

HOUSE BILL No. 5216

September 22, 2005, Introduced by Reps. David Law, Pavlov, Baxter and Huizenga and referred to the Committee on Commerce.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 270 (MCL 206.270), as added by 2003 PA 295.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 270. (1) For tax years that begin after December 31,
2 ~~2009 and before January 1, 2020, both of the following apply:~~

3 ~~—— (a) A taxpayer to whom a certificate and remaining credit~~
4 ~~amount have been transferred under section 37e of the single~~
5 ~~business tax act, 1975 PA 228, MCL 208.37e, may claim that credit~~
6 ~~against the tax imposed by this act equal to the credit amount~~
7 ~~transferred.~~

8 ~~—— (b) A claimant may claim a credit as provided in this section.~~

9 ~~—— (2) A credit claimed under this section shall only be claimed~~
10 ~~in a tax year in which the credit under section 37e of the single~~

~~business tax act, 1975 PA 228, MCL 208.37c, is not allowed against tax liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or against a tax levied and imposed under a successor tax to the single business tax act, 1975 PA 228, MCL 208.1 to 208.145.~~

~~—— (3) A credit under this section shall be claimed 2008, A TAXPAYER TO WHOM A TAX VOUCHER CERTIFICATE IS ISSUED OR A TAXPAYER THAT IS THE TRANSFEREE OF A TAX VOUCHER CERTIFICATE MAY USE THE TAX VOUCHER CERTIFICATE TO PAY ANY LIABILITY OF THE TAXPAYER UNDER SECTION 51 OR TO PAY ANY AMOUNT OWED BY THE TAXPAYER UNDER SECTION 351.~~

(2) A TAX VOUCHER CERTIFICATE SHALL BE USED FOR THE PURPOSES ALLOWED UNDER SUBSECTION (1) AND only in a tax year that begins after December 31, ~~2009 and before January 1, 2020~~ 2008.

~~—— (4) The credit allowed for any tax year under subsection (1)(a) shall not exceed the amount allowed on the certificate and transferred and for the specified tax year. The credit allowed for any tax year under subsection (1)(b) shall not exceed the amount allowed on the claimant's certificate for the specified tax year.~~

~~—— (5) If the taxpayer's or claimant's credit allowed under this section for a tax year exceeds the taxpayer's or claimant's tax liability for the tax year, that portion of the credit that exceeds the tax liability for the tax year shall be refunded.~~

~~—— (6) For credits claimed under subsection (1)(a), the certificate transferred to the taxpayer and for credits claimed under subsection (1)(b), the claimant's certificate, shall be attached to the annual return under this act for the first tax year~~

~~in which a credit under this section or any portion of a credit under this section is claimed.~~

~~(7) For credits allowed under subsection (1)(b), for a claimant that has no tax liability under this act for the tax year, the amount of the claim under subsection (1)(b) shall be equal to the remaining credit amount the claimant could have claimed under section 37e of the single business tax act, 1975 PA 228, MCL 208.37e, had that section been in effect for the tax year.~~

~~(8) The department shall prescribe the form for claiming the credit under subsection (1)(b), which shall be a form separate and distinct from all other forms under this act.~~

(3) THE AMOUNT OF THE TAX VOUCHER THAT MAY BE USED TO PAY A LIABILITY DUE UNDER THIS ACT IN ANY TAX YEAR SHALL NOT EXCEED THE LESSER OF THE FOLLOWING:

(A) THE AMOUNT OF THE TAX VOUCHER STATED IN THE TAX VOUCHER CERTIFICATE HELD BY THE TAXPAYER.

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

(C) THE TAXPAYER'S LIABILITY UNDER THIS ACT FOR THE TAX YEAR FOR WHICH THE TAX VOUCHER IS USED.

(4) IF THE AMOUNT OF ANY TAX VOUCHER CERTIFICATE HELD BY A TAXPAYER EXCEEDS THE AMOUNT THE TAXPAYER MAY USE UNDER SUBSECTION (3)(B) OR (C) IN A TAX YEAR, THE EXCESS MAY BE USED BY THE TAXPAYER TO PAY, SUBJECT TO THE LIMITATIONS OF SUBSECTION (3), ANY FUTURE LIABILITY OF THE TAXPAYER UNDER THIS ACT OR, IF AND TO THE EXTENT OF THE AMOUNT TRANSFERRED, ANY FUTURE LIABILITY UNDER THIS ACT OF ANY OTHER TAXPAYER TO WHICH THE TAX VOUCHER CERTIFICATE IS

1 TRANSFERRED PURSUANT TO THE MICHIGAN EARLY STAGE VENTURE INVESTMENT
 2 ACT OF 2003, 2003 PA 296, MCL 125.2231 TO 125.2263, AND THE SINGLE
 3 BUSINESS TAX ACT, 1975 PA 228, MCL 208.1 TO 208.145.

4 (5) THE TAX VOUCHER CERTIFICATE, AND ANY COMPLETED TRANSFER
 5 FORM THAT WAS ISSUED PURSUANT TO THE MICHIGAN EARLY STAGE VENTURE
 6 INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO 125.2263,
 7 SHALL BE ATTACHED TO THE ANNUAL RETURN UNDER THIS ACT. THE
 8 DEPARTMENT MAY PRESCRIBE AND IMPLEMENT ALTERNATIVE METHODS OF
 9 REPORTING AND RECORDING OWNERSHIP, TRANSFER, AND UTILIZATION OF TAX
 10 VOUCHER CERTIFICATES. THE DEPARTMENT SHALL ADMINISTER THIS SECTION
 11 TO ASSURE THAT ANY AMOUNT OF A TAX VOUCHER CERTIFICATE USED TO PAY
 12 ANY LIABILITY UNDER THIS ACT SHALL NOT ALSO BE APPLIED TO PAY ANY
 13 LIABILITY OF THE TAXPAYER OR ANY OTHER PERSON UNDER THE SINGLE
 14 BUSINESS TAX ACT, 1975 PA 228, MCL 208.1 TO 208.145. THE DEPARTMENT
 15 MAY TAKE ANY ACTION NECESSARY TO ENFORCE AND EFFECTUATE THE
 16 PERMISSIBLE ISSUANCE AND USE OF TAX VOUCHER CERTIFICATES IN A
 17 MANNER AUTHORIZED UNDER THIS SECTION AND THE MICHIGAN EARLY STAGE
 18 VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO
 19 125.2263.

20 (6) ~~—(9)—~~ As used in this section, ~~—~~

21 ~~—(a) "Certificate"—~~ **"CERTIFICATE" OR "TAX VOUCHER CERTIFICATE"**
 22 means the **TAX VOUCHER** certificate issued under section 23 of the
 23 Michigan early stage venture capital investment act of 2003, 2003
 24 PA 296, MCL 125.2253, OR ANY REPLACEMENT TAX VOUCHER CERTIFICATE
 25 ISSUED UNDER SECTION 37E(9)(B) OR (D) OF THE SINGLE BUSINESS TAX
 26 ACT, 1975 PA 228, MCL 208.37E.

27 ~~—(b) "Claimant" means a person to whom a certificate has been~~

1 ~~issued under section 23 of the Michigan early stage venture~~
2 ~~investment act of 2003.~~

3 ~~—— (c) "Remaining credit amount" means the amount of credit~~
4 ~~allowed under a certificate but not claimed under section 37e of~~
5 ~~the single business tax act, 1975 PA 228, MCL 208.37e.~~

6 Enacting section 1. This amendatory act does not take effect
7 unless Senate Bill No.____ or House Bill No. 5215(request no.
8 04152'05) of the 93rd Legislature is enacted into law.