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Senate Bill 1422 (as introduced 6-26-08)
Sponsor: Senator Jason E. Allen
Committee: Commerce and Tourism

Date Completed: 9-16-08

CONTENT

The bill would amend the Michigan Business Tax (MBT) Act to do all of the following:

- Prohibit a qualified taxpayer from claiming an anchor company MBT credit for a tax year before designation as an anchor company, rather than before certification as a qualified taxpayer.**
- Revise a provision excluding a qualified taxpayer's sales to a qualified supplier or customer from the MBT sales factor, and redefine "qualified sales to a qualified supplier or customer".**
- Revise a requirement regarding a statement of qualified sales on a tax credit certificate.**
- Specify that an anchor company MBT credit could be taken after all other nonrefundable credits allowed under the Act.**
- Revise the definition of "qualified supplier or customer" and add a definition of "tax rate".**

Designation/Certification

The Act allows a qualified taxpayer (an anchor company that has influenced a new qualified supplier or customer to open, locate, or expand in Michigan) to claim an MBT credit for payroll attributable to employees of a qualified supplier or customer who perform qualified new jobs, for up to five years, if the taxpayer received a certificate from the Michigan Economic Growth Authority (MEGA). The Authority may designate up to five taxpayers as an anchor company in each calendar year and may not approve more than five new credits in each calendar year. A taxpayer has five years from the date on which it is designated as an anchor company to seek certification from MEGA as a qualified taxpayer for each qualified supplier or customer for which a credit is sought. A credit may not be provided for a tax year before the tax year during which the *certification* is made. Under the bill, instead, a credit could not be provided for a tax year before the tax year during which the *designation* as an anchor company was made.

Exclusion of Qualified Sales

The Act allows MEGA to provide that qualified sales to a qualified supplier or customer are not sales in this State for purposes of calculating the sales factor under the Act for the tax year for which a credit is provided to an anchor company. Under the bill, instead, MEGA could provide that qualified sales to a qualified supplier or customer could not be considered in calculating the sales factor under the Act for the tax year.

Under the Act, qualified sales to a qualified supplier or customer are the total sales in Michigan to a qualified supplier or customer multiplied by a fraction, the numerator of which is the compensation on which the credit is calculated and the denominator of which is the total compensation of the qualified supplier or customer in Michigan. The bill would delete that provision and instead would define "qualified sales to a qualified supplier or customer" as sales to a qualified supplier or customer that exceed the Michigan sales to the supplier or customer before the year of expansion or location within Michigan, as determined by MEGA, and that otherwise would be included in the calculation of the sales factor under the MBT Act.

Certificate & Tax Credit

The Act prohibits a taxpayer from claiming an anchor company MBT credit unless MEGA has issued a certificate to the taxpayer. The certificate must state certain things, including the amount of the qualified sales calculated in accordance with the formula specified in the Act (the formula that the bill would delete). Under the bill, the certificate instead would have to state the amount of the qualified sales to a qualified supplier or customer.

The bill specifies that an anchor company credit could be taken after all other allowable nonrefundable credits under the MBT Act.

Other Definitions

Under the Act, "qualified supplier or customer" means a business that opens a new location in Michigan, a business that locates in this State, or an existing business located in Michigan that expands its business within the last year as a result of an anchor company and satisfies certain other requirements, as certified by MEGA. Under the bill, those requirements would have to be satisfied before the issuance of a certificate and at the time specified in the agreement with the qualified taxpayer. In addition, one of the requirements is that the qualified supplier or customer sells a critical or unique component or technology necessary for the anchor company to market a finished product or buys a critical or unique component from the anchor company. Under the bill, the sale of a critical or unique component or technology would have to be as the result of a commercial relationship with the anchor company.

The bill would define "tax rate" as the rate imposed under Section 51 of the Income Tax Act for the tax year in which the tax year of the taxpayer for which the credit is being computed begins. (Under that section, the income tax rate is 4.35% on and after October 1, 2007, and before October 1, 2011. Beginning on October 1, 2011, and each October 1 after 2011, the maximum rate must be reduced by 0.1 each year until the rate is 3.95%. On and after October 1, 2015, the rate is 3.9%.)

MCL 208.1431a

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Not enough information is available to be able to provide a meaningful estimate of the fiscal impact of this bill. In fact, it is not clear if this bill would have a net positive or negative impact on Michigan business tax revenue. The proposed change in how an anchor company would calculate its sales factor would have a positive impact on Michigan business tax revenue; however, the proposed change that would allow a business to claim the anchor company compensation credit after it had claimed all nonrefundable credits for which the business qualified would have a negative impact on Michigan business tax revenue. Any change in Michigan business tax revenue would have a direct impact on General Fund revenue. This bill would not have any direct impact on local government.

Fiscal Analyst: Jay Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.