

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1500

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending sections 39b and 39e (MCL 208.39b and 208.39e), section 39b as added by 1996 PA 441 and section 39e as added by 2002 PA 531.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 39b. (1) Except as provided in subsection (2) and for
2 tax years that begin after December 31, 1996, a taxpayer that is
3 a business located and conducting business activity within a
4 renaissance zone may claim a credit against the tax imposed by
5 this act for the tax year to the extent and for the duration provided pursuant to the Michigan renaissance zone act, ~~Act No. 376~~
6 ~~of the Public Acts of 1996, being sections 125.2681 to 125.2696~~
7 ~~of the Michigan Compiled Laws~~ 1996 PA 376, MCL 125.2681 TO
8 125.2696, equal to the tax liability attributable to business
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1 activity conducted within a renaissance zone in the tax year OR,
2 FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1, 2003, EITHER OF
3 THE FOLLOWING:

4 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), FOR A BUSINESS
5 THAT FIRST LOCATES AND BEGINS CONDUCTING BUSINESS ACTIVITY WITHIN
6 A RENAISSANCE ZONE AFTER NOVEMBER 30, 2002, THE LESSER OF THE
7 FOLLOWING:

8 (i) THE TAX LIABILITY ATTRIBUTABLE TO BUSINESS ACTIVITY CON-
9 DUCTED WITHIN A RENAISSANCE ZONE IN THE TAX YEAR.

10 (ii) TEN PERCENT OF ADJUSTED SERVICES PERFORMED IN A DESIG-
11 NATED RENAISSANCE ZONE.

12 (B) FOR A BUSINESS THAT IS LOCATED AND CONDUCTING BUSINESS
13 ACTIVITY WITHIN A RENAISSANCE ZONE BEFORE DECEMBER 1, 2002 OR A
14 BUSINESS THAT BEFORE DECEMBER 1, 2002 HAS ENTERED INTO A PURCHASE
15 AGREEMENT OR LEASE AGREEMENT FOR REAL OR PERSONAL PROPERTY TO BE
16 USED FOR BUSINESS ACTIVITY WITHIN A RENAISSANCE ZONE, THE GREATER
17 OF THE FOLLOWING:

18 (i) THE AMOUNT CALCULATED UNDER SUBDIVISION (A)(i) OR (ii),
19 WHICHEVER IS LESS.

20 (ii) THE LESSER OF THE FOLLOWING:

21 (A) THE AMOUNT CALCULATED UNDER SUBDIVISION (A)(i).

22 (B) THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX YEAR
23 BEGINNING IN 2002 PLUS 2% OF THE INCREASE IN THE AMOUNT CALCU-
24 LATED UNDER SUBSECTION (9)(A)(i) FOR THE TAX YEAR OVER THE AMOUNT
25 CALCULATED UNDER SUBSECTION (9)(A)(i) FOR THE TAX YEAR BEGINNING
26 IN 2002.

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(2) Any portion of the taxpayer's tax liability that is attributable to illegal activity conducted in the renaissance zone shall not be used to calculate a credit under this section.

(3) The credit allowed under this section continues through the tax year in which the renaissance zone designation expires.

(4) The tax liability used to determine the credit under this section is the taxpayer's tax liability before the calculation of credits provided in sections 37c and 38b and after the calculation of all other credits under this act.

(5) The credit allowed under this section shall not exceed the tax liability of the taxpayer for the tax year.

(6) A taxpayer that claims a credit under this section shall not employ, pay a speaker fee to, or provide any remuneration, compensation, or consideration to any person employed by the state, the state administrative board created in ~~Act No. 2 of the Public Acts of 1921, being sections 17.1 to 17.3 of the Michigan Compiled Laws~~ 1921 PA 2, MCL 17.1 TO 17.3, or the renaissance zone review board created in ~~Act No. 376 of the Public Acts of 1996~~ 1996 PA 376, MCL 125.2681 TO 125.2696, whose employment relates or related in any way to the authorization or enforcement of the credit allowed under this section for any year in which the taxpayer claims a credit under this section and for the 3 years after the last year that a credit is claimed.

(7) To be eligible for the credit allowed under this section, an otherwise qualified taxpayer shall file an annual return under this act.

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1 (8) Any portion of the taxpayer's tax liability that is
2 attributable to business activity related to the operation of a
3 casino, and business activity that is associated or affiliated
4 with the operation of a casino including, but not limited to, the
5 operation of a parking lot, hotel, motel, or retail store, shall
6 not be used to calculate a credit under this section. As used in
7 this subsection, "casino" means a casino regulated by this state
8 pursuant to the Michigan gaming control and revenue act,
9 Initiated Law of 1996, ~~being sections 432.201 to 432.216 of the~~
10 ~~Michigan Compiled Laws~~ MCL 432.201 TO 432.226.

11 (9) As used in this section:

12 (A) "ADJUSTED SERVICES PERFORMED IN A DESIGNATED RENAISSANCE
13 ZONE" MEANS EITHER OF THE FOLLOWING:

14 (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii), THE SUM OF THE
15 TAXPAYER'S PAYROLL FOR SERVICES PERFORMED IN A DESIGNATED RENAISS-
16 SANCE ZONE PLUS AN AMOUNT EQUAL TO THE AMOUNT ADDED PURSUANT TO
17 SECTION 9(4)(C) FOR THE TAX YEAR FOR PROPERTY EXEMPT UNDER
18 SECTION 7FF OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206,
19 MCL 211.7FF, IN THE TAX YEAR OR, FOR NEW PROPERTY, IN THE IMMEDI-
20 ATELY FOLLOWING TAX YEAR.

21 (ii) FOR A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPO-
22 RATION, OR INDIVIDUAL, THE AMOUNT DETERMINED UNDER SUBPARAGRAPH
23 (i) PLUS THE PRODUCT OF THE FOLLOWING AS RELATED TO THE TAXPAYER
24 IF GREATER THAN ZERO:

25 (A) BUSINESS INCOME.

26 (B) THE APPORTIONMENT FACTOR AS DETERMINED UNDER CHAPTER 3.

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1 (C) THE RENAISSANCE ZONE BUSINESS ACTIVITY FACTOR.

[(B) "NEW PROPERTY" MEANS PROPERTY THAT HAS NOT BEEN SUBJECT TO, OR EXEMPT FROM, THE COLLECTION OF TAXES UNDER THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157, AND HAS NOT BEEN SUBJECT TO, OR EXEMPT FROM, AD VALOREM PROPERTY TAXES LEVIED IN ANOTHER STATE, EXCEPT THAT RECEIVING AN EXEMPTION AS INVENTORY PROPERTY DOES NOT DISQUALIFY PROPERTY.]

2 [(C)] ~~-(a)-~~ "Renaissance zone" means that term as defined in
3 ~~Act No. 376 of the Public Acts of 1996~~ 1996 PA 376,
4 MCL 125.2681 TO 125.2696.

5 [(D)] "PAYROLL" MEANS TOTAL SALARIES AND WAGES BEFORE DEDUCT-
6 ING ANY PERSONAL OR DEPENDENCY EXEMPTIONS.

7 [(E)] "RENAISSANCE ZONE BUSINESS ACTIVITY FACTOR" MEANS A
8 FRACTION, THE NUMERATOR OF WHICH IS THE RATIO OF THE AVERAGE
9 VALUE OF THE TAXPAYER'S PROPERTY LOCATED IN A DESIGNATED RENAISS-
10 SANCE ZONE TO THE AVERAGE VALUE OF THE TAXPAYER'S PROPERTY IN
11 THIS STATE PLUS THE RATIO OF THE TAXPAYER'S PAYROLL FOR SERVICES
12 PERFORMED IN A DESIGNATED RENAISSANCE ZONE TO ALL OF THE
13 TAXPAYER'S PAYROLL IN THIS STATE AND THE DENOMINATOR OF WHICH IS
14 2.

15 [(F)] ~~-(b)-~~ "Tax liability attributable to business activity
16 conducted within a renaissance zone" means the taxpayer's tax
17 liability multiplied by ~~a fraction the numerator of which is the~~
18 ~~ratio of the average value of the taxpayer's property located in~~
19 ~~a designated renaissance zone to the average value of all of the~~
20 ~~taxpayer's property in this state plus the ratio of the~~
21 ~~taxpayer's payroll for services performed in a designated renais-~~
22 ~~sance zone to all of the taxpayer's payroll in this state and the~~
23 ~~denominator of which is 2~~ THE RENAISSANCE ZONE BUSINESS ACTIVITY
24 FACTOR.

25 Sec. 39e. (1) A taxpayer may claim a credit against the tax
26 imposed by this act for 1 or more of the following as
27 applicable:

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1 (a) The credit allowed under subsection (2).

2 (b) The credit allowed under subsection (6).

3 (2) For tax years that begin after December 31, 2002, a tax-
4 payer that is certified under the Michigan next energy authority
5 act, 2002 PA 593, MCL 207.821 TO 207.827, as an eligible taxpayer
6 may claim a nonrefundable credit for the tax year equal to the
7 amount DETERMINED UNDER SUBDIVISION (A) OR (B), WHICHEVER IS
8 LESS:

9 (A) THE AMOUNT by which the taxpayer's tax liability attrib-
10 utable to qualified business activity for the tax year exceeds
11 the taxpayer's baseline tax liability attributable to qualified
12 business activity.

13 (B) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2002, 10% OF
14 THE AMOUNT BY WHICH THE TAXPAYER'S ADJUSTED QUALIFIED BUSINESS
15 ACTIVITY PERFORMED IN THIS STATE OUTSIDE OF A RENAISSANCE ZONE
16 FOR THE TAX YEAR EXCEEDS THE TAXPAYER'S ADJUSTED QUALIFIED BUSI-
17 NESS ACTIVITY PERFORMED IN THIS STATE OUTSIDE OF A RENAISSANCE
18 ZONE FOR THE 2001 TAX YEAR.

19 (3) For any tax year in which the eligible taxpayer's tax
20 liability attributable to qualified business activity for the tax
21 year does not exceed the taxpayer's baseline tax liability
22 attributable to qualified business activity, the eligible tax-
23 payer shall not claim the credit allowed under subsection (2).

24 (4) An affiliated group as defined in this act, a controlled
25 group of corporations as defined in section 1563 of the internal
26 revenue code and further described in 26 C.F.R. 1.414(b)-1 and
27 1.414(c)-1 to 1.414(c)-5, or an entity under common control as

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1 defined by the internal revenue code shall not take the credit
2 allowed under subsection (2) unless the qualified business activ-
3 ity of the group or entities is consolidated.

4 (5) A taxpayer that claims a credit under subsection (2)
5 shall attach a copy of each of the following as issued pursuant
6 to the Michigan next energy authority act, 2002 PA 593,
7 MCL 207.821 TO 207.827, to the annual return required under this
8 act for each tax year in which the taxpayer claims the credit
9 allowed under subsection (2):

10 (a) The proof of certification that the taxpayer is an eli-
11 gible taxpayer for the tax year.

12 (b) The proof of certification of the taxpayer's tax liabil-
13 ity attributable to qualified business activity for the tax
14 year.

15 (c) The proof of certification of the taxpayer's baseline
16 tax liability attributable to qualified business activity.

17 (6) For tax years that begin after December 31, 2002, a tax-
18 payer that is a qualified alternative energy entity may claim a
19 credit for the taxpayer's qualified payroll amount. A taxpayer
20 shall claim the credit under this subsection after all allowable
21 nonrefundable credits under this act.

22 (7) If the credit allowed under subsection (6) exceeds the
23 tax liability of the taxpayer for the tax year, that portion of
24 the credit that exceeds the tax liability shall be refunded.

25 (8) Notwithstanding any other provision of this act and for
26 tax years that begin after December 31, 2002, a person whose
27 apportioned or allocated gross receipts are less than \$350,000.00

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1 for the tax year need not file a return or pay the tax as
2 provided under this act.

3 (9) As used in this section:

4 (A) "ADJUSTED QUALIFIED BUSINESS ACTIVITY PERFORMED IN THIS
5 STATE OUTSIDE OF A RENAISSANCE ZONE" MEANS EITHER OF THE
6 FOLLOWING:

7 (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii), THE TAXPAYER'S
8 PAYROLL FOR QUALIFIED BUSINESS ACTIVITY PERFORMED IN THIS STATE
9 OUTSIDE OF A RENAISSANCE ZONE.

10 (ii) FOR A PARTNERSHIP, LIMITED LIABILITY COMPANY,
11 S CORPORATION, OR INDIVIDUAL, THE AMOUNT DETERMINED UNDER
12 SUBPARAGRAPH (i) PLUS THE PRODUCT OF THE FOLLOWING AS RELATED TO
13 THE TAXPAYER:

14 (A) BUSINESS INCOME.

15 (B) THE APPORTIONMENT FACTOR AS DETERMINED UNDER CHAPTER 3.

16 (C) THE ALTERNATIVE ENERGY BUSINESS ACTIVITY FACTOR.

17 (B) "ALTERNATIVE ENERGY BUSINESS ACTIVITY FACTOR" MEANS 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 FOR THE YEAR
21 FOR WHICH THE FACTOR IS BEING CALCULATED TO THE VALUE OF ALL OF
22 THE TAXPAYER'S PROPERTY LOCATED IN THIS STATE FOR THAT YEAR PLUS
23 THE RATIO OF THE TAXPAYER'S PAYROLL FOR QUALIFIED BUSINESS ACTIV-
24 ITY PERFORMED IN THIS STATE OUTSIDE OF A RENAISSANCE ZONE FOR
25 THAT YEAR TO ALL OF THE TAXPAYER'S PAYROLL IN THIS STATE FOR THAT
26 YEAR AND THE DENOMINATOR OF WHICH IS 2.

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1 (C) ~~-(a)-~~ "Alternative energy marine propulsion system",
2 "alternative energy system", "alternative energy vehicle", and
3 "alternative energy technology" mean those terms as defined in
4 the Michigan next energy authority act, 2002 PA 593, MCL 207.821
5 TO 207.827.

6 (D) ~~-(b)-~~ "Alternative energy zone" means a renaissance zone
7 designated as an alternative energy zone by the board of the
8 Michigan strategic fund under section 8a of the Michigan renais-
9 sance zone act, 1996 PA 376, MCL 125.2688a.

10 (E) ~~-(c)-~~ "Baseline tax liability attributable to qualified
11 business activity" means the taxpayer's tax liability for the
12 2001 tax year multiplied by ~~a fraction the numerator of which is~~
13 ~~the ratio of the value of the taxpayer's property used for quali-~~
14 ~~fied business activity and located in this state outside of a~~
15 ~~renaissance zone for the 2001 tax year to the value of all of the~~
16 ~~taxpayer's property located in this state for the 2001 tax year~~
17 ~~plus the ratio of the taxpayer's payroll for qualified business~~
18 ~~activity performed outside of a renaissance zone for the 2001 tax~~
19 ~~year to all of the taxpayer's payroll for the 2001 tax year in~~
20 ~~this state and the denominator of which is 2~~ THE TAXPAYER'S
21 ALTERNATIVE ENERGY BUSINESS ACTIVITY FACTOR FOR THE 2001 TAX
22 YEAR. A taxpayer with a 2001 tax year of less than 12 months
23 shall annualize the amount calculated under this subdivision as
24 necessary to determine baseline tax liability attributable to
25 qualified business activity that reflects a 12-month period.

26 (F) ~~-(d)-~~ "Eligible taxpayer" means a taxpayer that has
27 proof of certification of qualified business activity under the

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1 Michigan next energy authority act, 2002 PA 593, MCL 207.821 TO
2 207.827.

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9 [(G)] ~~-(e)-~~ "Payroll" means total salaries and wages before
10 deducting any personal or dependency exemptions.

11 [(H)] ~~-(f)-~~ "Qualified alternative energy entity" means a tax-
12 payer located in an alternative energy zone.

13 [(I)] ~~-(g)-~~ "Qualified business activity" means research,
14 development, or manufacturing of an alternative energy marine
15 propulsion system, an alternative energy system, an alternative
16 energy vehicle, alternative energy technology, or renewable
17 fuel.

18 [(J)] ~~-(h)-~~ "Qualified employee" means an individual who is
19 employed by a qualified alternative energy entity, whose job
20 responsibilities are related to the research, development, or
21 manufacturing activities of the qualified alternative energy
22 entity, and whose regular place of employment is within an alter-
23 native energy zone.

24 [(K)] ~~-(i)-~~ "Qualified payroll amount" means an amount equal
25 to payroll of the qualified alternative energy entity attribut-
26 able to all qualified employees in the tax year of the qualified
27 alternative energy entity for which the credit under

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1 subsection (6) is being claimed, multiplied by the tax rate for
2 that tax year.

3 [(1)] ~~-(j)-~~ "Renaissance zone" means a renaissance zone desig-
4 nated under the Michigan renaissance zone act, 1996 PA 376,
5 MCL 125.2681 to 125.2696.

6 [(M)] ~~-(k)-~~ "Renewable fuel" means 1 or more of the
7 following:

8 (i) Biodiesel or biodiesel blends containing at least
9 20% biodiesel. As used in this subparagraph, "biodiesel" means a
10 diesel fuel substitute consisting of methyl or ethyl esters
11 produced from the transesterification of animal or vegetable fats
12 with methanol or ethanol.

13 (ii) Biomass. As used in this subparagraph, "biomass" means
14 residues from the wood and paper products industries, residues
15 from food production and processing, trees and grasses grown spe-
16 cifically to be used as energy crops, and gaseous fuels produced
17 from solid biomass, animal wastes, municipal waste, or
18 landfills.

19 [(N)] ~~-(l)-~~ "Tax liability attributable to qualified business
20 activity" means the taxpayer's tax liability multiplied by ~~a~~
21 ~~fraction the numerator of which is the ratio of the value of the~~
22 ~~taxpayer's property used for qualified business activity and~~
23 ~~located in this state outside of a renaissance zone to the value~~
24 ~~of all of the taxpayer's property located in this state plus the~~
25 ~~ratio of the taxpayer's payroll for qualified business activity~~
26 ~~performed outside of a renaissance zone to all of the taxpayer's~~
27 ~~payroll in this state and the denominator of which is 2~~ THE

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1 TAXPAYER'S ALTERNATIVE ENERGY BUSINESS ACTIVITY FACTOR FOR THE
2 TAX YEAR.

3 [(O)] ~~(m)~~ "Tax rate" means the rate imposed under sections
4 51, 51d, and 51e of the income tax act of 1967, 1967 PA 281,
5 MCL 206.51, 206.51d, and 206.51e, annualized as necessary, for
6 the tax year in which the qualified alternative energy entity
7 claims a credit under subsection (6).