

SUBSTITUTE FOR
HOUSE BILL NO. 4523

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 430 (MCL 208.1430), as added by 2008 PA 270.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 430. (1) ~~Except as otherwise provided under subsection~~
2 ~~(6) and subject~~ **SUBJECT** to the limitations under subsection (2),
3 for tax years that begin on or after January 1, 2009, a qualified
4 taxpayer that has entered into an agreement with the Michigan
5 economic growth authority that provides that the taxpayer will
6 construct and operate in this state a new facility for development
7 and manufacturing of photovoltaic energy, photovoltaic systems, or
8 other photovoltaic technology may claim a credit against the tax
9 imposed by this act equal to ~~50%~~ **25%** of the capital investments

1 made by the taxpayer in that new facility during the tax year **BUT**
2 **NOT TO EXCEED \$25,000,000.00.**

3 (2) The Michigan economic growth authority shall not enter
4 into an agreement under this section after ~~November 1, 2008~~
5 **DECEMBER 31, 2011.** The total amount of credits allowed under this
6 section for all tax years shall not exceed ~~\$25,000,000.00~~
7 **\$100,000,000.00.** An agreement shall specify all of the following:

8 (a) The amount of capital investment that will be made in a
9 new facility engaged in the development and manufacturing of
10 photovoltaic energy, photovoltaic systems, and other photovoltaic
11 technology.

12 (b) The number of qualified new jobs at the facility at which
13 the investment will be made.

14 (c) The total credit that may be claimed under this section.

15 (3) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION,**
16 **THE** credit allowed under this section shall be taken by a qualified
17 taxpayer in equal installments over 2 years beginning with the tax
18 year in which the certification was issued. **IF THE AMOUNT OF THE**
19 **CREDIT ALLOWED FOR A QUALIFIED TAXPAYER IS MORE THAN**
20 **\$20,000,000.00, THE QUALIFIED TAXPAYER SHALL NOT CLAIM MORE THAN**
21 **\$10,000,000.00 IN THE FIRST TAX YEAR.** If in any of those years the
22 credit allowed under this section for the tax year exceeds the
23 taxpayer's or assignee's tax liability for the tax year, that
24 portion that exceeds the tax liability for the tax year shall be
25 refunded.

26 (4) A taxpayer shall not claim a credit under this section
27 unless the Michigan economic growth authority has issued a

1 certificate to the taxpayer. The taxpayer shall attach the
2 certificate to the annual return filed under this act on which a
3 credit under this section is claimed. The certificate required
4 under this subsection shall state all of the following:

5 (a) The taxpayer is located in this state and engaged in the
6 development and manufacturing of photovoltaic energy, photovoltaic
7 systems, or other photovoltaic technology and qualifies for the
8 credit under this section.

9 (b) The taxpayer's federal employer identification number or
10 the Michigan department of treasury number assigned to the taxpayer
11 and, for a taxpayer that is a unitary business group, the federal
12 employer identification number or Michigan department of treasury
13 number assigned to the member of the group engaged in this state in
14 the development and manufacturing of photovoltaic energy,
15 photovoltaic systems, or other photovoltaic technology.

16 (c) The total amount of capital investments made during the
17 tax year and the amount of the credit under this section for which
18 the taxpayer is allowed to claim for the designated tax year.

19 (5) A taxpayer or assignee that claims a credit under this
20 section and subsequently fails to meet the requirements of this
21 section or any other conditions established by the Michigan
22 economic growth authority in the agreement provided for in this
23 section in order to obtain a certificate for which the credit was
24 claimed under this section may, as to be determined by the Michigan
25 economic growth authority, have its credit reduced or terminated or
26 have a percentage of the credit amount previously claimed under
27 this section added back to the tax liability of the taxpayer in the

1 tax year that the taxpayer or assignee fails to comply with this
2 section.

3 (6) A qualified taxpayer may assign all or a portion of a
4 credit allowed under this section. A credit assignment under this
5 subsection is irrevocable and shall be made in the tax year in
6 which a certificate is issued. However, a qualified taxpayer may
7 also convey the right to obtain an assignment of the credit under
8 this section after an agreement has been approved by the Michigan
9 economic growth authority and before a certificate has been issued.
10 A qualified taxpayer may claim a portion of a credit and assign the
11 remaining credit amount. The credit assignment under this
12 subsection shall be made on a form prescribed by the Michigan
13 economic growth authority. The Michigan economic growth authority
14 or its designee shall review and issue a completed assignment
15 certificate to the assignee. An assignee shall attach a copy of the
16 completed assignment certificate to its annual return required
17 under this act, for the tax year in which the assignment is made
18 and the assignee first claims a credit, which shall be the same tax
19 year. In addition to all other procedures and requirements under
20 this section, the following apply:

21 (a) The credit shall be assigned based on the schedule
22 contained in the certificate.

23 (b) If the qualified taxpayer assigns all or a portion of the
24 credit amount, the qualified taxpayer shall assign the annual
25 credit amount for each tax year separately.

26 (c) More than 1 annual credit amount may be assigned to any 1
27 assignee, and the qualified taxpayer may assign all or a portion of

1 each annual credit amount to any assignee.

2 (7) A **QUALIFIED** taxpayer that has entered into an agreement
3 with the Michigan economic growth authority for a credit under
4 sections 432 through 432d is not eligible for the credit under this
5 section.

6 (8) As used in this section:

7 (a) "Capital investment" means the cost, including fabrication
8 and installation, paid or accrued in the tax year of property of a
9 type that is, or under the internal revenue code will become,
10 eligible for depreciation, amortization, or accelerated capital
11 cost recovery for federal income tax purposes, provided that the
12 property is physically located in this state for use in a business
13 activity in this state.

14 (b) "Full-time job" means a job performed by an individual for
15 35 hours or more each week and whose income and social security
16 taxes are withheld by 1 or more of the following:

17 (i) A qualified taxpayer.

18 (ii) An employee leasing company on behalf of a qualified
19 taxpayer.

20 (iii) A professional employer organization on behalf of a
21 qualified taxpayer.

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

25 (d) "Qualified new job" means a full-time job created by a
26 qualified taxpayer at a facility or facilities that is in excess of
27 the number of full-time jobs a qualified taxpayer maintained in

1 this state or at a facility prior to the expansion or location, as
2 determined by the authority.

3 (e) "Qualified taxpayer" means a taxpayer that has entered an
4 agreement to create at least ~~700~~500 qualified new jobs and to make
5 at least \$50,000,000.00 in a qualified capital investment of which
6 \$25,000,000.00 shall be made prior to the issuance of a certificate
7 under this section.

8 (f) "Photovoltaic cells" means an integrated device consisting
9 of layers of semiconductor materials and electric constructs
10 capable of converting incident light directly into electricity.

11 (g) "Photovoltaic energy" means solar energy.

12 (h) "Photovoltaic modules" means an assembly of interconnected
13 photovoltaic cells.

14 (i) "Photovoltaic systems" means solar energy devices composed
15 of 1 or more photovoltaic cells or photovoltaic modules, and
16 inverter or other power conditioning unit or photovoltaic
17 technology designed to deliver power of a selected current and
18 voltage, wires, and other electrical connectors in order to
19 generate electricity, heat or cool a residential structure, provide
20 hot water for use in a residential structure, or provide solar
21 process heat. Batteries for power storage may also be included in
22 photovoltaic systems.

23 (j) "Photovoltaic technology" means solar power technology
24 that uses photovoltaic cells and modules to convert light from the
25 sun directly into electricity. Photovoltaic technology includes
26 equipment, component parts, materials, electronic devices, testing
27 equipment, and other related systems that are specifically designed

1 or fabricated and used primarily for 1 or more of the following:

2 (i) The storage, generation, reformation, or distribution of
3 clean fuels integrated within a photovoltaic system.

4 (ii) The process of utilizing photovoltaic energy to generate
5 electricity for use by consumers.

6 (k) "Property" means section 1245 property and section 1250
7 property as those terms are defined in sections 1245 and 1250 of
8 the internal revenue code.