

SENATE BILL No. 1500

November 12, 2002, Introduced by Senator BULLARD and referred to the Committee on Finance.

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

1 activity conducted within a renaissance zone in the tax year OR
2 10% OF ADJUSTED PAYROLL FOR SERVICES PERFORMED IN A DESIGNATED
3 RENAISSANCE ZONE, WHICHEVER IS LESS.

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

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

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

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

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

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

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

14 (9) As used in this section:

15 (A) "ADJUSTED PAYROLL FOR SERVICES PERFORMED IN A DESIGNATED
16 RENAISSANCE ZONE" MEANS EITHER OF THE FOLLOWING:

17 (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii), THE TAXPAYER'S
18 PAYROLL FOR SERVICES PERFORMED IN A DESIGNATED RENAISSANCE ZONE.

19 (ii) FOR A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPO-
20 RATION, OR INDIVIDUAL, THE AMOUNT DETERMINED UNDER SUBPARAGRAPH

21 (i) PLUS THE PRODUCT OF THE FOLLOWING AS RELATED TO THE
22 TAXPAYER:

23 (A) BUSINESS INCOME.

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

25 (C) THE RENAISSANCE ZONE BUSINESS ACTIVITY FACTOR.

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

4 (C) "PAYROLL" MEANS TOTAL SALARIES AND WAGES BEFORE DEDUCT-
5 ING ANY PERSONAL OR DEPENDENCY EXEMPTIONS.

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

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

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

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) TEN PERCENT OF THE AMOUNT THAT BY WHICH THE TAXPAYER'S
14 ADJUSTED PAYROLL FOR QUALIFIED BUSINESS ACTIVITY PERFORMED IN
15 THIS STATE OUTSIDE OF A RENAISSANCE ZONE FOR THE TAX YEAR EXCEEDS
16 THE TAXPAYER'S ADJUSTED PAYROLL FOR QUALIFIED BUSINESS ACTIVITY
17 PERFORMED IN THIS STATE OUTSIDE OF A RENAISSANCE ZONE FOR THE
18 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

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, MCL
7 207.821 TO 207.827, to the annual return required under this act
8 for each tax year in which the taxpayer claims the credit allowed
9 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

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 PAYROLL FOR QUALIFIED BUSINESS ACTIVITY PER-
5 FORMED IN THIS STATE OUTSIDE OF A RENAISSANCE ZONE" MEANS EITHER
6 OF THE 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.

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

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

3 (G) ~~(e)~~ "Payroll" means total salaries and wages before
4 deducting any personal or dependency exemptions.

5 (H) ~~(f)~~ "Qualified alternative energy entity" means a tax-
6 payer located in an alternative energy zone.

7 (I) ~~(g)~~ "Qualified business activity" means research,
8 development, or manufacturing of an alternative energy marine
9 propulsion system, an alternative energy system, an alternative
10 energy vehicle, alternative energy technology, or renewable
11 fuel.

12 (J) ~~(h)~~ "Qualified employee" means an individual who is
13 employed by a qualified alternative energy entity, whose job
14 responsibilities are related to the research, development, or
15 manufacturing activities of the qualified alternative energy
16 entity, and whose regular place of employment is within an alter-
17 native energy zone.

18 (K) ~~(i)~~ "Qualified payroll amount" means an amount equal
19 to payroll of the qualified alternative energy entity attribut-
20 able to all qualified employees in the tax year of the qualified
21 alternative energy entity for which the credit under
22 subsection (6) is being claimed, multiplied by the tax rate for
23 that tax year.

24 (L) ~~(j)~~ "Renaissance zone" means a renaissance zone desig-
25 nated under the Michigan renaissance zone act, 1996 PA 376,
26 MCL 125.2681 to 125.2696.

1 (M) ~~(k)~~ "Renewable fuel" means 1 or more of the
 2 following:

3 (i) Biodiesel or biodiesel blends containing at least
 4 20% biodiesel. As used in this subparagraph, "biodiesel" means a
 5 diesel fuel substitute consisting of methyl or ethyl esters
 6 produced from the transesterification of animal or vegetable fats
 7 with methanol or ethanol.

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

14 (N) ~~(l)~~ "Tax liability attributable to qualified business
 15 activity" means the taxpayer's tax liability multiplied by ~~a~~
 16 ~~fraction the numerator of which is the ratio of the value of the~~
 17 ~~taxpayer's property used for qualified business activity and~~
 18 ~~located in this state outside of a renaissance zone to the value~~
 19 ~~of all of the taxpayer's property located in this state plus the~~
 20 ~~ratio of the taxpayer's payroll for qualified business activity~~
 21 ~~performed outside of a renaissance zone to all of the taxpayer's~~
 22 ~~payroll in this state and the denominator of which is 2~~ THE
 23 TAXPAYER'S ALTERNATIVE ENERGY BUSINESS ACTIVITY FACTOR FOR THE
 24 2001 TAX YEAR.

25 (O) ~~(m)~~ "Tax rate" means the rate imposed under sections
 26 51, 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

1 the tax year in which the qualified alternative energy entity
2 claims a credit under subsection (6).