

Act No. 531
Public Acts of 2002
Approved by the Governor
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Senators Emmons, Stille, Steil and Hammerstrom

ENROLLED SENATE BILL No. 1322

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," (MCL 208.1 to 208.145) by adding section 39e; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

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

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

(2) For tax years that begin after December 31, 2002, a taxpayer that is certified under the Michigan next energy authority act as an eligible taxpayer may claim a nonrefundable credit for the tax year equal to the amount by which the taxpayer's tax liability attributable to qualified business activity for the tax year exceeds the taxpayer's baseline tax liability attributable to qualified business activity.

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

(4) An affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall not take the credit allowed under subsection (2) unless the qualified business activity of the group or entities is consolidated.

(5) A taxpayer that claims a credit under subsection (2) shall attach a copy of each of the following as issued pursuant to the Michigan next energy authority act to the annual return required under this act for each tax year in which the taxpayer claims the credit allowed under subsection (2):

- (a) The proof of certification that the taxpayer is an eligible taxpayer for the tax year.

- (b) The proof of certification of the taxpayer's tax liability attributable to qualified business activity for the tax year.
- (c) The proof of certification of the taxpayer's baseline tax liability attributable to qualified business activity.
- (6) For tax years that begin after December 31, 2002, a taxpayer that is a qualified alternative energy entity may claim a credit for the taxpayer's qualified payroll amount. A taxpayer shall claim the credit under this subsection after all allowable nonrefundable credits under this act.
- (7) If the credit allowed under subsection (6) exceeds the tax liability of the taxpayer for the tax year, that portion of 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) As used in this section:
 - (a) "Alternative energy marine propulsion system", "alternative energy system", "alternative energy vehicle", and "alternative energy technology" mean those terms as defined in the Michigan next energy authority act.
 - (b) "Alternative energy zone" means a renaissance zone designated as an alternative energy zone by the board of the Michigan strategic fund under section 8a of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2688a.
 - (c) "Baseline tax liability attributable to qualified business activity" means the taxpayer's tax liability for the 2001 tax year multiplied by a fraction the numerator of which is the ratio of the value of the taxpayer's property used for qualified business activity and located in this state outside of a renaissance zone for the 2001 tax year to the value of all of the taxpayer's property located in this state for the 2001 tax year plus the ratio of the taxpayer's payroll for qualified business activity performed outside of a renaissance zone for the 2001 tax year to all of the taxpayer's payroll for the 2001 tax year in this state and the denominator of which is 2. A taxpayer with a 2001 tax year of less than 12 months shall annualize the amount calculated under this subdivision as necessary to determine baseline tax liability attributable to qualified business activity that reflects a 12-month period.
 - (d) "Eligible taxpayer" means a taxpayer that has proof of certification of qualified business activity under the Michigan next energy authority act.
 - (e) "Payroll" means total salaries and wages before deducting any personal or dependency exemptions.
 - (f) "Qualified alternative energy entity" means a taxpayer located in an alternative energy zone.
 - (g) "Qualified business activity" means research, development, or manufacturing of an alternative energy marine propulsion system, an alternative energy system, an alternative energy vehicle, alternative energy technology, or renewable fuel.
 - (h) "Qualified employee" means an individual who is employed by a qualified alternative energy entity, whose job responsibilities are related to the research, development, or manufacturing activities of the qualified alternative energy entity, and whose regular place of employment is within an alternative energy zone.
 - (i) "Qualified payroll amount" means an amount equal to payroll of the qualified alternative energy entity attributable to all qualified employees in the tax year of the qualified alternative energy entity for which the credit under subsection (6) is being claimed, multiplied by the tax rate for that tax year.
 - (j) "Renaissance zone" means a renaissance zone designated under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.
 - (k) "Renewable fuel" means 1 or more of the following:
 - (i) Biodiesel or biodiesel blends containing at least 20% biodiesel. As used in this subparagraph, "biodiesel" means a diesel fuel substitute consisting of methyl or ethyl esters produced from the transesterification of animal or vegetable fats with methanol or ethanol.
 - (ii) Biomass. As used in this subparagraph, "biomass" means residues from the wood and paper products industries, residues from food production and processing, trees and grasses grown specifically to be used as energy crops, and gaseous fuels produced from solid biomass, animal wastes, municipal waste, or landfills.
 - (l) "Tax liability attributable to qualified business activity" means the taxpayer's tax liability multiplied by a fraction the numerator of which is the ratio of the value of the taxpayer's property used for qualified business activity and located in this state outside of a renaissance zone to the value of all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll for qualified business activity performed outside of a renaissance zone to all of the taxpayer's payroll in this state and the denominator of which is 2.
 - (m) "Tax rate" means the rate imposed under sections 51, 51d, and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51, 206.51d, and 206.51e, annualized as necessary, for the tax year in which the qualified alternative energy entity 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.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Sam E. Randall

Clerk of the House of Representatives.

Approved _____

Governor.