

Act No. 160
Public Acts of 2009
Approved by the Governor
December 11, 2009
Filed with the Secretary of State
December 14, 2009
EFFECTIVE DATE: December 31, 2008

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009**

Introduced by Senators Allen and Kahn

ENROLLED SENATE BILL No. 493

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," by amending section 431c (MCL 208.1431c), as added by 2008 PA 88.

The People of the State of Michigan enact:

Sec. 431c. (1) Except as otherwise provided under this section, a qualified taxpayer may claim a credit against the tax imposed by this act equal to the sum of up to 5.0% of the taxable value of each qualified supplier's or qualified customer's taxable property that is located within the 10-mile radius of the qualified taxpayer or is located in the same county or a county adjacent to the qualified taxpayer and within an existing industrial site that is approved by the Michigan economic growth authority and that is subject to collection of general ad valorem taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, and that credit may be based upon each of the qualified supplier's and qualified customer's taxable value described above in this subsection for a period of up to 5 years, as determined by the Michigan economic growth authority. If a qualified supplier's or qualified customer's taxable property that is located within the 10-mile radius of the qualified taxpayer or is located in the same county or a county adjacent to the qualified taxpayer and within an existing industrial site that is approved by the Michigan economic growth authority is subject to the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572, the qualified taxpayer may only include up to 2.5% of the taxable value of that property in the calculation of the amount of the credit allowed under this section.

(2) The Michigan economic growth authority shall not designate more than 5 new anchor companies in each calendar year and shall not approve more than 5 new credits in each calendar year under this subsection. An anchor company has 5 years from the date on which the anchor company designation occurs to seek certification from the Michigan economic growth authority as a qualified taxpayer for each qualified supplier or qualified customer that is included in the credit which that anchor company is seeking under this section. However, a credit shall not be provided for a tax year prior to the tax year during which the designation as an anchor company is made.

(3) The Michigan economic growth authority may provide that qualified sales to a qualified customer shall not be considered in calculating the sales factor under this act for the tax year for which a credit is provided under this section. Not later than July 1 of each year, the Michigan economic growth authority shall disclose to the senate majority leader or his or her designee, the speaker of the house of representatives or his or her designee, and the chairperson of each standing committee of the house of representatives and the senate that primarily addresses and has jurisdiction over issues pertaining to taxation, finance, and economic development the name and address of each qualified customer whose sales are not considered in the sales factor pursuant to this subsection.

(4) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer. The qualified taxpayer shall attach the certificate to the annual return filed under this act on which the credit under this section is claimed. The certificate required by this subsection shall state all of the following:

- (a) The taxpayer is a qualified taxpayer and the date on which the taxpayer was designated as an anchor company.
- (b) The amount of the credit under this section for the taxpayer for the designated tax year.
- (c) The taxpayer's federal employer identification number or the Michigan department of treasury number assigned to the taxpayer.
- (d) Subject to subsection (3), the amount of the qualified sales to a qualified customer.

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

(6) If the credit allowed under this subsection exceeds the liability of the qualified taxpayer for the tax year, the qualified taxpayer may elect to have that portion that exceeds the tax liability of the qualified taxpayer refunded or to have the excess carried forward to offset tax liability in subsequent years for 5 years or until it is used up, whichever occurs first.

(7) A credit under this section may be taken after all other allowable nonrefundable credits under this act.

(8) 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 qualified 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 qualified customer.
- (ii) An employee leasing company on behalf of a qualified supplier or qualified customer.
- (iii) A professional employer organization on behalf of a qualified supplier or qualified 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 qualified customer at a facility or facilities that is in excess of the number of full-time jobs a qualified supplier or qualified customer maintained in this state or facility prior to the expansion or location, as determined by the authority.

(f) "Qualified sales to a qualified customer" means sales to a qualified customer that are in excess of the Michigan sales to the customer prior to the year of expansion or location within this state as determined by the Michigan economic growth authority and that would otherwise be included in the calculation of the sales factor under this act.

(g) "Qualified supplier" and "qualified customer" mean a business that opens a new location in this state, a business that locates in this state, or an existing business located in this state that expands its business as a result of an anchor company and satisfies prior to the issuance of a certificate and at the time specified in the agreement with the qualified taxpayer, as certified by the Michigan economic growth authority, each of the following:

- (i) Has financial transactions with the anchor company.
- (ii) Sells a critical or unique component or technology necessary for the anchor company to market a finished product as the result of a commercial relationship with the anchor company or buys a critical or unique component from the anchor company.
- (iii) Has created more than 10 qualified new jobs.
- (iv) Has made an investment of at least \$1,000,000.00 as certified by the Michigan economic growth authority.

(h) "Qualified taxpayer" means a taxpayer that was designated by the Michigan economic growth authority as an anchor company within the last 5 years and that has influenced a qualified supplier or qualified customer to open, locate, or expand in this state and conduct business activity within a 10-mile radius of the anchor company or within the same county or a county adjacent to the taxpayer and within an existing industrial site that is approved by the Michigan economic growth authority.

Enacting section 1. This amendatory act is retroactive and is effective for tax years that begin after December 31, 2008.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) Senate Bill No. 358.
- (b) Senate Bill No. 428.
- (c) House Bill No. 4674.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

.....
Governor

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 358 was filed with the Secretary of State December 14, 2009, and became 2009 PA 161, Imd. Eff. Dec. 14, 2009.

Senate Bill No. 428 was filed with the Secretary of State December 14, 2009, and became 2009 PA 162, Imd. Eff. Dec. 14, 2009.

House Bill No. 4674 was filed with the Secretary of State December 14, 2009, and became 2009 PA 159, Eff. Dec. 31, 2008.