

SENATE BILL No. 1422

June 26, 2008, Introduced by Senators ALLEN and CLARKE and referred to the Committee on Commerce and Tourism.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 431a (MCL 208.1431a), as added by 2008 PA 92.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 431a. (1) A qualified taxpayer may claim a credit against
2 the tax imposed by this act in an amount up to 100% of the
3 qualified supplier's or customer's payroll attributable to
4 employees who perform qualified new jobs as determined by the
5 Michigan economic growth authority, multiplied by the tax rate for
6 the tax year for a period of up to 5 years as determined by the
7 Michigan economic growth authority. If the credit allowed under
8 this subsection exceeds the liability of the taxpayer for the tax
9 year, the taxpayer may elect to have that portion that exceeds the
10 tax liability of the taxpayer refunded or to have the excess

1 carried forward to offset tax liability in subsequent years for 10
2 years or until it is used up, whichever occurs first. The Michigan
3 economic growth authority shall not designate more than 5 taxpayers
4 as an anchor company in each calendar year and shall not approve
5 more than 5 new credits in each calendar year under this
6 subsection. A taxpayer has 5 years from the date on which the
7 taxpayer is designated as an anchor company to seek certification
8 from the Michigan economic growth authority as a qualified taxpayer
9 for each qualified supplier or customer for which a credit is
10 sought under this section. However, a credit shall not be provided
11 for a tax year prior to the tax year during which the ~~certification~~
12 **DESIGNATION AS AN ANCHOR COMPANY** is made. If a qualified taxpayer
13 is awarded a credit under this subsection, any subsequent credits
14 awarded to that qualified taxpayer shall not be included in
15 determining the yearly limit of 5 new credits under this
16 subsection.

17 (2) The Michigan economic growth authority may also provide
18 that qualified sales to a qualified supplier or customer ~~are not~~
19 ~~sales in this state for purposes of~~ **SHALL NOT BE CONSIDERED IN**
20 calculating the sales factor under this act for the tax year for
21 which a credit is provided under this section. ~~Qualified sales to a~~
22 ~~qualified supplier or customer are the total sales in this state to~~
23 ~~a qualified supplier or customer multiplied by a fraction, the~~
24 ~~numerator of which is the compensation on which the credit in this~~
25 ~~section is calculated and the denominator of which is the total~~
26 ~~compensation of the qualified supplier or customer in this state.~~

27 (3) A taxpayer shall not claim a credit under this section

1 unless the Michigan economic growth authority has issued a
2 certificate to the taxpayer. The taxpayer shall attach the
3 certificate to the annual return filed under this act on which the
4 credit under this section is claimed. The certificate required by
5 this subsection shall state all of the following:

6 (a) The taxpayer is a qualified taxpayer and the date on which
7 the taxpayer was designated as an anchor company.

8 (b) The amount of the credit under this section for the
9 qualified taxpayer for the designated tax year.

10 (c) The amount of the qualified sales ~~calculated in accordance~~
11 ~~with the fraction described under subsection (2)~~ **TO A QUALIFIED**
12 **SUPPLIER OR CUSTOMER.**

13 (d) The taxpayer's federal employer identification number or
14 the Michigan department of treasury number assigned to the
15 taxpayer.

16 (4) A taxpayer that claims a credit under this section and
17 subsequently fails to meet the requirements of this section or any
18 other conditions included in an agreement entered into with the
19 Michigan economic growth authority in order to obtain a certificate
20 for which the credit was under this section may, as to be
21 determined by the Michigan economic growth authority, have its
22 credit reduced or terminated or have a percentage of the credit
23 amount previously claimed under this section added back to the tax
24 liability of the taxpayer in the year that the taxpayer fails to
25 comply with this section or the agreement.

26 **(5) A CREDIT UNDER THIS SECTION MAY BE TAKEN AFTER ALL OTHER**
27 **ALLOWABLE NONREFUNDABLE CREDITS UNDER THIS ACT.**

(6) ~~(5)~~—As used in this section:

(a) "Anchor company" means a qualified high-technology business that is an integral part of a high-technology activity and that has the ability or potential ability to influence business decisions and site location of qualified suppliers and customers.

(b) "Business", "qualified high-technology activity", and "qualified high-technology business" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(i) A qualified supplier or customer.

(ii) An employee leasing company on behalf of a qualified supplier or customer.

(iii) A professional employer organization on behalf of a qualified supplier or customer.

(d) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(e) "Qualified new job" means a full-time job created by a qualified supplier or customer at a facility or facilities that is in excess of the number of full-time jobs a qualified supplier or customer maintained in this state or at a facility prior to the expansion or location, as determined by the authority.

(F) "QUALIFIED SALES TO A QUALIFIED SUPPLIER OR CUSTOMER" MEANS SALES TO A QUALIFIED SUPPLIER OR CUSTOMER THAT ARE IN EXCESS

1 OF THE MICHIGAN SALES TO THE SUPPLIER OR CUSTOMER PRIOR TO THE YEAR
2 OF EXPANSION OR LOCATION WITHIN THIS STATE AS DETERMINED BY THE
3 MICHIGAN ECONOMIC GROWTH AUTHORITY AND THAT WOULD OTHERWISE BE
4 INCLUDED IN THE CALCULATION OF THE SALES FACTOR UNDER THIS ACT.

5 (G) ~~(f)~~—"Qualified supplier or customer" means a business that
6 opens a new location in this state, a business that locates in this
7 state, or an existing business located in this state that expands
8 its business within the last year as a result of an anchor company
9 and satisfies **PRIOR TO THE ISSUANCE OF A CERTIFICATE AND AT THE**
10 **TIME SPECIFIED IN THE AGREEMENT WITH THE QUALIFIED TAXPAYER**, as
11 certified by the Michigan economic growth authority, each of the
12 following:

13 (i) Has financial transactions with the anchor company.

14 (ii) Sells a critical or unique component or technology
15 necessary for the anchor company to market a finished product **AS**
16 **THE RESULT OF A COMMERCIAL RELATIONSHIP WITH THE ANCHOR COMPANY** or
17 buys a critical or unique component from the anchor company.

18 (iii) Has created more than 10 qualified new jobs.

19 (iv) Has made an investment of at least \$1,000,000.00 as
20 certified by the Michigan economic growth authority.

21 (H) ~~(g)~~—"Qualified taxpayer" means a taxpayer that was
22 designated by the Michigan economic growth authority as an anchor
23 company within the last 5 years and that has influenced a new
24 qualified supplier or customer to open, locate, or expand in this
25 state.

26 (I) **"TAX RATE" MEANS THE RATE IMPOSED UNDER SECTION 51 OF THE**
27 **INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.51, FOR THE TAX YEAR**

- 1 IN WHICH THE TAX YEAR OF THE TAXPAYER FOR WHICH THE CREDIT IS BEING
- 2 COMPUTED BEGINS.