionment factors;

19

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

23

1           (iv) The use of any other method to effectuate  
2 an equitable allocation and apportionment of the taxpayer's  
3 income.

4

5           **39-12-104. Taxation rate.**

6

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

11

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

13

14 There are no specific applicable provisions for exemptions  
15 for this chapter.

16

17           **39-12-106. Licenses and permits.**

18

19 There are no specific applicable provisions for licenses  
20 and permits for this chapter.

21

22           **39-12-107. Compliance; collection procedures.**

23

1           (a) Returns and reports. Except as otherwise provided  
2 in this subsection, each taxpayer shall report their total  
3 taxable income and the portion of the income that is  
4 apportioned to Wyoming as provided in W.S. 39-12-103 to the  
5 department not more than thirty (30) days after the date  
6 the taxpayer is required to file a federal income tax  
7 return under the provisions of the Internal Revenue Code  
8 including any extensions authorized for filing of the  
9 federal income tax return. The following shall apply to  
10 affiliated groups:

11

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

19

20           (ii) A corporation that is a member of an  
21 affiliated group shall file a return using the water's edge  
22 reporting method. A return under this section shall include



1 the following corporations that are part of an affiliated  
2 group with the filing corporation:

3

4 (A) An affiliated corporation that is  
5 eligible to be included in a federal consolidated return  
6 under 26 U.S.C. Section 1501 through 1505 if the  
7 corporation's property, payroll and sale factors in the  
8 United States average twenty percent (20%) or more or  
9 average under twenty percent (20%) if the corporation does  
10 not meet the requirements of 26 U.S.C. Section 861(c);

11

12 (B) A domestic international sales  
13 corporation as defined in 26 U.S.C. Section 992(a);

14

15 (C) A foreign sales corporation or FSC as  
16 defined in 26 U.S.C. Section 922(a);

17

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

22

23 (iii) As used in this section:

1

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

5

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

12

13 (C) "Foreign corporation" means a  
14 corporation created or organized outside of the United  
15 States, the District of Columbia, the Commonwealth of  
16 Puerto Rico or a possession of the United States;

17

18 (D) "Water's edge reporting method" means a  
19 reporting method in which the only corporations besides the  
20 taxpayer that may be included in the return are  
21 corporations listed in paragraph (a)(ii) of this section.

22

1           (b) Payment. Any taxpayer owing a tax under this  
2 chapter shall pay the tax once each year at the same time  
3 the report under subsection (a) is provided. The tax shall  
4 be collected by the department.

5

6           (c) Timelines. There are no specific applicable  
7 provisions for timelines for this chapter.

8

9           **39-12-108. Enforcement.**

10

11           (a) Audits. To assess credits and deficiencies  
12 against taxpayers, the department is authorized to rely on  
13 final audit findings made by the department of audit,  
14 taxpayer information or information reported by the  
15 taxpayer to the internal revenue service or to the  
16 department of revenue subject to the following conditions:

17

18           (i) Audits shall commence when the taxpayer  
19 receives written notice of the engagement of the audit. The  
20 issuance of the written notice of the audit shall toll the  
21 statute of limitations provided in W.S. 39-12-110 for the  
22 audit period specified in this subsection;

23

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

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

13  
14           (iv) If a taxpayer is not willing or able to  
15 produce adequate records to demonstrate taxes due, the  
16 department or the department of audit may project taxes  
17 based on the best information available;

18  
19           (v) The department of audit may contract with or  
20 employ auditors or other technical assistance necessary to  
21 determine whether the taxes imposed by this chapter have  
22 been properly reported and paid;

23

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

3

4           (b) Interest. The following shall apply:

5

6           (i) Interest at an annual rate equal to the  
7 average prime interest as determined by the state treasurer  
8 during the preceding fiscal year, plus four percent (4%),  
9 shall be added to all delinquent taxes under this chapter.

10 To determine the average prime interest rate, the state  
11 treasurer shall average the prime interest for at least  
12 seventy-five percent (75%) of the thirty (30) largest banks  
13 in the United States. The interest rate on delinquent  
14 taxes shall be adjusted on January 1 of each year following  
15 the year in which the taxes first became delinquent. In no  
16 instance shall the delinquent interest rate be less than  
17 twelve percent (12%) nor greater than eighteen percent  
18 (18%);

19

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

23

1 (c) Penalties. The following shall apply:

2

3 (i) If any part of a deficiency is due to  
4 negligence or intentional disregard of rules and  
5 regulations but without intent to defraud there shall be  
6 added a penalty of ten percent (10%) of the amount of the  
7 deficiency plus interest as provided by paragraph (b)(i) of  
8 this section. The taxes, penalty and interest shall be paid  
9 by the taxpayer within ten (10) days after notice and  
10 demand is made by the department;

11

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

19

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

22

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

6

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

16

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

20

21           (d) Liens. The following shall apply:

22

1           (i) Any tax due under this chapter constitutes a  
2 debt to the state from the taxpayer, and is a lien from the  
3 date the tax is due on all the real and personal property  
4 of the taxpayer. Notice of the lien shall be filed with the  
5 county clerk of the county in which the taxpayer resides or  
6 conducts business. The lien does not have preference over  
7 preexisting secured indebtedness but shall have priority  
8 from and after the date of filing or recording. The  
9 department shall cancel lien statements within sixty (60)  
10 days after taxes due are paid or collected. No other action  
11 by the department is required to perfect a lien under this  
12 paragraph regardless of the type of property involved.

13

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

15

16           (i) The tax due together with interest,  
17 penalties and costs may be collected by appropriate  
18 judicial proceedings or the department, with board  
19 approval, or its representative, may seize and sell at  
20 public auction so much of the taxpayer's property as will  
21 pay all the tax then due plus interest, penalties and  
22 costs. Notice of the auction must be published for four (4)  
23 weeks in a newspaper published in the resident county of



1 the taxpayer or the county in which the majority of the  
2 property is located.

3

4 **39-12-109. Taxpayer remedies.**

5

6 (a) Interpretation requests. A taxpayer may request  
7 and the department shall provide written interpretations of  
8 these statutes and rules adopted by the department. When  
9 requesting an interpretation, a taxpayer shall set forth  
10 the facts and circumstances pertinent to the issue. If the  
11 department deems the facts and circumstances provided to be  
12 insufficient, it may request additional information. A  
13 taxpayer may act in reliance upon a written interpretation  
14 through the end of the calendar year in which the  
15 interpretation was issued, or until revoked by the  
16 department, whichever occurs last if the pertinent facts  
17 and circumstances were substantially correct and fully  
18 disclosed.

19

20 (b) Appeals. Except as provided by this subsection,  
21 no person aggrieved by the payment of the taxes, penalty  
22 and interest imposed by this chapter may appeal a decision  
23 of the state board of equalization until all taxes, penalty

1 and interest have been paid. For good cause shown, the  
2 court to which the decision of the board is appealed may  
3 stay enforcement of the tax during the pendency of the  
4 appeal. The court's stay of enforcement shall not affect  
5 the accruing of interest upon any assessment and levy.

6

7 (c) Refunds. The following shall apply:

8

9 (i) Any tax, penalty or interest which has been  
10 erroneously paid, computed or remitted to the department by  
11 a taxpayer shall either be credited against any subsequent  
12 tax liability of the taxpayer or refunded. No credit or  
13 refund shall be allowed after three (3) years from the date  
14 of overpayment. The receipt of a claim for a refund by the  
15 department shall toll the statute of limitations under W.S.  
16 39-12-110. All refund requests received by the department  
17 shall be approved or denied within ninety (90) days of  
18 receipt. Any refund or credit erroneously made or allowed  
19 may be recovered in an action brought by the attorney  
20 general in any court of competent jurisdiction.

21

22 (d) Credits. The following shall apply:

23

1           (i) Each taxpayer is entitled to a credit  
2 against tax liability under this chapter for all excise,  
3 sales, use, severance and ad valorem taxes paid in the tax  
4 year by the same taxpayer to any taxing authority in  
5 Wyoming. No credit shall be allowed for any tax collected  
6 or remitted by the taxpayer on behalf of another person  
7 including property taxes paid by the taxpayer on property  
8 that is not owned by the taxpayer. The taxpayer shall  
9 report the credit to the department on the return filed  
10 under W.S. 39-12-107. The department may require supporting  
11 documentation on the credit claimed under this paragraph.  
12 In no case shall any refund be due or payable if the amount  
13 of the credit claimed by any taxpayer under this paragraph  
14 exceeds the amount of tax due under this chapter. False  
15 claims are punishable as provided by W.S. 6-5-303;

16

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

21

22           (e) Redemption. There are no specific applicable  
23 provisions for redemption for this chapter.

1

2 (f) Escrow. There are no specific applicable  
3 provisions for escrow for this chapter.

4

5 **39-12-110. Statute of limitations.**

6

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

12

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

23

1           **39-12-111. Distribution.**

2

3 Revenues collected under W.S. 39-12-104 during each fiscal  
4 year shall be recognized as revenue during that fiscal year  
5 for accounting purposes. For all revenue collected by the  
6 department under W.S. 39-12-104 the department shall credit  
7 one hundred percent (100%) to the school foundation program  
8 account.

9

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

11

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

13

14           (a) The state of Wyoming does hereby preempt for  
15 itself the field of imposing and levying income taxes,  
16 earning taxes, or any other form of tax based on wages or  
17 other income and no county, city, town or other political  
18 subdivision shall have the right to impose, levy or collect  
19 such taxes except as provided in this chapter.

20

21           (b) To the extent they do not conflict with the  
22 provisions of this chapter, the terms and definitions of

1 the Internal Revenue Code shall apply to this chapter. As  
2 used in this chapter:

3  
4 (i) "Business income" means income arising from  
5 transactions and activity in the regular course of the  
6 taxpayer's trade or business and includes income from  
7 tangible and intangible property if the acquisition,  
8 management, and disposition of the property constitute  
9 integral parts of the taxpayer's regular trade or business  
10 operations;

11  
12 (ii) "Nonbusiness income" means all income other  
13 than business income;

14  
15 (iii) "Tax year" means the taxable year used by  
16 the taxpayer for purposes of the federal income tax;

17  
18 (iv) "Taxable income" means the federal taxable  
19 income of a taxpayer as computed under the Internal Revenue  
20 Code and reported by the taxpayer to the Internal Revenue  
21 Service on federal form 1120, adjusted as follows:

22

1                   (A) Reduced by any interest received from  
2 obligations of the United States that is included in  
3 taxable income or in the computation of taxable income on  
4 the federal tax return;

5  
6                   (B) Reduced by any other income included in  
7 the taxable income or in the computation of taxable income  
8 which is exempt from taxation by this state because of the  
9 provisions of the Constitution of Wyoming or the  
10 Constitution of the United States;

11  
12                   (C) Increased by the amount of any income  
13 taxes, including income taxes of foreign countries, or  
14 franchise or privilege taxes measured by income, to the  
15 extent that the taxes were deducted to determine federal  
16 taxable income;

17  
18                   (D) Increased to remove any deductions  
19 taken for sales, use and ad valorem taxes paid in the tax  
20 year by the same taxpayer to any taxing authority in  
21 Wyoming;

22

1                   (E) Increased by the amount of any special  
2 deductions and net operating loss deductions to the extent  
3 that these items were deducted in determining federal  
4 taxable income;

5  
6                   (F) Reduced by the amount of income not  
7 allocated and apportioned to this state under the  
8 provisions of W.S. 39-12-103, but only to the extent that  
9 the amount of net income not allocated and apportioned to  
10 this state under the provisions of that section is not  
11 included in any adjustment made pursuant to the preceding  
12 subparagraphs of this paragraph;

13  
14                   (G) The total sum calculated pursuant to  
15 the preceding subparagraphs of this paragraph shall be  
16 reduced by the amount of any net operating loss that is  
17 attributable to Wyoming sources. If the net operating loss  
18 that is attributable to Wyoming sources exceeds the taxable  
19 income calculated pursuant to the preceding subparagraphs  
20 of this paragraph, the excess may be carried forward for  
21 the same time period than an identical federal net  
22 operating loss may be carried forward. If a corporation  
23 uses an apportionment formula to determine the amount of



1 income that is attributable to Wyoming, the corporation  
2 shall use the same formula to determine the amount of net  
3 operating loss that is attributable to Wyoming. No  
4 deduction may be taken for a carryforward when determining  
5 the amount of net operating loss that is attributable to  
6 Wyoming sources.

7  
8 (v) "Taxpayer" means any person who has taxable  
9 income earned in Wyoming and who files or is required to  
10 file federal form 1120 with the internal revenue service if  
11 the corporation or the affiliated group as defined in W.S.  
12 39-12-107(a)(iii)(B) has more than one hundred (100)  
13 shareholders. For purposes of this paragraph, an employee  
14 stock ownership plan shall count as one (1) shareholder  
15 regardless of the number of employees in the plan.  
16 "Taxpayer" shall not include any person who makes an  
17 election as an unincorporated entity and shall not include  
18 a limited liability company that makes an election to file  
19 taxes on federal form 1120 to the internal revenue service  
20 regardless of the number of members of the limited  
21 liability company.

22

1           **Section 3.** The department of revenue shall adopt  
2 rules under W.S. 39-11-102 as necessary to begin collection  
3 of the tax created by this act for tax years beginning in  
4 2021.

5  
6           **Section 4.** The department of revenue shall  
7 investigate the advisability of Wyoming becoming a member  
8 state of the multistate tax commission and the advisability  
9 of adopting all or a portion of the multistate tax compact.  
10 The investigation shall include a determination of what  
11 statutory changes would be required for Wyoming to become a  
12 member of the multistate tax commission and any other  
13 actions that would be necessary for membership. The  
14 department shall report the results of the investigation  
15 under this section to the joint revenue interim committee  
16 not later than September 1, 2020.

17

18           **Section 5.**

19

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

1

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

4

5

(END)