

# HOUSE BILL No. 6008

April 27, 2006, Introduced by Rep. Moolenaar and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
by amending sections 39e and 73 (MCL 208.39e and 208.73), section  
39e as amended by 2002 PA 622 and section 73 as amended by 1995 PA  
80.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3       (a) The credit allowed under subsection (2).

4       (b) The credit allowed under subsection (6).

5       (2) For tax years that begin after December 31, 2002, a  
6 taxpayer that is certified under the Michigan next energy authority  
7 act, 2002 PA 593, MCL 207.821 to 207.827, as an eligible taxpayer  
8 may claim a nonrefundable credit for the tax year equal to the  
9 amount determined under subdivision (a) or (b), whichever is less:

1 (a) The amount by which the taxpayer's tax liability  
2 attributable to qualified business activity for the tax year  
3 exceeds the taxpayer's baseline tax liability attributable to  
4 qualified business activity.

5 (b) For tax years that begin after December 31, 2002, 10% of  
6 the amount by which the taxpayer's adjusted qualified business  
7 activity performed in this state outside of a renaissance zone for  
8 the tax year exceeds the taxpayer's adjusted qualified business  
9 activity performed in this state outside of a renaissance zone for  
10 the 2001 tax year.

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

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

23 (5) A taxpayer that claims a credit under subsection (2) shall  
24 attach a copy of each of the following as issued pursuant to the  
25 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to  
26 207.827, to the annual return required under this act for each tax  
27 year in which the taxpayer claims the credit allowed under

1 subsection (2):

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

4 (b) The proof of certification of the taxpayer's tax liability  
5 attributable to qualified business activity for the tax year.

6 (c) The proof of certification of the taxpayer's baseline tax  
7 liability attributable to qualified business activity.

8 (6) For tax years that begin after December 31, 2002, a  
9 taxpayer that is a qualified alternative energy entity may claim a  
10 credit for the taxpayer's qualified payroll amount. A taxpayer  
11 shall claim the credit under this subsection after all allowable  
12 nonrefundable credits under this act.

13 (7) If the credit allowed under subsection (6) exceeds the tax  
14 liability of the taxpayer for the tax year, that portion of the  
15 credit that exceeds the tax liability shall be refunded.

16 ~~—— (8) Notwithstanding any other provision of this act and for~~  
17 ~~tax years that begin after December 31, 2002, a person whose~~  
18 ~~apportioned or allocated gross receipts are less than \$350,000.00~~  
19 ~~for the tax year need not file a return or pay the tax as provided~~  
20 ~~under this act.~~

21 (8) ~~—(9)—~~ As used in this section:

22 (a) "Adjusted qualified business activity performed in this  
23 state outside of a renaissance zone" means either of the following:

24 (i) Except as provided in subparagraph (ii), the taxpayer's  
25 payroll for qualified business activity performed in this state  
26 outside of a renaissance zone.

27 (ii) For a partnership, limited liability company, S

1 corporation, or individual, the amount determined under  
2 subparagraph (i) plus the product of the following as related to the  
3 taxpayer:

4 (A) Business income.

5 (B) The apportionment factor as determined under chapter 3.

6 (C) The alternative energy business activity factor.

7 (b) "Alternative energy business activity factor" means a  
8 fraction the numerator of which is the ratio of the value of the  
9 taxpayer's property used for qualified business activity and  
10 located in this state outside of a renaissance zone for the year  
11 for which the factor is being calculated to the value of all of the  
12 taxpayer's property located in this state for that year plus the  
13 ratio of the taxpayer's payroll for qualified business activity  
14 performed in this state outside of a renaissance zone for that year  
15 to all of the taxpayer's payroll in this state for that year and  
16 the denominator of which is 2.

17 (c) "Alternative energy marine propulsion system",  
18 "alternative energy system", "alternative energy vehicle", and  
19 "alternative energy technology" mean those terms as defined in the  
20 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to  
21 207.827.

22 (d) "Alternative energy zone" means a renaissance zone  
23 designated as an alternative energy zone by the board of the  
24 Michigan strategic fund under section 8a of the Michigan  
25 renaissance zone act, 1996 PA 376, MCL 125.2688a.

26 (e) "Baseline tax liability attributable to qualified business  
27 activity" means the taxpayer's tax liability for the 2001 tax year

1 multiplied by the taxpayer's alternative energy business activity  
2 factor for the 2001 tax year. A taxpayer with a 2001 tax year of  
3 less than 12 months shall annualize the amount calculated under  
4 this subdivision as necessary to determine baseline tax liability  
5 attributable to qualified business activity that reflects a 12-  
6 month period.

7 (f) "Eligible taxpayer" means a taxpayer that has proof of  
8 certification of qualified business activity under the Michigan  
9 next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

10 (g) "Payroll" means total salaries and wages before deducting  
11 any personal or dependency exemptions.

12 (h) "Qualified alternative energy entity" means a taxpayer  
13 located in an alternative energy zone.

14 (i) "Qualified business activity" means research, development,  
15 or manufacturing of an alternative energy marine propulsion system,  
16 an alternative energy system, an alternative energy vehicle,  
17 alternative energy technology, or renewable fuel.

18 (j) "Qualified employee" means an individual who is employed  
19 by a qualified alternative energy entity, whose job  
20 responsibilities are related to the research, development, or  
21 manufacturing activities of the qualified alternative energy  
22 entity, and whose regular place of employment is within an  
23 alternative energy zone.

24 (k) "Qualified payroll amount" means an amount equal to  
25 payroll of the qualified alternative energy entity attributable to  
26 all qualified employees in the tax year of the qualified  
27 alternative energy entity for which the credit under subsection (6)

1 is being claimed, multiplied by the tax rate for that tax year.

2 (l) "Renaissance zone" means a renaissance zone designated  
3 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681  
4 to 125.2696.

5 (m) "Renewable fuel" means 1 or more of the following:

6 (i) Biodiesel or biodiesel blends containing at least 20%  
7 biodiesel. As used in this subparagraph, "biodiesel" means a diesel  
8 fuel substitute consisting of methyl or ethyl esters produced from  
9 the transesterification of animal or vegetable fats with methanol  
10 or ethanol.

11 (ii) Biomass. As used in this subparagraph, "biomass" means  
12 residues from the wood and paper products industries, residues from  
13 food production and processing, trees and grasses grown  
14 specifically to be used as energy crops, and gaseous fuels produced  
15 from solid biomass, animal wastes, municipal waste, or landfills.

16 (n) "Tax liability attributable to qualified business  
17 activity" means the taxpayer's tax liability multiplied by the  
18 taxpayer's alternative energy business activity factor for the tax  
19 year.

20 (o) "Tax rate" means the rate imposed under sections 51, 51d,  
21 and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51,  
22 206.51d, and 206.51e, annualized as necessary, for the tax year in  
23 which the qualified alternative energy entity claims a credit under  
24 subsection (6).

25 Sec. 73. (1) An annual or final return shall be filed with the  
26 department in the form and content prescribed by the department by  
27 the last day of the fourth month after the end of the taxpayer's

1 tax year. Any final liability shall be remitted with this return. A  
2 person whose apportioned or allocated gross receipts plus the  
3 adjustments provided in section 23b(a), (b), and (c) are less than  
4 the following amount for the appropriate year need not file a  
5 return or pay the tax provided under this act:

6 (a) \$40,000.00 for tax years beginning before January 1, 1991.

7 (b) \$60,000.00 for tax years beginning after December 31, 1990  
8 and before January 1, 1992.

9 (c) \$100,000.00 for tax years beginning after December 31,  
10 1991 and before January 1, 1994.

11 (d) \$137,500.00 for tax years beginning after December 31,  
12 1993 and before January 1, 1995.

13 (e) \$250,000.00 for tax years beginning after December 31,  
14 1994 **AND BEFORE JANUARY 1, 2003.**

15 **(F) \$350,000.00 FOR TAX YEARS BEGINNING AFTER DECEMBER 31,**  
16 **2002 AND BEFORE JANUARY 1, 2006.**

17 **(G) \$1,000,000.00 FOR TAX YEARS BEGINNING AFTER DECEMBER 31,**  
18 **2005.**

19 (2) For a person whose apportioned or allocated gross receipts  
20 plus the adjustments provided in section 23b(a), (b), and (c), are  
21 for a tax year less than 12 months, the amount in subsection (1)  
22 shall be multiplied by a fraction, the numerator of which is the  
23 number of months in the tax year and the denominator of which is  
24 12.

25 (3) The commissioner upon application of the taxpayer and for  
26 good cause shown may extend the date for filing the annual return.  
27 Interest at the rate of 9% per annum shall be added to the amount

1 of the tax unpaid for the period of the extension. The commissioner  
2 shall require a tentative return and payment of an estimated tax.

3 (4) If a taxpayer is granted an extension of time within which  
4 to file the federal income tax return for any taxable year, the  
5 filing of a copy of the request for extension together with a  
6 tentative return and payment of an estimated tax with the  
7 commissioner by the due date provided in subsection (1) shall  
8 automatically extend the due date for the filing of a final return  
9 under this act for an equivalent period plus 60 days. Interest at  
10 the rate of 9% per annum shall be added to the amount of the tax  
11 unpaid for the period of the extension.

12 (5) For tax years that end after July 6, 1994, an affiliated  
13 group as defined in this act, a controlled group of corporations as  
14 defined in section 1563 of the internal revenue code and further  
15 described in 26 ~~C.F.R.~~ **CFR** 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-  
16 5, or an entity under common control as defined in the internal  
17 revenue code shall consolidate the gross receipts of the members of  
18 the affiliated group, member corporations of the controlled group,  
19 or entities under common control that have apportioned or allocated  
20 gross receipts, plus the adjustments provided in section 23b(a),  
21 (b), and (c), of \$100,000.00 or more to determine if the group or  
22 entity shall pay a tax or file a return as provided under  
23 subsection (1). An individual member of an affiliated group or  
24 controlled group of corporations or an entity under common control  
25 is not required to file a return or pay the tax under this act if  
26 that member or entity has apportioned or allocated gross receipts,  
27 plus the adjustments provided in section 23b(a), (b), and (c), of



1 less than \$100,000.00.