

HOUSE BILL No. 6433

September 10, 2008, Introduced by Reps. Sak and Bieda and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 403 (MCL 208.1403), as amended by 2007 PA 145.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 403. (1) Notwithstanding any other provision in this act,
2 the credits provided in this section shall be taken before any
3 other credit under this act. For the 2008 tax year, the total
4 combined credit allowed under this section shall not exceed 50% of
5 the tax liability imposed under this act before the imposition and
6 levy of the surcharge under section 281. For the 2009 tax year and
7 each tax year after 2009, the total combined credit allowed under
8 this section shall not exceed 52% of the tax liability imposed
9 under this act before the imposition and levy of the surcharge

1 under section 281.

2 (2) Subject to the limitation in subsection (1), for the 2008
3 tax year a taxpayer may claim a credit against the tax imposed by
4 this act equal to 0.296% of the taxpayer's compensation in this
5 state. For the 2009 tax year and each tax year after 2009, subject
6 to the limitation in subsection (1), a taxpayer may claim a credit
7 against the tax imposed by this act equal to 0.370% of the
8 taxpayer's compensation in this state. For purposes of this
9 subsection, a taxpayer includes a person subject to the tax imposed
10 under chapter 2A and a person subject to the tax imposed under
11 chapter 2B. A professional employer organization shall not include
12 payments by the professional employer organization to the officers
13 and employees of a client of the professional employer organization
14 whose employment operations are managed by the professional
15 employer organization. A client may include payments by the
16 professional employer organization to the officers and employees of
17 the client whose employment operations are managed by the
18 professional employer organization.

19 (3) Subject to the limitation in subsection (1), for the 2008
20 tax year a taxpayer may claim a credit against the tax imposed by
21 this act equal to 2.32% multiplied by the result of subtracting the
22 sum of the amounts calculated under subdivisions (d), (e), and (f)
23 from the sum of the amounts calculated under subdivisions (a), (b),
24 and (c). Subject to the limitation in subsection (1), for the 2009
25 tax year and each tax year after 2009, a taxpayer may claim a
26 credit against the tax imposed by this act equal to 2.9% multiplied
27 by the result of subtracting the sum of the amounts calculated

1 under subdivisions (d), (e), and (f) from the sum of the amounts
2 calculated under subdivisions (a), (b), and (c):

3 (a) Calculate the cost, including fabrication and
4 installation, paid or accrued in the taxable year of tangible
5 assets of a type that are, or under the internal revenue code will
6 become, eligible for depreciation, amortization, or accelerated
7 capital cost recovery for federal income tax purposes, provided
8 that the assets are physically located in this state for use in a
9 business activity in this state and are not mobile tangible assets.

10 (b) Calculate the cost, including fabrication and
11 installation, paid or accrued in the taxable year of mobile
12 tangible assets of a type that are, or under the internal revenue
13 code will become, eligible for depreciation, amortization, or
14 accelerated capital cost recovery for federal income tax purposes.
15 This amount shall be multiplied by the apportionment factor for the
16 tax year as prescribed in chapter 3.

17 (c) For tangible assets, other than mobile tangible assets,
18 purchased or acquired for use outside of this state in a tax year
19 beginning after December 31, 2007 and subsequently transferred into
20 this state and purchased or acquired for use in a business
21 activity, calculate the federal basis used for determining gain or
22 loss as of the date the tangible assets were physically located in
23 this state for use in a business activity plus the cost of
24 fabrication and installation of the tangible assets in this state.

25 (d) If the cost of tangible assets described in subdivision
26 (a) was paid or accrued in a tax year beginning after December 31,
27 2007, or before December 31, 2007 to the extent the credit is used

1 and at the rate at which the credit was used under former 1975 PA
2 228 or this act, calculate the gross proceeds or benefit derived
3 from the sale or other disposition of the tangible assets minus the
4 gain, multiplied by the apportionment factor for the taxable year
5 as prescribed in chapter 3, and plus the loss, multiplied by the
6 apportionment factor for the taxable year as prescribed in chapter
7 3 from the sale or other disposition reflected in federal taxable
8 income and minus the gain from the sale or other disposition added
9 to the business income tax base in section 201.

10 (e) If the cost of tangible assets described in subdivision
11 (b) was paid or accrued in a tax year beginning after December 31,
12 2007, or before December 31, 2007 to the extent the credit is used
13 and at the rate at which the credit was used under former 1975 PA
14 228 or this act, calculate the gross proceeds or benefit derived
15 from the sale or other disposition of the tangible assets minus the
16 gain and plus the loss from the sale or other disposition reflected
17 in federal taxable income and minus the gain from the sale or other
18 disposition added to the business income tax base in section 201.
19 This amount shall be multiplied by the apportionment factor for the
20 tax year as prescribed in chapter 3.

21 (f) For assets purchased or acquired in a tax year beginning
22 after December 31, 2007, or before December 31, 2007 to the extent
23 the credit is used and at the rate at which the credit was used
24 under former 1975 PA 228 or this act, that were eligible for a
25 credit under subdivision (a) or (c) and that were transferred out
26 of this state, calculate the federal basis used for determining
27 gain or loss as of the date of the transfer.

1 (4) For a tax year in which the amount of the credit
2 calculated under subsection (3) is negative, the absolute value of
3 that amount is added to the taxpayer's tax liability for the tax
4 year. **FOR EACH TAX YEAR IN WHICH THE AMOUNT OF THE CREDIT**
5 **CALCULATED UNDER SUBSECTION (3) AND ANY UNUSED CARRYFORWARD OF THE**
6 **CREDIT ALLOWED BY THIS SUBSECTION IS LIMITED BY THE CAP UNDER**
7 **SUBSECTION (1), THAT PORTION THAT EXCEEDS THE CAP FOR THE TAX YEAR**
8 **SHALL NOT BE REFUNDED BUT MAY BE CARRIED FORWARD TO OFFSET TAX**
9 **LIABILITY IN SUBSEQUENT TAX YEARS FOR 10 YEARS OR UNTIL USED UP,**
10 **WHICHEVER OCCURS FIRST.**

11 (5) A taxpayer that claims a credit under this section is not
12 prohibited from claiming a credit under section 405. However, the
13 taxpayer shall not claim a credit under this section and section
14 405 based on the same costs and expenses.