

# HOUSE BILL No. 6237

June 8, 2010, Introduced by Rep. Sheltrown and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
by amending section 415 (MCL 208.1415).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 415. (1) A taxpayer that meets the criteria under  
2       subsection ~~(4)~~—(5) and that is a qualified start-up business that  
3       does not have business income for 2 consecutive tax years may claim  
4       a credit against the tax imposed under this act for the second of  
5       those 2 consecutive tax years and each immediately following  
6       consecutive tax year in which the taxpayer does not have business  
7       income equal to the taxpayer's tax liability for the tax year in  
8       which the taxpayer has no business income. If the taxpayer has  
9       business income in any tax year after the credit under this section  
10      is claimed, the taxpayer shall claim the credit under this section

1 for any following tax year only if the taxpayer subsequently has no  
2 business income for 2 consecutive tax years. The taxpayer may claim  
3 the credit for the second of those 2 consecutive tax years and each  
4 immediately following consecutive tax year in which the taxpayer  
5 does not have business income.

6 (2) A credit under this section shall not be claimed for more  
7 than a total of 5 tax years.

8 (3) A taxpayer that qualified to claim the credit under  
9 section 31a of former 1975 PA 228 may claim the credit under this  
10 section for a total of 5 years, reduced by the number of years the  
11 taxpayer was eligible to claim the credit under section 31a of  
12 former 1975 PA 228.

13 (4) If a taxpayer that took the credit under this section or  
14 under former 1975 PA 228 has no business activity in this state and  
15 has any business activity outside of this state for any of the  
16 first 3 tax years after the last tax year for which it took the  
17 credit under this section, the taxpayer shall add to its tax  
18 liability the following amounts:

19 (a) If the taxpayer has no business activity in this state for  
20 the first tax year after the last tax year for which a credit under  
21 this section is claimed, 100% of the total of all credits claimed  
22 under this section.

23 (b) If the taxpayer has no business activity in this state for  
24 the second tax year after the last tax year for which a credit  
25 under this section is claimed, 67% of the total of all credits  
26 claimed under this section.

27 (c) If the taxpayer has no business activity for the third tax

1 year after the last tax year for which a credit under this section  
2 is claimed, 33% of the total of all credits claimed under this  
3 section.

4 (5) For the tax year for which a credit under this section is  
5 claimed, compensation, directors' fees, or distributive shares paid  
6 by the taxpayer to any 1 of the following shall not exceed  
7 \$135,000.00:

8 (a) A shareholder or officer of a corporation other than an S  
9 corporation.

10 (b) A partner of a partnership or limited liability  
11 partnership.

12 (c) A shareholder of an S corporation.

13 (d) A member of a limited liability corporation.

14 (e) An individual who is an owner.

15 (6) As used in this section:

16 (a) "Business income" means business income as defined in  
17 section 105 excluding funds received from small business innovation  
18 research grants and small business technology transfer programs  
19 established under the small business innovation development act of  
20 1982, Public Law 97-219, reauthorized under the small business  
21 research and development enhancement act, Public Law 102-564, and  
22 subsequently reauthorized under the small business reauthorization  
23 act of 2000, Public Law 106-554.

24 (b) "Michigan economic development corporation" means the  
25 public body corporate created under section 28 of article VII of  
26 the state constitution of 1963 and the urban cooperation act of  
27 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual

1 interlocal agreement effective April 5, 1999, as amended, between  
2 local participating economic development corporations formed under  
3 the economic development corporations act, 1974 PA 338, MCL  
4 125.1601 to 125.1636, and the Michigan strategic fund.

5 (c) "Qualified start-up business" means a business that meets  
6 all of the following criteria as certified annually by the Michigan  
7 economic development corporation:

8 (i) Has fewer than 25 full-time equivalent employees.

9 (ii) Has sales of less than \$1,000,000.00 in the tax year for  
10 which the credit under this section is claimed.

11 (iii) ~~Research~~ **FOR TAX YEARS THAT BEGIN BEFORE JANUARY 1, 2010,**  
12 **RESEARCH** and development expenses make up at least 15% of its  
13 expenses in the tax year for which the credit under this section is  
14 claimed.

15 (iv) Is not publicly traded.

16 (v) Met 1 of the following criteria during 1 of the initial 2  
17 consecutive tax years in which the qualified start-up business had  
18 no business income:

19 (A) During the immediately preceding 7 years was in 1 of the  
20 first 2 years of contribution liability under section 19 of the  
21 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19.

22 (B) During the immediately preceding 7 years would have been  
23 in 1 of the first 2 years of contribution liability under section  
24 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,  
25 MCL 421.19, if the qualified start-up business had employees and  
26 was liable under the Michigan employment security act, 1936 (Ex  
27 Sess) PA 1, MCL 421.1 to 421.75.

1 (C) During the immediately preceding 7 years would have been  
2 in 1 of the first 2 years of contribution liability under section  
3 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,  
4 MCL 421.19, if the qualified start-up business had not assumed  
5 successor liability under section 15(g) of the Michigan employment  
6 security act, 1936 (Ex Sess) PA 1, MCL 421.15.

7 (d) "Research and development" means qualified research as  
8 that term is defined in section 41(d) of the internal revenue code.

9 Enacting section 1. This amendatory act is retroactive and  
10 effective January 1, 2010 and applies to all taxes levied after  
11 December 31, 2009.