

HOUSE SUBSTITUTE FOR SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5108

(As amended, November 10, 2005)

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending sections 36 and 71 (MCL 208.36 and 208.71), section 36
as amended by 1995 PA 284 and section 71 as amended by 1999 PA 115,
and by adding section 35f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 35F. (1) A TAXPAYER THAT PROVIDES TRANSFERRED JOBS TO
2 THIS STATE MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT
3 EQUAL TO 100% OF THE PROPERTY TAXES PAID ON TANGIBLE PERSONAL
4 PROPERTY THE USE OF WHICH IS DIRECTLY RELATED TO THE TRANSFERRED
5 JOBS. THE CREDIT SHALL ONLY BE AVAILABLE FOR TAXES PAID THE FIRST
6 YEAR THAT THE TAXPAYER PAYS PROPERTY TAXES ON THAT PROPERTY WHICH
7 SHALL BE THE SAME TAX YEAR IN WHICH THE CREDIT UNDER THIS SECTION

1 BASED ON THOSE PROPERTY TAXES IS CLAIMED.

2 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), THE CREDIT
3 UNDER SUBSECTION (1) CAN BE CLAIMED ONLY FOR TAXES PAID IN THE 2007
4 OR 2008 TAX YEAR.

5 (3) A TAXPAYER MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY
6 THIS ACT EQUAL TO 100% OF THE PROPERTY TAXES PAID FOR THE FIRST
7 YEAR THAT THE TAXPAYER PAYS PROPERTY TAXES ON TANGIBLE PERSONAL
8 PROPERTY THE USE OF WHICH IS DIRECTLY RELATED TO THE TRANSFERRED
9 JOBS FOR THE 2009 OR 2010 TAX YEAR IF THE TAXPAYER ENTERS INTO AN
10 AGREEMENT WITH THE MICHIGAN ECONOMIC GROWTH AUTHORITY THAT STATES
11 ALL OF THE FOLLOWING:

12 (A) THE TAXPAYER WILL PROVIDE TRANSFERRED JOBS IN THIS STATE
13 IN EXCESS OF THE NUMBER OF JOBS THE TAXPAYER MAINTAINED IN THIS
14 STATE IN THE IMMEDIATELY PRECEDING TAX YEAR.

15 (B) THE TAXPAYER WILL LOCATE TANGIBLE PERSONAL PROPERTY THE
16 USE OF WHICH IS DIRECTLY RELATED TO THOSE TRANSFERRED JOBS IN THIS
17 STATE.

18 (C) THE TRANSFER OF THE JOBS AND LOCATION OF THE TANGIBLE
19 PERSONAL PROPERTY CANNOT REASONABLY BE COMPLETED BY THE TAXPAYER
20 BEFORE JANUARY 1, 2007.

21 (4) THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL ISSUE A
22 CERTIFICATE TO THE TAXPAYER CERTIFYING THAT THE CRITERIA UNDER
23 SUBSECTION (3) HAVE BEEN MET, AND THE TAXPAYER SHALL ATTACH THE
24 CERTIFICATE TO THE ANNUAL RETURN REQUIRED UNDER THIS ACT ON WHICH
25 THE CREDIT UNDER THIS SECTION IS CLAIMED.

26 (5) IF THE TAXPAYER DOES NOT MAINTAIN THE TOTAL NUMBER OF
27 TRANSFERRED JOBS LOCATED IN THIS STATE FOR 3 YEARS AFTER THE YEAR

1 IN WHICH A CREDIT UNDER THIS SECTION WAS CLAIMED, THE FOLLOWING
2 PERCENTAGE OF THE CREDIT AMOUNT PREVIOUSLY CLAIMED UNDER THIS
3 SECTION SHALL BE ADDED BACK TO THE TAX LIABILITY OF THE TAXPAYER IN
4 THAT YEAR:

5 (A) IF THE TOTAL NUMBER OF TRANSFERRED JOBS IS LESS DURING THE
6 FIRST YEAR AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 100%.

7 (B) IF THE TOTAL NUMBER OF TRANSFERRED JOBS IS LESS DURING THE
8 SECOND YEAR AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 67%.

9 (C) IF THE TOTAL NUMBER OF TRANSFERRED JOBS IS LESS DURING THE
10 THIRD YEAR AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 33%.

11 (6) PERSONAL PROPERTY TAXES USED TO CALCULATE A CREDIT UNDER
12 THIS SECTION SHALL NOT BE USED TO CALCULATE A CREDIT UNDER SECTION
13 35D.

14 (7) THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE CALCULATED
15 AFTER APPLICATION OF ALL OTHER CREDITS ALLOWED UNDER THIS ACT.

16 (8) AS USED IN THIS SECTION:

17 (A) "HIGH-TECHNOLOGY ACTIVITY" MEANS THAT TERM AS DEFINED IN
18 SECTION 3 OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY ACT, 1995 PA
19 24, MCL 207.803.

20 (B) "MANUFACTURING JOBS" ARE JOBS FOR A COMPANY THAT HAS A
21 CLASSIFICATION UNDER SECTOR 33, SUBSECTOR 321, OR SUBSECTOR 322 OF
22 THE NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM (NAICS).

23 (C) "PROPERTY TAXES" MEANS ANY OF THE FOLLOWING:

24 (i) TAXES COLLECTED UNDER THE GENERAL PROPERTY TAX ACT, 1893 PA
25 206, MCL 211.1 TO 211.157.

26 (ii) TAXES LEVIED UNDER 1974 PA 198, MCL 207.551 TO 207.572.

27 (iii) TAXES LEVIED UNDER THE OBSOLETE PROPERTY REHABILITATION

1 ACT, 2000 PA 146, MCL 125.2781 TO 125.2797.

2 (iv) ANY PAYMENTS MADE BY THE TAXPAYER PURSUANT TO A CONTRACT
3 WITH THE MICHIGAN STRATEGIC FUND IN CONNECTION WITH THE CREATION OF
4 A RENAISSANCE ZONE UNDER THE MICHIGAN RENAISSANCE ZONE ACT, 1996 PA
5 376, MCL 125.2681 TO 125.2696, TO THE EXTENT THAT THOSE PAYMENTS
6 ARE MADE BY THE TAXPAYER TO REIMBURSE ALL TAXING UNITS FOR PROPERTY
7 TAXES THAT WOULD OTHERWISE BE EXEMPT UNDER SECTION 7FF OF THE
8 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.7FF.

9 (D) "TRANSFERRED JOBS" MEANS JOBS THAT MEET ALL OF THE
10 FOLLOWING CRITERIA:

11 (i) ARE JOBS THAT PERFORM HIGH-TECHNOLOGY ACTIVITY OR
12 MANUFACTURING JOBS.

13 (ii) WERE LOCATED IN A DIFFERENT STATE OR DIFFERENT COUNTRY
14 BEFORE BEING MOVED TO THIS STATE IN THE IMMEDIATELY PRECEDING TAX
15 YEAR.

16 (iii) REPRESENT AN OVERALL INCREASE IN FULL-TIME EQUIVALENT JOBS
17 OF THE TAXPAYER IN THIS STATE FOR THE TAX YEAR ABOVE THE TOTAL
18 NUMBER OF FULL-TIME EQUIVALENT JOBS OF THE TAXPAYER IN THE
19 IMMEDIATELY PRECEDING TAX YEAR.

20 (iv) IS NOT A JOB INTO WHICH AN EMPLOYEE TRANSFERS IF THE
21 EMPLOYEE WORKED IN THIS STATE FOR THE TAXPAYER, A RELATED ENTITY OF
22 THE TAXPAYER, OR AN ENTITY WITH WHICH THE TAXPAYER FILES A
23 CONSOLIDATED RETURN UNDER SECTION 77 IN ANOTHER JOB PRIOR TO
24 BEGINNING THE TRANSFERRED JOB.

25 (v) THE BENEFITS FOR THE EMPLOYEE IN THE TRANSFERRED JOB
26 INCLUDE COVERAGE UNDER HEALTH AND WELFARE AND NONINSURED BENEFIT
27 PLANS, INCLUDING, BUT NOT LIMITED TO, PRESCRIPTION COVERAGE,

House Bill No. 5108 as amended November 10, 2005

1 PRIMARY HEALTH CARE COVERAGE, AND HOSPITALIZATION THAT IS NOT
2 LIMITED TO EMERGENCY ROOM SERVICES OR SUBJECT TO DOLLAR LIMITS,
3 DEDUCTIBLES, AND COINSURANCE PROVISIONS THAT ARE NOT LESS FAVORABLE
4 THAN THOSE FOR PHYSICAL ILLNESS GENERALLY.

5 Sec. 36. (1) As used in this section:

6 (a) "Active shareholder" means a shareholder who receives at
7 least \$10,000.00 in compensation, director's fees, or dividends
8 from the business, and who owns at least 5% of the outstanding
9 stock.

10 (b) "Officer" means an officer of a corporation other than a
11 subchapter S corporation including the chairperson of the board,
12 president, vice-president, secretary, and treasurer, or persons
13 performing similar duties.

14 (c) "Adjusted business income" means business income as
15 defined in section 3 with all of the following adjustments:

16 (i) Add compensation and director's fees of active shareholders
17 of a corporation.

18 (ii) Make the adjustments provided in section 9(4)(a) and (b).

19 (iii) Add compensation and director's fees of officers of a
20 corporation.

21 (d) "Shareholder" means a person who owns outstanding stock in
22 the business **OR FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1,**
23 **2006 AND FOR TAX YEARS FOR WHICH <<SECTION 35F IS>> ARE IN EFFECT,**
24 **A MEMBER OF A BUSINESS ENTITY THAT FILES AS A CORPORATION FOR**
25 **FEDERAL TAX PURPOSES.** An individual is considered as the owner of
26 the stock owned, directly or indirectly, by or for family members
27 as defined by section 318(a)(1) of the internal revenue code.

1 (e) "Loss adjustment" means the amount by which adjusted
2 business income was less than zero in any of the 5 tax years
3 immediately preceding the tax year for which eligibility for the
4 credit provided by this section is being determined. In determining
5 the loss adjustment for a tax year, a taxpayer is not required to
6 use more of the taxpayer's total negative adjusted business income
7 than the amount needed to qualify the taxpayer for the credit under
8 this section. A taxpayer shall not be considered to have used any
9 portion of the taxpayer's negative adjusted business income amount
10 unless the portion used is necessary to qualify for the credit
11 under this section. A taxpayer shall not reuse a negative adjusted
12 business income amount used as a loss adjustment in a previous tax
13 year or use a negative adjusted business income amount from a year
14 in which the taxpayer did not receive the credit under this
15 section.

16 (f) "Subchapter S corporation" means a corporation electing
17 taxation under subchapter S of chapter 1 of subtitle A of the
18 internal revenue code, sections 1361 to 1379 of the internal
19 revenue code.

20 (2) The credit provided in this section shall be taken before
21 any other credit under this act, and is available to any person
22 whose gross receipts do not exceed \$6,000,000.00 for tax years
23 commencing on or after January 1, 1984 and before January 1, 1989;
24 \$7,000,000.00 for tax years commencing in 1989; \$7,250,000.00 for
25 tax years commencing in 1990; \$7,500,000.00 for tax years
26 commencing in 1991; or \$10,000,000.00 for tax years commencing
27 after 1991, and whose adjusted business income minus the loss

1 adjustment does not exceed \$475,000.00 for tax years commencing on
2 or after January 1, 1985 **AND BEFORE JANUARY 1, 2006 AND \$525,000.00**
3 **FOR TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2006**, subject to
4 the following:

5 (a) An individual, a partnership, or a subchapter S
6 corporation is disqualified if the individual, any 1 partner of the
7 partnership, or any 1 shareholder of the subchapter S corporation
8 receives more than \$95,000.00 for tax years commencing on or after
9 January 1, 1985 and before January 1, 1998, ~~or~~ more than
10 \$115,000.00 for tax years commencing after December 31, 1997 **AND**
11 **BEFORE JANUARY 1, 2006, OR MORE THAN \$125,000.00 FOR TAX YEARS**
12 **COMMENCING AFTER DECEMBER 31, 2005** as a distributive share of the
13 adjusted business income minus the loss adjustment of the
14 individual, the partnership, or the subchapter S corporation.

15 (b) A corporation other than a subchapter S corporation is
16 disqualified if either of the following occur for the respective
17 tax year:

18 (i) Compensation and director's fees of a shareholder or
19 officer exceed \$95,000.00 for tax years commencing on or after
20 January 1, 1985 and before January 1, 1998, ~~or~~ exceed \$115,000.00
21 for tax years commencing after December 31, 1997 **AND BEFORE JANUARY**
22 **1, 2006, OR EXCEED \$125,000.00 FOR TAX YEARS COMMENCING AFTER**
23 **DECEMBER 31, 2005.**

24 (ii) The sum of the following amounts exceeds \$95,000.00 for
25 tax years commencing on or after January 1, 1985 and before January
26 1, 1998, ~~or~~ exceeds \$115,000.00 for tax years commencing after
27 December 31, 1997 **AND BEFORE JANUARY 1, 2006, OR EXCEED \$125,000.00**

1 **FOR TAX YEARS COMMENCING AFTER DECEMBER 31, 2005:**

2 (A) Compensation and director's fees of a shareholder.

3 (B) The product of the percentage of outstanding stock owned
4 by that shareholder multiplied by the difference between the sum of
5 business income and the adjustments provided in section 9(4)(a) and
6 (b) minus the loss adjustment.

7 (c) Subject to section 36d, for a taxpayer that is eligible
8 for the credit under this subsection for tax years beginning after
9 December 31, 1997, the credit determined under this subsection
10 shall be reduced by the following percentages in the following
11 circumstances:

12 (i) If an individual, any 1 partner of the partnership, or any
13 1 shareholder of the subchapter S corporation receives as a
14 distributive share of adjusted gross income minus the loss
15 adjustment of the individual, partnership, or subchapter S
16 corporation; if compensation and directors' fees of a shareholder
17 or officer of a corporation other than a subchapter S corporation
18 are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B)
19 is more than \$95,000.00 but less than \$100,000.00 **FOR TAX YEARS**
20 **THAT BEGIN BEFORE JANUARY 1, 2006 OR MORE THAN \$105,000.00 BUT LESS**
21 **THAN \$110,000.00 FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1,**
22 **2006,** the credit is reduced by 20%.

23 (ii) If an individual, any 1 partner of the partnership, or any
24 1 shareholder of the subchapter S corporation receives as a
25 distributive share of adjusted gross income minus the loss
26 adjustment of the individual, partnership, or subchapter S
27 corporation; if compensation and directors' fees of a shareholder

1 or officer of a corporation other than a subchapter S corporation
2 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)
3 is \$100,000.00 or more but less than \$105,000.00 **FOR TAX YEARS THAT**
4 **BEGIN BEFORE JANUARY 1, 2006 OR \$110,000.00 OR MORE BUT LESS THAN**
5 **\$115,000.00 FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2006,**
6 the credit is reduced by 40%.

7 (iii) If an individual, any 1 partner of the partnership, or any
8 1 shareholder of the subchapter S corporation receives as a
9 distributive share of adjusted gross income minus the loss
10 adjustment of the individual, partnership, or subchapter S
11 corporation; if compensation and directors' fees of a shareholder
12 or officer of a corporation other than a subchapter S corporation
13 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)
14 is \$105,000.00 or more but less than \$110,000.00 **FOR TAX YEARS THAT**
15 **BEGIN BEFORE JANUARY 1, 2006 OR \$115,000.00 OR MORE BUT LESS THAN**
16 **\$120,000.00 FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2006,**
17 the credit is reduced by 60%.

18 (iv) If an individual, any 1 partner of the partnership, or any
19 1 shareholder of the subchapter S corporation receives as a
20 distributive share of adjusted gross income minus the loss
21 adjustment of the individual, partnership, or subchapter S
22 corporation; if compensation and directors' fees of a shareholder
23 or officer of a corporation other than a subchapter S corporation
24 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)
25 is \$110,000.00 or more but less than \$115,000.00 **FOR TAX YEARS THAT**
26 **BEGIN BEFORE JANUARY 1, 2006 OR \$120,000.00 OR MORE BUT LESS THAN**
27 **OR EQUAL TO \$125,000.00 FOR TAX YEARS THAT BEGIN ON AND AFTER**

1 **JANUARY 1, 2006**, the credit is reduced by 80%.

2 (3) For the purposes of determining disqualification under
3 subsection (2), an active shareholder's share of business income
4 shall not be attributed to another active shareholder.

5 (4) A person who qualifies pursuant to subsection (2) is
6 allowed a credit against the tax imposed by section 31. For tax
7 years commencing before January 1, 1989, the credit is a percentage
8 reduction in tax liability. ~~For tax years commencing on and after~~
9 ~~January 1, 1989 and through tax years commencing in 1991, the~~
10 ~~credit is the greater of the amount by which the tax imposed by~~
11 ~~section 31 exceeds 4% of adjusted business income or 3% of adjusted~~
12 ~~business income for tax years commencing after 1991 or a percentage~~
13 ~~reduction in tax liability. However, beginning October 1, 1994, the~~
14 ~~percentage of adjusted business income shall be 2%. The department~~
15 shall annualize the rates provided under this subsection as
16 necessary for tax years that end after September 30, 1994 and the
17 applicable annualized rate shall be imposed for those tax years.

18 **THE CREDIT UNDER THIS SUBSECTION IS THE GREATER OF THE AMOUNT BY**
19 **WHICH THE TAX IMPOSED BY SECTION 31 EXCEEDS THE FOLLOWING**
20 **PERCENTAGE OF ADJUSTED BUSINESS INCOME FOR THE SPECIFIED TAX YEARS**
21 **OR A PERCENTAGE REDUCTION IN TAX LIABILITY:**

22 (A) FOR TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 1989 AND
23 THROUGH TAX YEARS COMMENCING IN 1991, 4%.

24 (B) FOR TAX YEARS COMMENCING AFTER 1991 AND BEFORE OCTOBER 1,
25 1994, 3%.

26 (C) BEGINNING OCTOBER 1, 1994 AND BEFORE JANUARY 1, 2006, 2%.

27 (D) BEGINNING JANUARY 1, 2006, 1.9%.

House Bill No. 5108 as amended November 10, 2005

1 (5) The percentage reduction provided in subsection (4) is
2 calculated by subtracting from 100% the percentage computed by
3 dividing adjusted business income by 45% of tax base.

4 (6) If gross receipts exceed \$5,000,000.00 for tax years
5 commencing on or after January 1, 1984 and before January 1, 1989;
6 \$6,000,000.00 for tax years commencing in 1989; \$6,250,000.00 for
7 tax years commencing in 1990; \$6,500,000.00 for tax years
8 commencing in 1991; or \$9,000,000.00 for tax years commencing after
9 1991, the credit shall be reduced by a fraction, the numerator of
10 which is the amount of gross receipts over \$5,000,000.00 for tax
11 years commencing on or after January 1, 1984 and before January 1,
12 1989; \$6,000,000.00 for tax years commencing in 1989; \$6,250,000.00
13 for tax years commencing in 1990; \$6,500,000.00 for tax years
14 commencing in 1991; or \$9,000,000.00 for tax years commencing after
15 1991, and the denominator of which is \$1,000,000.00. The credit
16 shall not exceed 50% for tax years commencing before January 1,
17 1984; 90% for tax years commencing on or after January 1, 1984 and
18 before January 1, 1988; or 100% for tax years commencing on and
19 after January 1, 1988 of the tax liability imposed by section 31.

20 (7) An affiliated group as defined in this act, a controlled
21 group of corporations as defined in section 1563 of the internal
22 revenue code and further described in 26 ~~C.F.R.~~ **CFR** 1.414(b)-1
23 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
24 defined by the internal revenue code shall not take the credit
25 allowed by this section unless the business activities of the
26 entities are consolidated. **FOR PURPOSES OF THIS SUBSECTION AND FOR**
27 **TAX YEARS FOR WHICH <<SECTION 35F IS>> IN EFFECT, BUSINESS**

House Bill No. 5108 as amended November 10, 2005

1 **ACTIVITIES INCLUDE ALL ACTIVITIES WITHIN AND OUTSIDE OF THIS STATE.**

2 (8) The department shall permit a taxpayer who elects to claim
3 the credit allowed by this section based on the amount by which the
4 tax imposed by section 31 exceeds the percentage of adjusted
5 business income for the tax year as determined under subsection
6 (4), and who is not required to reduce the credit pursuant to
7 subsection (2) or (6), to file and pay the tax imposed by this act
8 without computing the tax imposed under section 31.

9 (9) **AS USED IN THIS SECTION, FOR TAX YEARS FOR WHICH <<SECTION**
10 **35F IS >> IN EFFECT, THE TERM "CORPORATION" INCLUDES A**
11 **BUSINESS ENTITY THAT FILES AS A CORPORATION FOR FEDERAL TAX**
12 **PURPOSES.**

12 Sec. 71. (1) A taxpayer that reasonably expects liability for
13 the tax year to exceed \$600.00 or adjustments under section 23 to
14 exceed \$100,000.00 shall file an estimated return and pay an
15 estimated tax for each quarter of the taxpayer's tax year.

16 (2) For taxpayers on a calendar year basis the quarterly
17 returns and estimated payments shall be made by April 30, July 31,
18 October 31, and January 31. Taxpayers not on a calendar year basis
19 shall file quarterly returns and make estimated payments on the
20 appropriate due date which in the taxpayer's fiscal year
21 corresponds to the calendar year.

22 (3) The estimated payment made with each quarterly return of
23 each tax year shall be for the estimated tax base for the quarter
24 or 25% of the estimated annual liability. The second, third, and
25 fourth estimated payments in each tax year shall include
26 adjustments, if necessary, to correct underpayments or overpayments

1 from previous quarterly payments in the tax year to a revised
2 estimate of the annual tax liability.

3 (4) The interest **AND PENALTY** provided by this act shall not be
4 assessed if any of the following occur:

5 (a) If the sum of the estimated payments equals at least 85%
6 of the liability or 1% of the gross receipts for the tax year and
7 the amount of each estimated payment reasonably approximates the
8 tax liability incurred during the quarter for which the estimated
9 payment was made.

10 (b) If the preceding year's tax liability was \$20,000.00 or
11 less and if the taxpayer submitted 4 equal installments the sum of
12 which equals the previous year's tax liability.

13 **(C) EFFECTIVE FOR THE 1 TAX YEAR OF THE TAXPAYER DURING WHICH**
14 **THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION BECAME EFFECTIVE, IF**
15 **THE UNDERPAYMENT IS DUE TO THE CHANGES MADE TO SECTION 36 BY THE**
16 **AMENDATORY ACT THAT ADDED THIS SUBDIVISION.**

17 (5) Each estimated return shall be made on a form prescribed
18 by the department and shall include an estimate of the annual tax
19 liability and other information required by the commissioner. This
20 form may be combined with any other tax reporting form prescribed
21 by the department.

22 (6) With respect to a taxpayer filing an estimated tax return
23 for the taxpayer's first tax year of less than 12 months, the
24 amounts paid with each return shall be proportional to the number
25 of payments made in the first tax year.

26 (7) Payments made under this section shall be a credit against
27 the payment required with the annual tax return required in section

1 73.

2 (8) When the commissioner considers it necessary to insure
3 payment of the tax or to provide a more efficient administration of
4 the tax, the commissioner may require filing of the returns and
5 payment of the tax for other than quarterly or annual periods.

6 (9) A taxpayer that elects under the internal revenue code to
7 file an annual federal income tax return by March 1 in the year
8 following the taxpayer's tax year and does not make a quarterly
9 estimate or payment, or does not make a quarterly estimate or
10 payment and files a tentative annual return with a tentative
11 payment by January 15, in the year following the taxpayer's tax
12 year and a final return by April 15 in the year following the
13 taxpayer's tax year, shall have the same option in filing the
14 estimated and annual returns required by this act.

15 (10) Instead of the quarterly return prescribed in subsections
16 (1) and (2) the taxpayer may elect either of the following options:

17 (a) To file and pay before the sixteenth day of each month an
18 estimated return computed at the rate of 1% of the gross receipts
19 for the preceding month.

20 (b) To file and pay before the sixteenth day of the months
21 specified in subsection (2) an estimated return computed at the
22 rate of 1% of the gross receipts for the preceding quarter.

23 (11) A penalty for underpayment of an estimated tax under this
24 act shall not be assessed for the taxpayer's first tax year
25 beginning after December 31, 1999 if the taxpayer claimed a credit
26 under section 35a for the first time on the taxpayer's annual
27 return for that tax year and a penalty would not have applied if

House Bill No. 5108 (H-5) as amended November 10, 2005

1 the taxpayer had made adjustments under section 23 or 23b on that
2 return.

3 Enacting section 1. This amendatory act does not take effect
4 unless all of the following bills of the 93rd Legislature are
5 enacted into law:

6 (a) House Bill No. 4342.

7 (b) House Bill No. 4972.

8 (c) House Bill No. 4973.

9 (d) House Bill No. 4980.

10 (e) House Bill No. 5095.

11 (f) House Bill No. 5096.

12 (g) House Bill No. 5097.

13 (h) House Bill No. 5098.

14 (i) House Bill No. 5106.

15 (j) House Bill No. 5107.

16 (k) Senate Bill No. 633.

17 []