

SENATE BILL No. 493

April 30, 2009, Introduced by Senators ALLEN and KAHN and referred to the Committee on Commerce and Tourism.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 431c (MCL 208.1431c), as added by 2008 PA 88.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 431c. (1) Except as otherwise provided under this
2 section, a qualified taxpayer may claim a credit against the tax
3 imposed by this act equal to the sum of up to 5.0% of the taxable
4 value of each qualified supplier's or **QUALIFIED** customer's taxable
5 property that is located within the 10-mile radius of the qualified
6 taxpayer **OR IS LOCATED IN A COUNTY ADJACENT TO THE QUALIFIED**
7 **TAXPAYER AND WITHIN AN EXISTING INDUSTRIAL PARK THAT IS APPROVED BY**
8 **THE MICHIGAN ECONOMIC GROWTH AUTHORITY** and that is subject to
9 collection of general ad valorem taxes under the general property
10 tax act, 1893 PA 206, MCL 211.1 to 211.155, **AND THAT CREDIT MAY BE**

1 **BASED UPON EACH OF THE QUALIFIED SUPPLIER'S AND QUALIFIED**
2 **CUSTOMER'S TAXABLE VALUE DESCRIBED ABOVE IN THIS SUBSECTION** for a
3 period of up to 5 years, as determined by the Michigan economic
4 growth authority. If a qualified supplier's or **QUALIFIED** customer's
5 taxable property **THAT IS LOCATED WITHIN THE 10-MILE RADIUS OF THE**
6 **QUALIFIED TAXPAYER OR IS LOCATED IN A COUNTY ADJACENT TO THE**
7 **QUALIFIED TAXPAYER AND WITHIN AN EXISTING INDUSTRIAL PARK THAT IS**
8 **APPROVED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY** is subject to
9 the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572,
10 the qualified taxpayer may only include up to 2.5% of the taxable
11 value of that property in the calculation of the amount of the
12 credit allowed under this section.

13 (2) The Michigan economic growth authority shall not designate
14 more than 5 ~~taxpayers as an anchor company~~ **NEW ANCHOR COMPANIES** in
15 each calendar year and shall not approve more than 5 new credits in
16 each calendar year under this subsection. ~~A taxpayer~~ **AN ANCHOR**
17 **COMPANY** has 5 years from the date on which the ~~taxpayer is~~
18 ~~designated as an anchor company~~ **DESIGNATION OCCURS** to seek
19 certification **FROM THE MICHIGAN ECONOMIC GROWTH AUTHORITY** as a
20 qualified taxpayer for each qualified supplier or **QUALIFIED**
21 customer ~~for which a credit is sought~~ **THAT IS INCLUDED IN THE**
22 **CREDIT WHICH THAT ANCHOR COMPANY IS SEEKING** under this section.
23 **HOWEVER, A CREDIT SHALL NOT BE PROVIDED FOR A TAX YEAR PRIOR TO THE**
24 **TAX YEAR DURING WHICH THE DESIGNATION AS AN ANCHOR COMPANY IS MADE.**

25 (3) **THE MICHIGAN ECONOMIC GROWTH AUTHORITY MAY PROVIDE THAT**
26 **QUALIFIED SALES TO A QUALIFIED CUSTOMER SHALL NOT BE CONSIDERED IN**
27 **CALCULATING THE SALES FACTOR UNDER THIS ACT FOR THE TAX YEAR FOR**

1 **WHICH A CREDIT IS PROVIDED UNDER THIS SECTION.**

2 (4) ~~(2)~~ A taxpayer shall not claim a credit under this section
3 unless the Michigan economic growth authority has issued a
4 certificate to the ~~qualified taxpayer. However, a credit shall not~~
5 ~~be provided for a tax year prior to the tax year during which the~~
6 ~~certification is issued.~~ The qualified taxpayer shall attach the
7 certificate to the annual return filed under this act on which the
8 credit under this section is claimed. The certificate required by
9 this subsection shall state all of the following:

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

12 (b) The amount of the credit under this section for the
13 taxpayer for the designated tax year.

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

17 **(D) SUBJECT TO SUBSECTION (3), THE AMOUNT OF THE QUALIFIED**
18 **SALES TO A QUALIFIED CUSTOMER.**

19 (5) ~~(3)~~ A qualified taxpayer 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~~ **INCLUDED IN AN**
22 **AGREEMENT ENTERED INTO WITH** the Michigan economic growth authority
23 in order to obtain a certificate for which the credit was claimed
24 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 qualified

1 taxpayer in the year that the qualified taxpayer fails to comply
2 with this section or the agreement.

3 (6) ~~(4)~~—If the credit allowed under this subsection exceeds
4 the liability of the qualified taxpayer for the tax year, the
5 qualified taxpayer may elect to have that portion that exceeds the
6 tax liability of the qualified taxpayer refunded or to have the
7 excess carried forward to offset tax liability in subsequent years
8 for 5 years or until it is used up, whichever occurs first.

9 (7) **A CREDIT UNDER THIS SECTION MAY BE TAKEN AFTER ALL OTHER**
10 **ALLOWABLE NONREFUNDABLE CREDITS UNDER THIS ACT.**

11 (8) ~~(5)~~—As used in this section:

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

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

21 (c) "Full-time job" means a job performed by an individual for
22 35 hours or more each week and whose income and social security
23 taxes are withheld by 1 or more of the following:

24 (i) A qualified supplier or **QUALIFIED** customer.

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

27 (iii) A professional employer organization on behalf of a

1 qualified supplier or **QUALIFIED** customer.

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

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

11 (F) **"QUALIFIED SALES TO A QUALIFIED CUSTOMER" MEANS SALES TO A**
12 **QUALIFIED CUSTOMER THAT ARE IN EXCESS OF THE MICHIGAN SALES TO THE**
13 **CUSTOMER PRIOR TO THE YEAR OF EXPANSION OR LOCATION WITHIN THIS**
14 **STATE AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY AND**
15 **THAT WOULD OTHERWISE BE INCLUDED IN THE CALCULATION OF THE SALES**
16 **FACTOR UNDER THIS ACT.**

17 (G) ~~(f)~~ "Qualified supplier" ~~or~~ **AND "QUALIFIED customer" means**
18 **MEAN** a business that opens a new location in this state, a business
19 that locates in this state, or an existing business located in this
20 state that expands its business ~~within the last year~~ as a result of
21 an anchor company and satisfies **PRIOR TO THE ISSUANCE OF A**
22 **CERTIFICATE AND AT THE TIME SPECIFIED IN THE AGREEMENT WITH THE**
23 **QUALIFIED TAXPAYER**, as certified by the Michigan economic growth
24 authority, each of the following:

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

26 (ii) Sells a critical or unique component or technology
27 necessary for the anchor company to market a finished product **AS**

1 **THE RESULT OF A COMMERCIAL RELATIONSHIP WITH THE ANCHOR COMPANY** or
2 buys a critical or unique component from the anchor company.

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

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

6 **(H)** ~~(g)~~—"Qualified taxpayer" means a taxpayer that was
7 designated by the Michigan economic growth authority as an anchor
8 company within the last 5 years and that has influenced ~~1 or more A~~
9 ~~qualified suppliers~~ **SUPPLIER** or ~~customers~~ **QUALIFIED CUSTOMER** to
10 open, locate, or expand ~~their business~~ **IN THIS STATE** and conduct
11 business activity within a 10-mile radius of the anchor company **OR**
12 **WITHIN A COUNTY ADJACENT TO THE TAXPAYER AND WITHIN AN EXISTING**
13 **INDUSTRIAL PARK THAT IS APPROVED BY THE MICHIGAN ECONOMIC GROWTH**
14 **AUTHORITY.**

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