

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5215

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 37e (MCL 208.37e), as added by 2003 PA 297.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 37e. (1) For tax years that begin after December 31,
2 2008, ~~and before January 1, 2020, a taxpayer that is an investor~~
3 ~~may claim a credit against the tax imposed by this act equal to the~~
4 ~~credit amount determined and certified under this section and the~~
5 ~~Michigan early stage venture capital investment act of 2003— A~~
6 **TAXPAYER THAT HAS BEEN ISSUED A TAX VOUCHER CERTIFICATE UNDER**
7 **SECTION 23 OF THE MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF**
8 **2003, 2003 PA 296, MCL 125.2253, OR ANY TAXPAYER TO WHICH ALL OR A**
9 **PORTION OF A TAX VOUCHER IS TRANSFERRED PURSUANT TO THE MICHIGAN**

1 EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL
2 125.2231 TO 125.2263, MAY USE THE TAX VOUCHER TO PAY A LIABILITY OF
3 THE TAXPAYER DUE UNDER THIS ACT.

4 (2) The total amount of all tax ~~credits certified~~ VOUCHER
5 CERTIFICATES THAT SHALL BE APPROVED BEFORE NOVEMBER 1, 2005 AND ON
6 AND AFTER NOVEMBER 1, 2005 IF SUBSECTION (3) IS NOT IN EFFECT,
7 under this section and the Michigan early stage venture ~~capital~~
8 investment act of 2003, 2003 PA 296, MCL 125.2231 TO 125.2263, for
9 all taxpayers for all years shall not exceed \$150,000,000.00.

10 (3) ON AND AFTER THE DATE THAT THE MICHIGAN TOBACCO SETTLEMENT
11 FINANCE AUTHORITY IS AUTHORIZED BY LAW TO ISSUE BONDS UNDER THE
12 MICHIGAN TOBACCO SETTLEMENT FINANCE AUTHORITY ACT, BUT NOT SOONER
13 THAN NOVEMBER 1, 2005, THE TOTAL AMOUNT OF ALL TAX VOUCHER
14 CERTIFICATES THAT SHALL BE APPROVED UNDER THIS SECTION AND THE
15 MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296,
16 MCL 125.2231 TO 125.2263, SHALL NOT EXCEED AN AMOUNT SUFFICIENT TO
17 ALLOW THE MICHIGAN EARLY STAGE VENTURE INVESTMENT CORPORATION TO
18 RAISE \$450,000,000.00 FOR THE PURPOSES AUTHORIZED UNDER THE
19 MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296,
20 MCL 125.2231 TO 125.2263. THE TOTAL AMOUNT OF ALL TAX VOUCHER
21 CERTIFICATES SHALL NOT EXCEED \$600,000,000.00.

22 (4) THE DEPARTMENT SHALL NOT APPROVE A TAX VOUCHER CERTIFICATE
23 UNDER SECTION 23(2) OF THE MICHIGAN EARLY STAGE VENTURE INVESTMENT
24 ACT OF 2003, 2003 PA 296, MCL 125.2253, AFTER DECEMBER 31, 2015.
25 FOR TAX VOUCHER CERTIFICATES APPROVED UNDER SUBSECTIONS (2) AND
26 (3), THE AMOUNT OF TAX VOUCHER CERTIFICATES APPROVED BY THE
27 DEPARTMENT FOR USE IN ANY TAX YEAR SHALL NOT EXCEED 25% OF THE

1 TOTAL AMOUNT OF ALL TAX VOUCHER CERTIFICATES APPROVED BY THE
2 DEPARTMENT.

3 (5) ~~—(3)—~~ Investors shall apply to the Michigan early stage
4 venture ~~capital~~ investment corporation for ~~certification of~~
5 ~~allowable tax credits~~ APPROVAL OF TAX VOUCHER CERTIFICATES AT THE
6 TIME AND IN THE MANNER REQUIRED UNDER THE MICHIGAN EARLY STAGE
7 VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO
8 125.2263.

9 (6) ~~—(4)—~~ The Michigan early stage venture ~~capital~~
10 investment corporation shall determine which investors are eligible
11 for tax ~~credits~~ VOUCHERS and the amount of the tax ~~credit~~
12 VOUCHERS allowed to each investor as provided in the Michigan early
13 stage venture ~~capital~~ investment act of 2003, 2003 PA 296, MCL
14 125.2231 TO 125.2263.

15 (7) ~~—(5)—~~ The TAX VOUCHER certificate, AND ANY COMPLETED
16 TRANSFER FORM THAT WAS ISSUED PURSUANT TO THE MICHIGAN EARLY STAGE
17 VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO
18 125.2263, shall be attached to the taxpayer's annual return under
19 this act. ~~for the first tax year in which a tax credit or any~~
20 ~~portion of the tax credit allowed is claimed, which shall be the~~
21 ~~tax year indicated on the certificate.~~ THE DEPARTMENT MAY PRESCRIBE
22 AND IMPLEMENT ALTERNATIVE METHODS OF REPORTING AND RECORDING
23 OWNERSHIP, TRANSFER, AND UTILIZATION OF TAX VOUCHER CERTIFICATES
24 THAT ARE NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT.

25 (8) ~~—(6)—~~ A ~~credit under this section~~ TAX VOUCHER shall be
26 ~~claimed~~ USED TO PAY A LIABILITY OF THE TAXPAYER DUE UNDER THIS ACT
27 only in a tax year that begins after December 31, 2008. ~~and before~~

1 ~~January 1, 2020. The credit allowed for that tax year shall not~~
2 ~~exceed the difference between the amount actually repaid and the~~
3 ~~amount set as the repayment due in the agreement entered into by~~
4 ~~the taxpayer and the Michigan early stage venture capital~~
5 ~~investment corporation pursuant to section 17 of the Michigan early~~
6 ~~stage venture capital investment act of 2003.~~ **THE AMOUNT OF THE**
7 **TAX VOUCHER THAT MAY BE USED TO PAY A LIABILITY OF THE TAXPAYER DUE**
8 **UNDER THIS ACT IN ANY TAX YEAR SHALL NOT EXCEED THE LESSER OF THE**
9 **FOLLOWING:**

10 (A) THE AMOUNT OF THE TAX VOUCHER STATED ON THE TAX VOUCHER
11 CERTIFICATE HELD BY THE TAXPAYER.

12 (B) THE AMOUNT AUTHORIZED TO BE USED IN THE TAX YEAR UNDER THE
13 TERMS OF THE TAX VOUCHER CERTIFICATE.

14 (C) THE TAXPAYER'S LIABILITY DUE UNDER THIS ACT FOR THE TAX
15 YEAR FOR WHICH THE TAX VOUCHER IS TO BE APPLIED.

16 ~~—— (7) The total amount of all credits authorized for any 1~~
17 ~~calendar year under this section pursuant to the agreements entered~~
18 ~~into by the taxpayer and the Michigan early stage venture capital~~
19 ~~investment corporation pursuant to section 17 of the Michigan early~~
20 ~~stage venture capital investment act of 2003 shall not exceed~~
21 ~~\$30,000,000.00.~~

22 ~~—— (8) If the taxpayer's credit allowed under this section for a~~
23 ~~tax year exceeds the taxpayer's tax liability for the tax year,~~
24 ~~that portion of the credit that exceeds the tax liability for the~~
25 ~~tax year shall be refunded.~~

26 ~~—— (9) The fund manager shall invest and budget in such a manner~~
27 ~~that no credits are claimed under this section in any tax year~~

~~before tax years that begin after December 31, 2008.~~

~~—— (10) For tax years that begin after December 31, 2009, if a credit under this section is not allowed against the taxpayer's tax liability under this act or against any successor tax to the tax imposed by this act, a taxpayer to whom a certificate has been issued under the Michigan early stage venture capital investment act of 2003 may claim a credit as allowed under section 270 of the income tax act of 1967, 1967 PA 281, MCL 206.270, or transfer that certificate and the credit allowed pursuant to that certificate to a person who may claim the tax credit as allowed under section 270 of the income tax act of 1967, 1967 PA 281, MCL 206.270. The credit amount under this subsection shall be equal to the remaining credit allowable and may be claimed only for tax years that begin after December 31, 2009 and before January 1, 2020.~~

(9) THE DEPARTMENT SHALL ADMINISTER TRANSFERS OF TAX VOUCHER CERTIFICATES OR THE TRANSFER OF THE RIGHT TO BE ISSUED AND RECEIVE A TAX VOUCHER CERTIFICATE AS PROVIDED IN THE MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO 125.2263, AND SHALL TAKE ANY ACTION NECESSARY TO ENFORCE AND EFFECTUATE THE PERMISSIBLE ISSUANCE AND USE OF TAX VOUCHER CERTIFICATES IN A MANNER AUTHORIZED UNDER THIS SECTION AND THE MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO 125.2263.

(10) IF THE AMOUNT OF A TAX VOUCHER CERTIFICATE HELD BY A TAXPAYER OR TRANSFEREE EXCEEDS THE AMOUNT THE TAXPAYER OR TRANSFEREE MAY USE UNDER SUBSECTION (8) (B) OR (C) IN A TAX YEAR, THAT EXCESS MAY BE USED BY THE TAXPAYER OR TRANSFEREE TO PAY,

1 SUBJECT TO THE LIMITATIONS OF SUBSECTION (8), ANY FUTURE LIABILITY
2 OF THE TAXPAYER OR TRANSFEREE UNDER THIS ACT.

3 (11) UPON THE REQUEST OF A TAXPAYER, THE DEPARTMENT SHALL
4 ISSUE SEPARATE REPLACEMENT TAX VOUCHER CERTIFICATES, OR REPLACEMENT
5 APPROVAL LETTERS, EVIDENCING THE RIGHT OF THE HOLDER TO BE ISSUED
6 AND RECEIVE A TAX VOUCHER CERTIFICATE IN AN AGGREGATE AMOUNT EQUAL
7 TO THE AMOUNT OF A TAX VOUCHER CERTIFICATE OR AN APPROVAL LETTER
8 PRESENTED BY A TAXPAYER. REPLACEMENT TAX VOUCHER CERTIFICATES MAY
9 BE USED, AND REPLACEMENT APPROVAL LETTERS MAY BE ISSUED, TO
10 EVIDENCE THE RIGHT TO BE ISSUED AND RECEIVE A TAX VOUCHER
11 CERTIFICATE THAT WILL BE USED FOR 1 OR MORE OF THE FOLLOWING
12 PURPOSES:

13 (A) TO PAY ANY LIABILITY OF THE TAXPAYER UNDER THIS ACT TO THE
14 EXTENT PERMITTED IN ANY TAX YEAR BY SUBSECTION (8).

15 (B) TO PAY ANY LIABILITY OF THE TAXPAYER UNDER AND TO THE
16 EXTENT ALLOWED UNDER SECTION 270 OF THE INCOME TAX ACT OF 1967,
17 1967 PA 281, MCL 206.270.

18 (C) TO BE TRANSFERRED TO A TAXPAYER WHO MAY USE THE
19 REPLACEMENT TAX VOUCHER CERTIFICATE TO PAY ANY LIABILITY UNDER THIS
20 ACT TO THE EXTENT ALLOWED UNDER SUBSECTION (8).

21 (D) TO BE TRANSFERRED TO A PERSON WHO MAY USE THE TAX VOUCHER
22 CERTIFICATE TO PAY ANY LIABILITY UNDER AND TO THE EXTENT ALLOWED
23 UNDER SECTION 270 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL
24 206.270.

25 (12) ~~—(11)—~~ As used in this section:

26 (a) "Board", "fund manager", and "investor" mean those terms
27 as defined in the Michigan early stage venture ~~—capital—~~ investment

1 act of 2003, 2003 PA 296, MCL 125.2231 TO 125.2263.

2 (b) "Certificate" means the certificate issued under section
3 23 of the Michigan early stage venture ~~capital~~ investment act of
4 2003, 2003 PA 296, MCL 125.2253.

5 (C) "TRANSFeree" MEANS A TAXPAYER TO WHOM A TAX VOUCHER
6 CERTIFICATE HAS BEEN TRANSFERRED UNDER SECTION 23 OF THE MICHIGAN
7 EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL
8 125.2253, AND THIS SECTION.