

House Bill 5394

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 35a (MCL 208.35a), as added by 1999 PA 115.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 35a. (1) For a tax year beginning after December 31,
2 1999, a taxpayer may claim a credit against the tax imposed by
3 this act of equal to the percentage determined under subsection
4 (2) multiplied by the result of subtracting the sum of the
5 amounts calculated under subdivisions (d), (e), and (f) from the
6 sum of the amounts calculated under subdivisions (a), (b), and
7 (c):

8 (a) Calculate the cost, including fabrication and installa-
9 tion, paid or accrued in the taxable year of tangible assets of a
10 type that are, or under the internal revenue code will become,
11 eligible for depreciation, amortization, or accelerated capital

1 cost recovery for federal income tax purposes, provided that the
2 assets are physically located in this state for use in a business
3 activity in this state and are not mobile tangible assets.

4 (b) Calculate the cost, including fabrication and installa-
5 tion, paid or accrued in the taxable year of mobile tangible
6 assets of a type that are, or under the internal revenue code
7 will become, eligible for depreciation, amortization, or acceler-
8 ated capital cost recovery for federal income tax purposes. This
9 amount shall be multiplied by the apportionment factor for the
10 tax year as prescribed in chapter 3.

11 (c) For tangible assets, other than mobile tangible assets,
12 purchased or acquired for use outside of this state in a tax year
13 beginning after December 31, 1996 and physically located in this
14 state in a tax year beginning after December 31, 1999 and after
15 the assets are purchased or acquired for use in a business activ-
16 ity, calculate the federal basis used for determining gain or
17 loss as of the date the tangible assets were physically located
18 in this state for use in a business activity plus the cost of
19 fabrication and installation of the tangible assets in this
20 state.

21 (d) If the cost of tangible assets described in subdivision
22 (a) was paid or accrued in a tax year beginning after December
23 31, 1999, calculate the gross proceeds or benefit derived from
24 the sale or other disposition of the tangible assets minus the
25 gain, multiplied by the apportionment factor for the taxable year
26 as prescribed in chapter 3, and plus the loss, multiplied by the
27 apportionment factor for the taxable year as prescribed in

1 chapter 3 from the sale or other disposition reflected in federal
2 taxable income and minus the gain from the sale or other disposi-
3 tion added to the tax base in section 9(6).

4 (e) If the cost of tangible assets described in subdivision
5 (b) was paid or accrued in a tax year beginning after December
6 31, 1999, calculate the gross proceeds or benefit derived from
7 the sale or other disposition of the tangible assets minus the
8 gain and plus the loss from the sale or other disposition
9 reflected in federal taxable income and minus the gain from the
10 sale or other disposition added to the tax base in section 9(6).
11 This amount shall be multiplied by the apportionment factor for
12 the tax year as prescribed in chapter 3.

13 (f) For assets purchased or acquired in a tax year beginning
14 after December 31, 1996 that were eligible for a deduction under
15 subdivision (a) or (c) and that were transferred out of this
16 state, calculate the federal basis used for determining gain or
17 loss as of the date of the transfer.

18 (2) The amount calculated under subsection (1) shall be
19 multiplied by a percentage determined by dividing the tax rate
20 for the tax year in which the credit is claimed by 2.3% and
21 multiplying that result by ~~0.85%~~ THE FOLLOWING PERCENTAGE AS
22 APPLICABLE:

23 (A) FOR TAXPAYERS WITH ADJUSTED GROSS RECEIPTS FOR THE TAX
24 YEAR OF \$1,000,000.00 OR LESS, 2.3%.

25 (B) FOR TAXPAYERS WITH ADJUSTED GROSS RECEIPTS FOR THE TAX
26 YEAR OF MORE THAN \$1,000,000.00 BUT \$2,500,000.00 OR LESS, 1.5%.

1 (C) FOR TAXPAYERS WITH ADJUSTED GROSS RECEIPTS FOR THE TAX
2 YEAR OF MORE THAN \$2,500,000.00 BUT \$5,000,000.00 OR LESS, [1.0%].

3 (D) FOR TAXPAYERS WITH ADJUSTED GROSS RECEIPTS FOR THE TAX
4 YEAR OF MORE THAN \$5,000,000.00, 0.85%.

5 (3) For a tax year in which the amount calculated under sub-
6 section (1) and multiplied by the percentage determined under
7 subsection (2) is negative, the absolute value of that amount is
8 added to the taxpayer's tax liability for the tax year.

9 (4) If the credit allowed under this section for the tax
10 year and any unused carryforward of the credit allowed under this
11 section exceed the tax liability of the taxpayer for the tax
12 year, the excess shall not be refunded, but may be carried for-
13 ward as an offset to the tax liability in subsequent tax years
14 for 9 taxable years or until the excess credit is used up, which-
15 ever occurs first.

16 (5) Notwithstanding any other provision of this act, the
17 credit provided in this section shall be taken before any other
18 credit under this act and the credits under other sections of
19 this act shall be calculated using the tax liability after the
20 calculation of the credit under this section and, to the extent
21 provided by law, after the calculation of credits under other
22 sections of this act.

23 (6) A taxpayer that reduces the adjusted tax base under sec-
24 tion 31(2) shall not claim a credit under this section.

25 (7) A taxpayer that reduces the adjusted tax base under sec-
26 tion 31(4) shall reduce the credit under this section by a
27 percentage not to exceed 100% determined by dividing the

1 applicable tax rate under section 31(1) by the percentage
2 determined under subsection (2) and multiplying the result by the
3 percentage reduction to the adjusted tax base claimed by the tax-
4 payer for the tax year under section 31(4).

5 (8) A MEMBER OF AN AFFILIATED GROUP AS DEFINED IN THIS ACT,
6 A CONTROLLED GROUP OF CORPORATIONS AS DEFINED IN SECTION 1563 OF
7 THE INTERNAL REVENUE CODE AND FURTHER DESCRIBED IN 26
8 C.F.R. 1.414(b)-1 AND 1.414(c)-1 TO 1.414(c)-5, OR AN ENTITY
9 UNDER COMMON CONTROL AS DEFINED BY THE INTERNAL REVENUE CODE
10 SHALL DETERMINE ADJUSTED GROSS RECEIPTS FOR PURPOSES OF SUBSEC-
11 TION (2) ON A CONSOLIDATED BASIS.

12 (9) AS USED IN SUBSECTION (2), "ADJUSTED GROSS RECEIPTS"
13 MEANS THE SUM OF THE FOLLOWING:

14 (A) GROSS RECEIPTS APPORTIONED OR ALLOCATED TO MICHIGAN WITH
15 THE APPORTIONMENT FRACTION CALCULATED PURSUANT TO CHAPTER 3.

16 (B) ADJUSTMENTS PROVIDED IN SECTION 23B(A) TO (G).

17 (C) ADJUSTMENTS PROVIDED IN SUBSECTION (1)(D) TO (F).