

# HOUSE BILL No. 6031

June 22, 2004, Introduced by Rep. Hunter and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
(MCL 208.1 to 208.145) by adding section 37g.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 37g. (1) For tax years that begin after December 31,  
2       2004, a taxpayer that is an eligible film production company may  
3       claim a credit against the tax imposed by this act for the  
4       production of a motion picture or television film equal to the  
5       sum of both of the following amounts:

6       (a) Not more than 4%, as determined by the department, of the  
7       taxpayer's eligible production expenses paid in the tax year.

8       (b) Not more than 7.25% of the taxpayer's costs paid in the  
9       tax year for transient accommodations.

10       (2) A taxpayer that is an eligible film production company  
11       shall apply to the department to determine the percentage of

1 eligible production expenses under subsection (1) that the  
2 taxpayer may use to calculate the credit under this section. The  
3 department shall use the following criteria to determine the  
4 applicable percentage:

5 (a) A taxpayer is allowed at least 75% but not more than the  
6 maximum percentage under subsection (1) if all of the following  
7 criteria are met:

8 (i) The production utilizes Michigan scenery, culture, or  
9 products.

10 (ii) If the product is a motion picture, the taxpayer spends  
11 a minimum of \$2,000,000.00 to produce the motion picture, and if  
12 the product is a television film, the taxpayer spends a minimum  
13 of \$750,000.00 to produce the television film.

14 (iii) The taxpayer provides documentation of 66% national  
15 distribution or coverage.

16 (b) A taxpayer is allowed up to 75% of the maximum percentage  
17 under subsection (1) if all the following criteria are met:

18 (i) If the product is a motion picture, the taxpayer spends a  
19 minimum of \$3,000,000.00 to produce the motion picture, and if  
20 the product is a television film, the taxpayer spends a minimum  
21 of \$1,000,000.00 to produce the television film.

22 (ii) At least 50% of all personnel employed in technical and  
23 craft positions in the production of the motion picture or  
24 television film are residents of this state. Executive,  
25 creative, writing, directing, producing, and acting positions are  
26 not included in determining the minimum percentage under this  
27 subparagraph.

1       (iii) The taxpayer provides documentation of 66% national  
2 distribution or coverage.

3       (3) The department shall determine the percentage amount for  
4 each applicant not more than 60 days after the department  
5 receives the application.

6       (4) An affiliated group as defined in this act, a controlled  
7 group of corporations as defined in section 1563 of the internal  
8 revenue code and further described in 26 CFR 1.414(b)-1 and  
9 1.414(c)-1 to 1.414(c)-5, or an entity under common control as  
10 defined by the internal revenue code shall consolidate all  
11 eligible production expenses to calculate the credit allowed by  
12 this section.

13       (5) If the amount of the credit allowed under this section  
14 exceeds the tax liability of the taxpayer for the tax year, that  
15 portion of the credit that exceeds the tax liability shall be  
16 refunded.

17       (6) As used in this section:

18       (a) "Eligible film production company" means a film  
19 production company registered with the department that meets the  
20 following criteria:

21       (i) Is engaged in the motion picture or television film  
22 production business.

23       (ii) Incurs costs in this state while producing a motion  
24 picture or television film.

25       (iii) Can demonstrate to the department that the motion  
26 picture or television film benefits this state by promoting this  
27 state, promoting tourism to this state, or creating jobs and

1 business opportunities in this state in the motion picture and  
2 television film industry.

3 (b) "Eligible production expenses" means all of the  
4 following:

5 (i) Wages and salaries paid for talent, management, and labor  
6 including payments to personal services corporations for the  
7 services of qualified performing artists as determined under  
8 section 62(b)(1) of the internal revenue code that relate to the  
9 production of film in this state.

10 (ii) Story and other rights to materials or information.

11 (iii) Supplies and cost of copying.

12 (iv) Cost for the rental of facilities, including location  
13 fees, camera and production equipment, sound synchronization,  
14 wardrobe, props, vehicles, and other related equipment or  
15 materials.

16 (v) Film and film editing costs.

17 (vi) Costs for lighting, permits, artwork, animal handlers,  
18 animals, lodging, catering, travel, insurance, and any other  
19 direct costs.

20 (c) "Motion picture or television film" means a  
21 feature-length motion picture intended for theatrical release or  
22 for exhibition on national television by a network or through  
23 national syndication or a television program that will serve as a  
24 pilot for or be a segment of an ongoing dramatic or situation  
25 comedy services televised on a network or through national  
26 syndication that has been certified by the Michigan economic  
27 development corporation. Motion picture or television film does

1 not include news programs, sports programs, and commercials.

2 (d) "Transient accommodation costs" means the actual  
3 expenditures paid to an operator of transient accommodations in  
4 this state during the production of a motion picture or  
5 television film.

6 (e) "Transient accommodations" means the furnishing of a  
7 room, apartment, suite, or similar accommodation that is  
8 customarily occupied by a person for less than 180 consecutive  
9 days for each letting by a hotel, apartment hotel, motel,  
10 condominium, cooperative apartment, or rooming house that  
11 provides living quarters, sleeping, or housekeeping  
12 accommodations, or other place in which lodgings are regularly  
13 furnished to transients for consideration.