

HOUSE BILL No. 6434

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 203 (MCL 208.1203), as amended by 2008 PA 168.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 203. (1) Except as otherwise provided in this act, there
2 is levied and imposed a modified gross receipts tax on every
3 taxpayer with nexus as determined under section 200. The modified
4 gross receipts tax is imposed on the modified gross receipts tax
5 base, after allocation or apportionment to this state at a rate of
6 0.80%.

7 (2) The tax levied and imposed under this section is upon the
8 privilege of doing business and not upon income or property.

9 (3) The modified gross receipts tax base means a taxpayer's

1 gross receipts subject to the adjustment in subsection (6), if
2 applicable, less purchases from other firms before apportionment
3 under this act. The modified gross receipts of a unitary business
4 group is the sum of modified gross receipts of each person, other
5 than a foreign operating entity or a person subject to the tax
6 imposed under chapter 2A or 2B, included in the unitary business
7 group less any modified gross receipts arising from transactions
8 between persons included in the unitary business group.

9 (4) For the 2008 tax year, deduct 65% of any remaining
10 business loss carryforward calculated under section 23b(h) of
11 former 1975 PA 228 that was actually incurred in the 2006 or 2007
12 tax year to the extent not deducted in tax years beginning before
13 January 1, 2008. A deduction under this subsection shall not
14 include any business loss carryforward that was incurred before
15 January 1, 2006. If the taxpayer is a unitary business group, the
16 business loss carryforward under this subsection may only be
17 deducted against the modified gross receipts tax base of that
18 person included in the unitary business group calculated as if the
19 person was not included in the unitary business group.

20 (5) Nothing in this act shall prohibit a taxpayer who
21 qualifies for the credit under section 445 or a taxpayer who is a
22 dealer of new or used personal watercraft from collecting the tax
23 imposed under this section in addition to the sales price. The
24 amount remitted to the department for the tax under this section
25 shall not be less than the stated and collected amount.

26 (6) Subject to the limitations provided in this subsection,
27 for a person that is a qualified affordable housing project, deduct

1 an amount equal to that person's total gross receipts attributable
2 to residential rental units in this state owned by the qualified
3 affordable housing project multiplied by a fraction, the numerator
4 of which is the number of rent restricted units in this state owned
5 by the qualified affordable housing project and the denominator of
6 which is the number of all rental units in this state owned by the
7 qualified affordable housing project. The amount of the deduction
8 calculated under this subsection shall be reduced by the amount of
9 limited dividends or other distributions made to the partners,
10 members, or shareholders of the qualified affordable housing
11 project. Gross receipts attributable to residential rental units do
12 not include amounts received by the management, construction, or
13 development company for completion and operation of the project and
14 those rental units.

15 (7) If a qualified affordable housing project no longer meets
16 the requirements of subsection (8)(b) or fails to operate those
17 residential rental units as rent restricted units in accordance
18 with the operation agreement and the requirements of subsection
19 (8)(c), the qualified affordable housing project is entitled to the
20 deduction under subsection (6) as long as the qualified affordable
21 housing project continues to offer some of the residential rental
22 units purchased as rent restricted units in accordance with the
23 operation agreement.

24 (8) For purposes of subsections (6) and (7) and this
25 subsection:

26 (a) "Limited dividend housing association" means a limited
27 dividend housing association, corporation, or cooperative organized

1 and qualified pursuant to chapter 7 of the state housing
2 development authority act of 1966, 1966 PA 346, MCL 125.1491 to
3 125.1496.

4 (b) "Qualified affordable housing project" means a person that
5 is organized, qualified, and operated as a limited dividend housing
6 association that has a limitation on the amount of dividends or
7 other distributions that may be distributed to its owners in any
8 given year and has received funding, subsidies, grants, operating
9 support, or construction or permanent funding through 1 or more of
10 the following sources and programs:

11 (i) Mortgage or other financing provided by the Michigan state
12 housing development authority created in section 21 of the state
13 housing development authority act of 1966, 1966 PA 346, MCL
14 125.1421, the United States department of housing and urban
15 development, the United States department of agriculture for rural
16 housing service, the Michigan interfaith housing trust fund,
17 Michigan housing and community development fund, federal home loan
18 bank, housing commission loan, community development financial
19 institution, or mortgage or other funding or guaranteed by Fannie,
20 Ginnie, federal housing association, United States department of
21 agriculture, or federal home loan mortgage corporation.

22 (ii) A tax-exempt bond issued by a nonprofit organization,
23 local governmental unit, or other authority.

24 (iii) A payment in lieu of tax agreement or other tax abatement.

25 (iv) Funding from the state or a local governmental unit
26 through a HOME investments partnership program authorized under 42
27 USC 12741 to 12756.

1 (v) A grant or other funding from a federal home loan bank's
2 affordable housing program.

3 (vi) Financing or funding under the new markets tax credit
4 program under section 45D of the internal revenue code.

5 (vii) Financed in whole or in part under the United States
6 department of housing and urban development's hope VI program as
7 authorized by section 803 of the national affordable housing act,
8 42 USC 8012.

9 (viii) Financed in whole or in part under the United States
10 department of housing and urban development's section 202 program
11 authorized by section 202 of the national housing act, 12 USC
12 1701q.

13 (ix) Financing or funding under the low-income housing tax
14 credit program under section 42 of the internal revenue code.

15 (x) Financing or other subsidies from any new programs similar
16 to any of the above.

17 (c) "Rent restricted unit" means any residential rental unit's
18 rental income is restricted in accordance with section 42(g)(1) of
19 the internal revenue code as if it was a qualified low-income
20 housing project, or receives rental assistance in the form of HUD
21 section 8 subsidies or HUD housing assistance program subsidies, or
22 rental assistance from the United States department of agriculture
23 rural housing programs, from any of the other programs described
24 under subdivision (b).

25 **(9) DEDUCT ANY AVAILABLE MODIFIED GROSS RECEIPTS LOSS INCURRED**
26 **AFTER DECEMBER 31, 2007. AS USED IN THIS SUBSECTION, "MODIFIED**
27 **GROSS RECEIPTS LOSS" MEANS A NEGATIVE MODIFIED GROSS RECEIPTS**

1 TAXABLE AMOUNT AFTER ALLOCATION OR APPORTIONMENT. THE MODIFIED
2 GROSS RECEIPTS LOSS SHALL BE CARRIED FORWARD TO THE YEAR
3 IMMEDIATELY SUCCEEDING THE LOSS YEAR AS AN OFFSET TO THE ALLOCATED
4 OR APPORTIONED MODIFIED GROSS RECEIPTS TAX BASE, THEN SUCCESSIVELY
5 TO THE NEXT 9 TAXABLE YEARS FOLLOWING THE LOSS YEAR OR UNTIL THE
6 LOSS IS USED UP, WHICHEVER OCCURS FIRST, BUT FOR NOT MORE THAN 10
7 TAXABLE YEARS AFTER THE LOSS YEAR.