

REPRINT

SUBSTITUTE FOR

SENATE BILL NO. 1322

(As passed the Senate June 18, 2002)

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
(MCL 208.1 to 208.145) by adding section 39e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 39E. (1) A TAXPAYER MAY CLAIM A CREDIT AGAINST THE TAX
2 IMPOSED BY THIS ACT FOR 1 OR MORE OF THE FOLLOWING AS
3 APPLICABLE:
4 (A) THE CREDIT ALLOWED UNDER SUBSECTION (2).
5 (B) THE CREDIT ALLOWED UNDER SUBSECTION (6).
6 (2) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2002, A TAX-
7 PAYER THAT IS CERTIFIED UNDER THE MICHIGAN NEXT ENERGY AUTHORITY
8 ACT AS AN ELIGIBLE TAXPAYER MAY CLAIM A NONREFUNDABLE CREDIT FOR
9 THE TAX YEAR EQUAL TO THE AMOUNT BY WHICH THE TAXPAYER'S TAX
10 LIABILITY ATTRIBUTABLE TO QUALIFIED BUSINESS ACTIVITY FOR THE TAX

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1 YEAR EXCEEDS THE TAXPAYER'S BASELINE TAX LIABILITY ATTRIBUTABLE
2 TO QUALIFIED BUSINESS ACTIVITY.

3 (3) FOR ANY TAX YEAR IN WHICH THE ELIGIBLE TAXPAYER'S TAX
4 LIABILITY ATTRIBUTABLE TO QUALIFIED BUSINESS ACTIVITY FOR THE TAX
5 YEAR DOES NOT EXCEED THE TAXPAYER'S BASELINE TAX LIABILITY
6 ATTRIBUTABLE TO QUALIFIED BUSINESS ACTIVITY, THE ELIGIBLE TAX-
7 PAYER SHALL NOT CLAIM THE CREDIT ALLOWED UNDER SUBSECTION (2).

8 (4) AN AFFILIATED GROUP AS DEFINED IN THIS ACT, A CONTROLLED
9 GROUP OF CORPORATIONS AS DEFINED IN SECTION 1563 OF THE INTERNAL
10 REVENUE CODE AND FURTHER DESCRIBED IN 26 C.F.R. 1.414(b)-1 AND
11 1.414(c)-1 TO 1.414(c)-5, OR AN ENTITY UNDER COMMON CONTROL AS
12 DEFINED BY THE INTERNAL REVENUE CODE SHALL NOT TAKE THE CREDIT
13 ALLOWED UNDER SUBSECTION (2) UNLESS THE QUALIFIED BUSINESS ACTIV-
14 ITY OF THE GROUP OR ENTITIES IS CONSOLIDATED.

15 (5) A TAXPAYER THAT CLAIMS A CREDIT UNDER SUBSECTION (2)
16 SHALL ATTACH A COPY OF EACH OF THE FOLLOWING AS ISSUED PURSUANT
17 TO THE MICHIGAN NEXT ENERGY AUTHORITY ACT TO THE ANNUAL RETURN
18 REQUIRED UNDER THIS ACT FOR EACH TAX YEAR IN WHICH THE TAXPAYER
19 CLAIMS THE CREDIT ALLOWED UNDER SUBSECTION (2):

20 (A) THE PROOF OF CERTIFICATION THAT THE TAXPAYER IS AN ELI-
21 GIBLE TAXPAYER FOR THE TAX YEAR.

22 (B) THE PROOF OF CERTIFICATION OF THE TAXPAYER'S TAX LIABIL-
23 ITY ATTRIBUTABLE TO QUALIFIED BUSINESS ACTIVITY FOR THE TAX
24 YEAR.

25 (C) THE PROOF OF CERTIFICATION OF THE TAXPAYER'S BASELINE
26 TAX LIABILITY ATTRIBUTABLE TO QUALIFIED BUSINESS ACTIVITY.

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1 (6) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2002, A
2 TAXPAYER THAT IS A QUALIFIED ALTERNATIVE ENERGY ENTITY MAY CLAIM
3 A CREDIT FOR THE TAXPAYER'S QUALIFIED PAYROLL AMOUNT. A TAXPAYER
4 SHALL CLAIM THE CREDIT UNDER THIS SUBSECTION AFTER ALL ALLOWABLE
5 NONREFUNDABLE CREDITS UNDER THIS ACT.

6 (7) IF THE CREDIT ALLOWED UNDER SUBSECTION (6) EXCEEDS THE
7 TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT PORTION OF
8 THE CREDIT THAT EXCEEDS THE TAX LIABILITY SHALL BE REFUNDED.

[(8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT AND FOR TAX
YEARS THAT BEGIN AFTER DECEMBER 31, 2002, A PERSON WHOSE APPORTIONED OR
ALLOCATED GROSS RECEIPTS ARE LESS THAN \$350,000.00 FOR THE TAX YEAR
NEED NOT FILE A RETURN OR PAY THE TAX AS PROVIDED UNDER THIS ACT.]

9 [(9)] AS USED IN THIS SECTION:

10 (A) "ALTERNATIVE ENERGY MARINE PROPULSION SYSTEM",
11 "ALTERNATIVE ENERGY SYSTEM", "ALTERNATIVE ENERGY VEHICLE", AND
12 "ALTERNATIVE ENERGY TECHNOLOGY" MEAN THOSE TERMS AS DEFINED IN
13 THE MICHIGAN NEXT ENERGY AUTHORITY ACT.

14 (B) "ALTERNATIVE ENERGY ZONE" MEANS A RENAISSANCE ZONE DES-
15 IGNATED AS AN ALTERNATIVE ENERGY ZONE BY THE BOARD OF THE
16 MICHIGAN STRATEGIC FUND UNDER SECTION 8A OF THE MICHIGAN RENAISS-
17 SANCE ZONE ACT, 1996 PA 376, MCL 125.2688A.

18 (C) "BASELINE TAX LIABILITY ATTRIBUTABLE TO QUALIFIED BUSI-
19 NESS ACTIVITY" MEANS THE TAXPAYER'S TAX LIABILITY FOR THE 2001
20 TAX YEAR MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS THE
21 RATIO OF THE VALUE OF THE TAXPAYER'S PROPERTY USED FOR QUALIFIED
22 BUSINESS ACTIVITY AND LOCATED IN THIS STATE OUTSIDE OF A RENAISS-
23 SANCE ZONE FOR THE 2001 TAX YEAR TO THE VALUE OF ALL OF THE
24 TAXPAYER'S PROPERTY LOCATED IN THIS STATE FOR THE 2001 TAX YEAR
25 PLUS THE RATIO OF THE TAXPAYER'S PAYROLL FOR QUALIFIED BUSINESS
26 ACTIVITY PERFORMED OUTSIDE OF A RENAISSANCE ZONE FOR THE 2001 TAX
27 YEAR TO ALL OF THE TAXPAYER'S PAYROLL FOR THE 2001 TAX YEAR IN

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1 THIS STATE AND THE DENOMINATOR OF WHICH IS 2. A TAXPAYER WITH A
2 2001 TAX YEAR OF LESS THAN 12 MONTHS SHALL ANNUALIZE THE AMOUNT
3 CALCULATED UNDER THIS SUBDIVISION AS NECESSARY TO DETERMINE BASE-
4 LINE TAX LIABILITY ATTRIBUTABLE TO QUALIFIED BUSINESS ACTIVITY
5 THAT REFLECTS A 12-MONTH PERIOD.

6 (D) "ELIGIBLE TAXPAYER" MEANS A TAXPAYER THAT HAS PROOF OF
7 CERTIFICATION OF QUALIFIED BUSINESS ACTIVITY UNDER THE MICHIGAN
8 NEXT ENERGY AUTHORITY ACT.

9 (E) "PAYROLL" MEANS TOTAL SALARIES AND WAGES BEFORE DEDUCT-
10 ING ANY PERSONAL OR DEPENDENCY EXEMPTIONS.

11 (F) "QUALIFIED ALTERNATIVE ENERGY ENTITY" MEANS A TAXPAYER
12 LOCATED IN AN ALTERNATIVE ENERGY ZONE.

13 (G) "QUALIFIED BUSINESS ACTIVITY" MEANS RESEARCH, DEVELOP-
14 MENT, OR MANUFACTURING OF AN ALTERNATIVE ENERGY MARINE PROPULSION
15 SYSTEM, AN ALTERNATIVE ENERGY SYSTEM, AN ALTERNATIVE ENERGY VEHI-
16 CLE, ALTERNATIVE ENERGY TECHNOLOGY, OR RENEWABLE FUEL.

17 (H) "QUALIFIED EMPLOYEE" MEANS AN INDIVIDUAL WHO IS EMPLOYED
18 BY A QUALIFIED ALTERNATIVE ENERGY ENTITY, WHOSE JOB RESPONSIBILI-
19 TIES ARE RELATED TO THE RESEARCH, DEVELOPMENT, OR MANUFACTURING
20 ACTIVITIES OF THE QUALIFIED ALTERNATIVE ENERGY ENTITY, AND WHOSE
21 REGULAR PLACE OF EMPLOYMENT IS WITHIN AN ALTERNATIVE ENERGY
22 ZONE.

23 (I) "QUALIFIED PAYROLL AMOUNT" MEANS AN AMOUNT EQUAL TO PAY-
24 ROLL OF THE QUALIFIED ALTERNATIVE ENERGY ENTITY ATTRIBUTABLE TO
25 ALL QUALIFIED EMPLOYEES IN THE TAX YEAR OF THE QUALIFIED ALTERNA-
26 TIVE ENERGY ENTITY FOR WHICH THE CREDIT UNDER SUBSECTION (6) IS
27 BEING CLAIMED, MULTIPLIED BY THE TAX RATE FOR THAT TAX YEAR.

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1 (J) "RENAISSANCE ZONE" MEANS A RENAISSANCE ZONE DESIGNATED
2 UNDER THE MICHIGAN RENAISSANCE ZONE ACT, 1996 PA 376,
3 MCL 125.2681 TO 125.2696.

4 (K) "RENEWABLE FUEL" MEANS 1 OR MORE OF THE FOLLOWING:

5 (i) BIODIESEL OR BIODIESEL BLENDS CONTAINING AT LEAST
6 20% BIODIESEL. AS USED IN THIS SUBPARAGRAPH, "BIODIESEL" MEANS A
7 DIESEL FUEL SUBSTITUTE CONSISTING OF METHYL OR ETHYL ESTERS
8 PRODUCED FROM THE TRANSESTERIFICATION OF ANIMAL OR VEGETABLE FATS
9 WITH METHANOL OR ETHANOL.

10 (ii) BIOMASS. AS USED IN THIS SUBPARAGRAPH, "BIOMASS" MEANS
11 RESIDUES FROM THE WOOD AND PAPER PRODUCTS INDUSTRIES, RESIDUES
12 FROM FOOD PRODUCTION AND PROCESSING, TREES AND GRASSES GROWN SPE-
13 CIFICALLY TO BE USED AS ENERGY CROPS, AND GASEOUS FUELS PRODUCED
14 FROM SOLID BIOMASS, ANIMAL WASTES, MUNICIPAL WASTE, OR
15 LANDFILLS.

16 (l) "TAX LIABILITY ATTRIBUTABLE TO QUALIFIED BUSINESS
17 ACTIVITY" MEANS THE TAXPAYER'S TAX LIABILITY MULTIPLIED BY A
18 FRACTION THE NUMERATOR OF WHICH IS THE RATIO OF THE VALUE OF THE
19 TAXPAYER'S PROPERTY USED FOR QUALIFIED BUSINESS ACTIVITY AND
20 LOCATED IN THIS STATE OUTSIDE OF A RENAISSANCE ZONE TO THE VALUE
21 OF ALL OF THE TAXPAYER'S PROPERTY LOCATED IN THIS STATE PLUS THE
22 RATIO OF THE TAXPAYER'S PAYROLL FOR QUALIFIED BUSINESS ACTIVITY
23 PERFORMED OUTSIDE OF A RENAISSANCE ZONE TO ALL OF THE TAXPAYER'S
24 PAYROLL IN THIS STATE AND THE DENOMINATOR OF WHICH IS 2.

25 (m) "TAX RATE" MEANS THE RATE IMPOSED UNDER SECTIONS 51,
26 51D, AND 51E OF THE INCOME TAX ACT OF 1967, 1967 PA 281,
27 MCL 206.51, 206.51D, AND 206.51E, ANNUALIZED AS NECESSARY, FOR

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- 1 THE TAX YEAR IN WHICH THE QUALIFIED ALTERNATIVE ENERGY ENTITY
- 2 CLAIMS A CREDIT UNDER SUBSECTION (6).

[Enacting section 1. The single business tax act, 1975 PA 228, MCL 208.1 to 208.145, is repealed effective for tax years that begin after December 31, 2009.]