

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 156

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
by amending sections 111, 305, 403, and 433 (MCL 208.1111,  
208.1305, 208.1403, and 208.1433), sections 111 and 305 as amended  
by 2012 PA 605, section 403 as amended by 2008 PA 434, and section  
433 as amended by 2007 PA 215, and by adding section 508; and to  
repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 111. (1) "Gross receipts" means the entire amount  
2       received by the taxpayer as determined by using the taxpayer's  
3       method of accounting used for federal income tax purposes, less any  
4       amount deducted as bad debt for federal income tax purposes that  
5       corresponds to items of gross receipts included in the modified  
6       gross receipts tax base for the current tax year or a past tax year

1 phased in over a 5-year period starting with 50% of that amount in  
2 the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax  
3 year, 75% in the 2011 tax year, and 100% in the 2012 tax year and  
4 each tax year thereafter, from any activity whether in intrastate,  
5 interstate, or foreign commerce carried on for direct or indirect  
6 gain, benefit, or advantage to the taxpayer or to others except for  
7 the following:

8 (a) Proceeds from sales by a principal that the taxpayer  
9 collects in an agency capacity solely on behalf of the principal  
10 and delivers to the principal.

11 (b) Amounts received by the taxpayer as an agent solely on  
12 behalf of the principal that are expended by the taxpayer for any  
13 of the following:

14 (i) The performance of a service by a third party for the  
15 benefit of the principal that is required by law to be performed by  
16 a licensed person.

17 (ii) The performance of a service by a third party for the  
18 benefit of the principal that the taxpayer has not undertaken a  
19 contractual duty to perform.

20 (iii) Principal and interest under a mortgage loan or land  
21 contract, lease or rental payments, or taxes, utilities, or  
22 insurance premiums relating to real or personal property owned or  
23 leased by the principal.

24 (iv) A capital asset of a type that is, or under the internal  
25 revenue code will become, eligible for depreciation, amortization,  
26 or accelerated cost recovery by the principal for federal income  
27 tax purposes, or for real property owned or leased by the

1 principal.

2 (v) Property not described under subparagraph (iv) that is  
3 purchased by the taxpayer on behalf of the principal and that the  
4 taxpayer does not take title to or use in the course of performing  
5 its contractual business activities.

6 (vi) Fees, taxes, assessments, levies, fines, penalties, or  
7 other payments established by law that are paid to a governmental  
8 entity and that are the legal obligation of the principal.

9 (c) Amounts that are excluded from gross income of a foreign  
10 corporation engaged in the international operation of aircraft  
11 under section 883(a) of the internal revenue code.

12 (d) Amounts received by an advertising agency used to acquire  
13 advertising media time, space, production, or talent on behalf of  
14 another person.

15 (e) Amounts received by a newspaper to acquire advertising  
16 space not owned by that newspaper in another newspaper on behalf of  
17 another person. This subdivision does not apply to any  
18 consideration received by the taxpayer for acquiring that  
19 advertising space.

20 (f) Notwithstanding any other provision of this section,  
21 amounts received by a taxpayer that manages real property owned by  
22 a third party that are deposited into a separate account kept in  
23 the name of that third party and that are not reimbursements to the  
24 taxpayer and are not indirect payments for management services that  
25 the taxpayer provides to that third party.

26 (g) Proceeds from the taxpayer's transfer of an account  
27 receivable if the sale that generated the account receivable was

1 included in gross receipts for federal income tax purposes. This  
2 subdivision does not apply to a taxpayer that during the tax year  
3 both buys and sells any receivables.

4 (h) Proceeds from any of the following:

5 (i) The original issue of stock or equity instruments or equity  
6 issued by a regulated investment company as that term is defined  
7 under section 851 of the internal revenue code.

8 (ii) The original issue of debt instruments.

9 (i) Refunds from returned merchandise.

10 (j) Cash and in-kind discounts.

11 (k) Trade discounts.

12 (l) Federal, state, or local tax refunds.

13 (m) Security deposits.

14 (n) Payment of the principal portion of loans.

15 (o) Value of property received in a like-kind exchange.

16 (p) Proceeds from a sale, transaction, exchange, involuntary  
17 conversion, maturity, redemption, repurchase, recapitalization, or  
18 other disposition or reorganization of tangible, intangible, or  
19 real property, less any gain from the disposition or reorganization  
20 to the extent that the gain is included in the taxpayer's federal  
21 taxable income, if the property satisfies 1 or more of the  
22 following:

23 (i) The property is a capital asset as defined in section  
24 1221(a) of the internal revenue code.

25 (ii) The property is land that qualifies as property used in  
26 the trade or business as defined in section 1231(b) of the internal  
27 revenue code.

(iii) The property is used in a hedging transaction entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily to manage the risk of exposure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; interest rate fluctuations; or commodity price fluctuations. For purposes of this subparagraph, the actual transfer of title of real or tangible personal property to another person is not a hedging transaction. Only the overall net gain from the hedging transactions entered into during the tax year is included in gross receipts. As used in this subparagraph, "hedging transaction" means that term as defined under section 1221 of the internal revenue code regardless of whether the transaction was identified by the taxpayer as a hedge for federal income tax purposes, provided, however, that transactions excluded under this subparagraph and not identified as a hedge for federal income tax purposes shall be identifiable to the department by the taxpayer as a hedge in its books and records.

(iv) The property is investment and trading assets managed as part of the person's treasury function. For purposes of this subparagraph, a person principally engaged in the trade or business of purchasing and selling investment and trading assets is not performing a treasury function. Only the overall net gain from the treasury function incurred during the tax year is included in gross receipts. As used in this subparagraph, "treasury function" means the pooling and management of investment and trading assets for the purpose of satisfying the cash flow or liquidity needs of the taxpayer's trade or business.

1           (q) The proceeds from a policy of insurance, a settlement of a  
2 claim, or a judgment in a civil action less any proceeds under this  
3 subdivision that are included in federal taxable income.

4           (r) For a sales finance company, as defined in section 2 of  
5 the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL  
6 492.102, and directly or indirectly owned in whole or in part by a  
7 motor vehicle manufacturer as of January 1, 2008, and for a person  
8 that is a broker or dealer as defined under section 78c(a)(4) or  
9 (5) of the securities exchange act of 1934, 15 USC 78c, or a person  
10 included in the unitary business group of that broker or dealer  
11 that buys and sells for its own account, contracts that are subject  
12 to the commodity exchange act, 7 USC 1 to 27f, amounts realized  
13 from the repayment, maturity, sale, or redemption of the principal  
14 of a loan, bond, or mutual fund, certificate of deposit, or similar  
15 marketable instrument provided such instruments are not held as  
16 inventory.

17           (s) For a sales finance company, as defined in section 2 of  
18 the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL  
19 492.102, and directly or indirectly owned in whole or in part by a  
20 motor vehicle manufacturer as of January 1, 2008, and for a person  
21 that is a broker or dealer as defined under section 78c(a)(4) or  
22 (5) of the securities exchange act of 1934, 15 USC 78c, or a person  
23 included in the unitary business group of that broker or dealer  
24 that buys and sells for its own account, contracts that are subject  
25 to the commodity exchange act, 7 USC 1 to 27f, the principal amount  
26 received under a repurchase agreement or other transaction properly  
27 characterized as a loan.

1           (t) For a mortgage company, proceeds representing the  
2 principal balance of loans transferred or sold in the tax year. For  
3 purposes of this subdivision, "mortgage company" means a person  
4 that is licensed under the mortgage brokers, lenders, and servicers  
5 licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, or the  
6 secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and  
7 has greater than 90% of its revenues, in the ordinary course of  
8 business, from the origination, sale, or servicing of residential  
9 mortgage loans.

10           (u) For a professional employer organization, any amount  
11 charged by a professional employer organization that represents the  
12 actual cost of wages and salaries, benefits, worker's compensation,  
13 payroll taxes, withholding, or other assessments paid to or on  
14 behalf of a covered employee by the professional employer  
15 organization under a professional employer arrangement.

16           (v) Any invoiced items used to provide more favorable floor  
17 plan assistance to a person subject to the tax imposed under this  
18 act than to a person not subject to this tax and paid by a  
19 manufacturer, distributor, or supplier.

20           (w) For an individual, estate, or person organized for estate  
21 or gift planning purposes, amounts received other than those from  
22 transactions, activities, and sources in the regular course of the  
23 person's trade or business. For purposes of this subdivision, all  
24 of the following apply:

25           (i) Amounts received from transactions, activities, and sources  
26 in the regular course of the person's business include, but are not  
27 limited to, the following:

1 (A) Receipts from tangible and intangible property if the  
2 acquisition, rental, lease, management, or disposition of the  
3 property constitutes integral parts of the person's regular trade  
4 or business operations.

5 (B) Receipts received in the course of the person's trade or  
6 business from stock and securities of any foreign or domestic  
7 corporation and dividend and interest income.

8 (C) Receipts derived from isolated sales, leases, assignments,  
9 licenses, divisions, or other infrequently occurring dispositions,  
10 transfers, or transactions involving tangible, intangible, or real  
11 property if the property is or was used in the person's trade or  
12 business operation.

13 (D) Receipts derived from the sale of an interest in a  
14 business that constitutes an integral part of the person's regular  
15 trade or business.

16 (E) Receipts derived from the lease or rental of real  
17 property.

18 (ii) Receipts excluded from gross receipts include, but are not  
19 limited to, the following:

20 (A) Receipts derived from investment activity, including  
21 interest, dividends, royalties, and gains from an investment  
22 portfolio or retirement account, if the investment activity is not  
23 part of the person's trade or business.

24 (B) Receipts derived from the disposition of tangible,  
25 intangible, or real property held for personal use and enjoyment,  
26 such as a personal residence or personal assets.

27 (x) Receipts derived from investment activity other than



1 receipts from transactions, activities, and sources in the regular  
2 course of the person's trade or business by a person that is  
3 organized exclusively to conduct investment activity and that does  
4 not conduct investment activity for any person other than an  
5 individual or a person related to that individual or by a common  
6 trust fund established under the collective investment funds act,  
7 1941 PA 174, MCL 555.101 to 555.113. For purposes of this  
8 subdivision, a person is related to an individual if that person is  
9 a spouse, brother or sister, whether of the whole or half blood or  
10 by adoption, ancestor, lineal descendent of that individual or  
11 related person, or a trust benefiting that individual or 1 or more  
12 persons related to that individual.

13 (y) Interest income and dividends derived from obligations or  
14 securities of the United States government, this state, or any  
15 governmental unit of this state. As used in this subdivision,  
16 "governmental unit" means that term as defined in section 3 of the  
17 shared credit rating act, 1985 PA 227, MCL 141.1053.

18 (z) Dividends and royalties received or deemed received from a  
19 foreign operating entity or a person other than a United States  
20 person, including, but not limited to, the amounts determined under  
21 section 78 of the internal revenue code and sections 951 to 964 of  
22 the internal revenue code, phased in over a 5-year period starting  
23 with 50% of that amount in the 2008 tax year, 60% in the 2009 tax  
24 year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100%  
25 in the 2012 tax year and each tax year thereafter.

26 (aa) To the extent not deducted as purchases from other firms  
27 under section 203, each of the following:

1           (i) Sales or use taxes collected from or reimbursed by a  
2 consumer or other taxes the taxpayer collected directly from or was  
3 reimbursed by a purchaser and remitted to a local, state, or  
4 federal tax authority, phased in over a 5-year period starting with  
5 50% of that amount in the 2008 tax year, 60% in the 2009 tax year,  
6 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the  
7 2012 tax year and each tax year thereafter.

8           (ii) In the case of receipts from the sale of cigarettes or  
9 tobacco products by a wholesale dealer, retail dealer, distributor,  
10 manufacturer, or seller, an amount equal to the federal and state  
11 excise taxes paid by any person on or for such cigarettes or  
12 tobacco products under subtitle E of the internal revenue code or  
13 other applicable state law, phased in over a 3-year period starting  
14 with 60% of that amount in the 2008 tax year, 75% in the 2009 tax  
15 year, and 100% in the 2010 tax year and each tax year thereafter.

16           (iii) In the case of receipts from the sale of motor fuel by a  
17 person with a motor fuel tax license or a retail dealer, an amount  
18 equal to federal and state excise taxes paid by any person on such  
19 motor fuel under section 4081 of the internal revenue code or under  
20 other applicable state law, phased in over a 5-year period starting  
21 with 50% of that amount in the 2008 tax year, 60% in the 2009 tax  
22 year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100%  
23 in the 2012 tax year and each tax year thereafter.

24           (iv) In the case of receipts from the sale of beer, wine, or  
25 intoxicating liquor by a person holding a license to sell,  
26 distribute, or produce those products, an amount equal to federal  
27 and state excise taxes paid by any person on or for such beer,

1 wine, or intoxicating liquor under subtitle E of the internal  
2 revenue code or other applicable state law, phased in over a 5-year  
3 period starting with 50% of that amount in the 2008 tax year, 60%  
4 in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax  
5 year, and 100% in the 2012 tax year and each tax year thereafter.

6 (v) In the case of receipts from the sale of communication,  
7 video, internet access and related services and equipment, any  
8 government imposed tax, fee, or other imposition in the nature of a  
9 tax or fee required by law, ordinance, regulation, ruling, or other  
10 legal authority and authorized to be charged on a customer's bill  
11 or invoice, phased in over a 5-year period starting with 50% of  
12 that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in  
13 the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012  
14 tax year and each tax year thereafter. This subparagraph does not  
15 include the recovery of net income taxes, net worth taxes, property  
16 taxes, or the tax imposed under this act.

17 (vi) In the case of receipts from the sale of electricity,  
18 natural gas, or other energy source, any government imposed tax,  
19 fee, or other imposition in the nature of a tax or fee required by  
20 law, ordinance, regulation, ruling, or other legal authority and  
21 authorized to be charged on a customer's bill or invoice, phased in  
22 over a 5-year period starting with 50% of that amount in the 2008  
23 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75%  
24 in the 2011 tax year, and 100% in the 2012 tax year and each tax  
25 year thereafter. This subparagraph does not include the recovery of  
26 net income taxes, net worth taxes, property taxes, or the tax  
27 imposed under this act.

1           (vii) Any deposit required under any of the following, phased  
2 in over a 5-year period starting with 50% of that amount in the  
3 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year,  
4 75% in the 2011 tax year, and 100% in the 2012 tax year and each  
5 tax year thereafter:

6           (A) 1976 IL 1, MCL 445.571 to 445.576.

7           (B) R 436.1629 of the Michigan administrative code.

8           (C) R 436.1723a of the Michigan administrative code.

9           (D) Any substantially similar beverage container deposit law  
10 of another state.

11           (viii) An excise tax collected pursuant to the airport parking  
12 tax act, 1987 PA 248, MCL 207.371 to 207.383, collected from or  
13 reimbursed by a consumer and remitted as provided in the airport  
14 parking tax act, 1987 PA 248, MCL 207.371 to 207.383, phased in  
15 over a 5-year period starting with 50% of that amount in the 2008  
16 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75%  
17 in the 2011 tax year, and 100% in the 2012 tax year and each tax  
18 year thereafter.

19           (bb) Amounts attributable to an ownership interest in a pass-  
20 through entity, regulated investment company, real estate  
21 investment trust, or cooperative corporation whose business  
22 activities are taxable under section 203 or would be subject to the  
23 tax under section 203 if the business activities were in this  
24 state. For purposes of this subdivision:

25           (i) "Cooperative corporation" means those organizations  
26 described under subchapter T of the internal revenue code.

27           (ii) "Pass-through" entity means a partnership, subchapter S

1 corporation, or other person, other than an individual, that is not  
2 classified for federal income tax purposes as an association taxed  
3 as a corporation.

4 (iii) "Real estate investment trust" means that term as defined  
5 under section 856 of the internal revenue code.

6 (iv) "Regulated investment company" means that term as defined  
7 under section 851 of the internal revenue code.

8 (cc) For a regulated investment company as that term is  
9 defined under section 851 of the internal revenue code, receipts  
10 derived from investment activity by that regulated investment  
11 company.

12 (dd) For fiscal years that begin after September 30, 2009,  
13 unless the state budget director certifies to the state treasurer  
14 by January 1 of that fiscal year that the federally certified rates  
15 for actuarial soundness required under 42 CFR 438.6 and that are  
16 specifically developed for Michigan's health maintenance  
17 organizations that hold a contract with this state for medicaid  
18 services provide explicit adjustment for their obligations required  
19 for payment of the tax under this act, amounts received by the  
20 taxpayer during that fiscal year for medicaid premium or  
21 reimbursement of costs associated with service provided to a  
22 medicaid recipient or beneficiary.

23 (ee) For a taxpayer that provides health care management  
24 consulting services, amounts received by the taxpayer as fees from  
25 its clients that are expended by the taxpayer to reimburse those  
26 clients for labor and nonlabor services that are paid by the client  
27 and reimbursed to the client pursuant to a services agreement.

1           (FF) AMOUNTS ATTRIBUTED TO THE TAXPAYER PURSUANT TO A  
2 DISCHARGE OF INDEBTEDNESS AS DESCRIBED UNDER SECTION 61(A) (12) OF  
3 THE INTERNAL REVENUE CODE, INCLUDING FORGIVENESS OF A NONRECOURSE  
4 DEBT.

5           (2) "Insurance company" means an authorized insurer as defined  
6 in sections 106 and 108 of the insurance code of 1956, 1956 PA 218,  
7 MCL 500.106 and 500.108.

8           (3) "Internal revenue code" means the United States internal  
9 revenue code of 1986 in effect on January 1, 2008 or, at the option  
10 of the taxpayer, in effect for the tax year.

11           (4) "Inventory" means, except as provided in subdivision (e),  
12 all of the following:

13           (a) The stock of goods held for resale in the regular course  
14 of trade of a retail or wholesale business, including electricity  
15 or natural gas purchased for resale.

16           (b) Finished goods, goods in process, and raw materials of a  
17 manufacturing business purchased from another person.

18           (c) For a person that is a new motor vehicle dealer licensed  
19 under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923,  
20 floor plan interest expenses for new motor vehicles. For purposes  
21 of this subdivision, "floor plan interest" means interest paid that  
22 finances any part of the person's purchase of new motor vehicle  
23 inventory from a manufacturer, distributor, or supplier. However,  
24 amounts attributable to any invoiced items used to provide more  
25 favorable floor plan assistance to a person subject to the tax  
26 imposed under this act than to a person not subject to this tax is  
27 considered interest paid by a manufacturer, distributor, or

1 supplier.

2 (d) For a person that is a securities trader, broker, or  
3 dealer or a person included in the unitary business group of that  
4 securities trader, broker, or dealer that buys and sells for its  
5 own account, contracts that are subject to the commodity exchange  
6 act, 7 USC 1 to 27f, the cost of securities as defined under  
7 section 475(c)(2) of the internal revenue code and for a securities  
8 trader the cost of commodities as defined under section 475(e)(2)  
9 and for a broker or dealer the cost of commodities as defined under  
10 section ~~475(e)(2)(b), (c), and (d)~~ **475(E)(2)(B), (C), AND (D)** of  
11 the internal revenue code, excluding interest expense other than  
12 interest expense related to repurchase agreements. As used in this  
13 subdivision:

14 (i) "Broker" means that term as defined under section 78c(a)(4)  
15 of the securities exchange act of 1934, 15 USC 78c.

16 (ii) "Dealer" means that term as defined under section  
17 78c(a)(5) of the securities exchange act of 1934, 15 USC 78c.

18 (iii) "Securities trader" means a person that engages in the  
19 trade or business of purchasing and selling investments and trading  
20 assets.

21 (e) Inventory does not include either of the following:

22 (i) Personal property under lease or principally intended for  
23 lease rather than sale.

24 (ii) Property allowed a deduction or allowance for depreciation  
25 or depletion under the internal revenue code.

26 (5) "Officer" means an officer of a corporation other than a  
27 subchapter S corporation, including all of the following:

1 (a) The chairperson of the board.

2 (b) The president, vice president, secretary, or treasurer of  
3 the corporation or board.

4 (c) Persons performing similar duties and responsibilities to  
5 persons described in subdivisions (a) and (b) that include, at a  
6 minimum, major decision making.

7 Sec. 305. (1) Sales of the taxpayer in this state are  
8 determined as follows:

9 (a) Sales of tangible personal property are in this state if  
10 the property is shipped or delivered, or, in the case of  
11 electricity and gas, the contract requires the property to be  
12 shipped or delivered, to any purchaser within this state based on  
13 the ultimate destination at the point that the property comes to  
14 rest regardless of the free on board point or other conditions of  
15 the sales. Property stored in transit for 60 days or more prior to  
16 receipt by the purchaser or the purchaser's designee, or in the  
17 case of a dock sale not picked up for 60 days or more, ~~shall be~~ **IS**  
18 deemed to have come to rest at this ultimate destination. Property  
19 stored in transit for fewer than 60 days prior to receipt by the  
20 purchaser or the purchaser's designee, or in the case of a dock  
21 sale ~~not~~ picked up before 60 days, is not deemed to have come to  
22 rest at this ultimate destination. For purposes of this  
23 subdivision:

24 (i) "Dock sale" means a sale in which the purchaser uses its  
25 own or rented vehicles, or makes arrangements with a carrier, to  
26 pick up the property at the seller's location.

27 (ii) "Stored in transit" means storing, staging, forwarding, or



1 consolidating activities undertaken for further shipment or  
2 transfer of the property to the purchaser or purchaser's designee.

3 (b) Receipts from the sale, lease, rental, or licensing of  
4 real property are in this state if that property is located in this  
5 state.

6 (c) Receipts from the lease or rental of tangible personal  
7 property are sales in this state to the extent that the property is  
8 utilized in this state. The extent of utilization of tangible  
9 personal property in this state is determined by multiplying the  
10 receipts by a fraction, the numerator of which is the number of  
11 days of physical location of the property in this state during the  
12 lease or rental period in the tax year and the denominator of which  
13 is the number of days of physical location of the property  
14 everywhere during all lease or rental periods in the tax year. If  
15 the physical location of the property during the lease or rental  
16 period is unknown or cannot be determined, the tangible personal  
17 property is utilized in the state in which the property was located  
18 at the time the lease or rental payer obtained possession.

19 (d) Receipts from the lease or rental of mobile transportation  
20 property owned by the taxpayer are in this state to the extent that  
21 the property is used in this state. The extent an aircraft will be  
22 deemed to be used in this state and the amount of receipts that is  
23 to be included in the numerator of this state's sales factor is  
24 determined by multiplying all the receipts from the lease or rental  
25 of the aircraft by a fraction, the numerator of the fraction is the  
26 number of landings of the aircraft in this state and the  
27 denominator of the fraction is the total number of landings of the

1 aircraft. If the extent of the use of any transportation property  
2 within this state cannot be determined, then the receipts are in  
3 this state if the property has its principal base of operations in  
4 this state.

5 (e) Royalties and other income received for the use of or for  
6 the privilege of using intangible property, including patents,  
7 know-how, formulas, designs, processes, patterns, copyrights, trade  
8 names, service names, franchises, licenses, contracts, customer  
9 lists, computer software, or similar items, are attributed to the  
10 state in which the property is used by the purchaser. If the  
11 property is used in more than 1 state, the royalties or other  
12 income shall be apportioned to this state pro rata according to the  
13 portion of use in this state. If the portion of use in this state  
14 cannot be determined, the royalties or other income shall be  
15 excluded from both the numerator and the denominator. Intangible  
16 property is used in this state if the purchaser uses the intangible  
17 property or the rights to the intangible property in the regular  
18 course of its business operations in this state, regardless of the  
19 location of the purchaser's customers.

20 (2) Sales from the performance of services are in this state  
21 and attributable to this state as follows:

22 (a) Except as otherwise provided in this section, all receipts  
23 from the performance of services are included in the numerator of  
24 the apportionment factor if the recipient of the services receives  
25 all of the benefit of the services in this state. If the recipient  
26 of the services receives some of the benefit of the services in  
27 this state, the receipts are included in the numerator of the

1 apportionment factor in proportion to the extent that the recipient  
2 receives benefit of the services in this state.

3 (b) Sales derived from securities brokerage services  
4 attributable to this state are determined by multiplying the total  
5 dollar amount of receipts from securities brokerage services by a  
6 fraction, the numerator of which is the sales of securities  
7 brokerage services to customers within this state, and the  
8 denominator of which is the sales of securities brokerage services  
9 to all customers. Receipts from securities brokerage services  
10 include commissions on transactions, the spread earned on principal  
11 transactions in which the broker buys or sells from its account,  
12 total margin interest paid on behalf of brokerage accounts owned by  
13 the broker's customers, and fees and receipts of all kinds from the  
14 underwriting of securities. If receipts from brokerage services can  
15 be associated with a particular customer, but it is impractical to  
16 associate the receipts with the address of the customer, then the  
17 address of the customer shall be presumed to be the address of the  
18 branch office that generates the transactions for the customer.

19 (c) Sales of services that are derived directly or indirectly  
20 from the sale of management, distribution, administration, or  
21 securities brokerage services to, or on behalf of, a regulated  
22 investment company or its beneficial owners, including receipts  
23 derived directly or indirectly from trustees, sponsors, or  
24 participants of employee benefit plans that have accounts in a  
25 regulated investment company, shall be attributable to this state  
26 to the extent that the shareholders of the regulated investment  
27 company are domiciled within this state. For purposes of this

1 subdivision, "domicile" means the shareholder's mailing address on  
2 the records of the regulated investment company. If the regulated  
3 investment company or the person providing management services to  
4 the regulated investment company has actual knowledge that the  
5 shareholder's primary residence or principal place of business is  
6 different than the shareholder's mailing address, then the  
7 shareholder's primary residence or principal place of business is  
8 the shareholder's domicile. A separate computation shall be made  
9 with respect to the receipts derived from each regulated investment  
10 company. The total amount of sales attributable to this state shall  
11 be equal to the total receipts received by each regulated  
12 investment company multiplied by a fraction determined as follows:

13 (i) The numerator of the fraction is the average of the sum of  
14 the beginning-of-year and end-of-year number of shares owned by the  
15 regulated investment company shareholders who have their domicile  
16 in this state.

17 (ii) The denominator of the fraction is the average of the sum  
18 of the beginning-of-year and end-of-year number of shares owned by  
19 all shareholders.

20 (iii) For purposes of the fraction, the year shall be the tax  
21 year of the regulated investment company that ends with or within  
22 the tax year of the taxpayer.

23 (3) Receipts from the origination of a loan or gains from the  
24 sale of a loan secured by residential real property is deemed a  
25 sale in this state only if 1 or more of the following apply:

26 (a) The real property is located in this state.

27 (b) The real property is located both within this state and 1

1 or more other states and more than 50% of the fair market value of  
2 the real property is located within this state.

3 (c) More than 50% of the real property is not located in any 1  
4 state and the borrower is located in this state.

5 (4) Interest from loans secured by real property is in this  
6 state if the property is located within this state or if the  
7 property is located both within this state and 1 or more other  
8 states, if more than 50% of the fair market value of the real  
9 property is located within this state, or if more than 50% of the  
10 fair market value of the real property is not located within any 1  
11 state, if the borrower is located in this state. The determination  
12 of whether the real property securing a loan is located within this  
13 state shall be made as of the time the original agreement was made  
14 and any and all subsequent substitutions of collateral shall be  
15 disregarded.

16 (5) Interest from a loan not secured by real property is in  
17 this state if the borrower is located in this state.

18 (6) Gains from the sale of a loan not secured by real  
19 property, including income recorded under the coupon stripping  
20 rules of section 1286 of the internal revenue code, are in this  
21 state if the borrower is in this state.

22 (7) Receipts from credit card receivables, including interest,  
23 fees, and penalties from credit card receivables and receipts from  
24 fees charged to cardholders, such as annual fees, are in this state  
25 if the billing address of the cardholder is in this state.

26 (8) Receipts from the sale of credit card or other receivables  
27 is in this state if the billing address of the customer is in this

1 state. Credit card issuer's reimbursements fees are in this state  
2 if the billing address of the cardholder is in this state. Receipts  
3 from merchant discounts, computed net of any cardholder  
4 chargebacks, but not reduced by any interchange transaction fees or  
5 by any issuer's reimbursement fees paid to another for charges made  
6 by its cardholders, are in this state if the commercial domicile of  
7 the merchant is in this state.

8 (9) Loan servicing fees derived from loans of another secured  
9 by real property are in this state if the real property is located  
10 in this state, or the real property is located both within and  
11 outside of this state and 1 or more states if more than 50% of the  
12 fair market value of the real property is located in this state, or  
13 more than 50% of the fair market value of the real property is not  
14 located in any 1 state, and the borrower is located in this state.  
15 Loan servicing fees derived from loans of another not secured by  
16 real property are in this state if the borrower is located in this  
17 state. If the location of the security cannot be determined, then  
18 loan servicing fees for servicing either the secured or the  
19 unsecured loans of another are in this state if the lender to whom  
20 the loan servicing service is provided is located in this state.

21 (10) Receipts from the sale of securities and other assets  
22 from investment and trading activities, including, but not limited  
23 to, interest, dividends, and gains are in this state in either of  
24 the following circumstances:

25 (a) The person's customer is in this state.

26 (b) If the location of the person's customer cannot be  
27 determined, both of the following:

1           (i) Interest, dividends, and other income from investment  
2 assets and activities and from trading assets and activities,  
3 including, but not limited to, investment securities; trading  
4 account assets; federal funds; securities purchased and sold under  
5 agreements to resell or repurchase; options; futures contracts;  
6 forward contracts; notional principal contracts such as swaps;  
7 equities; and foreign currency transactions are in this state if  
8 the average value of the assets is assigned to a regular place of  
9 business of the taxpayer within this state. Interest from federal  
10 funds sold and purchased and from securities purchased under resale  
11 agreements and securities sold under repurchase agreements are in  
12 this state if the average value of the assets is assigned to a  
13 regular place of business of the taxpayer within this state. The  
14 amount of receipts and other income from investment assets and  
15 activities is in this state if assets are assigned to a regular  
16 place of business of the taxpayer within this state.

17           (ii) The amount of receipts from trading assets and activities,  
18 including, but not limited to, assets and activities in the matched  
19 book, in the arbitrage book, and foreign currency transactions, but  
20 excluding amounts otherwise sourced in this section, are in this  
21 state if the assets are assigned to a regular place of business of  
22 the taxpayer within this state.

23           (11) Receipts from transportation services rendered by a  
24 person subject to tax in another state are in this state and shall  
25 be attributable to this state as follows:

26           (a) Except as otherwise provided in subdivisions (b) through  
27 (e), receipts shall be proportioned based on the ratio that revenue

1 miles of the person in this state bear to the revenue miles of the  
2 person everywhere.

3 (b) Receipts from maritime transportation services shall be  
4 attributable to this state as follows:

5 (i) 50% of those receipts that either originate or terminate in  
6 this state.

7 (ii) 100% of those receipts that both originate and terminate  
8 in this state.

9 (c) Receipts attributable to this state of a person whose  
10 business activity consists of the transportation both of property  
11 and of individuals shall be proportioned based on the total gross  
12 receipts for passenger miles and ton mile fractions, separately  
13 computed and individually weighted by the ratio of gross receipts  
14 from passenger transportation to total gross receipts from all  
15 transportation, and by the ratio of gross receipts from freight  
16 transportation to total gross receipts from all transportation,  
17 respectively.

18 (d) Receipts attributable to this state of a person whose  
19 business activity consists of the transportation of oil by pipeline  
20 shall be proportioned based on the ratio that the gross receipts  
21 for the barrel miles transported in this state bear to the gross  
22 receipts for the barrel miles transported by the person everywhere.

23 (e) Receipts attributable to this state of a person whose  
24 business activities consist of the transportation of gas by  
25 pipeline shall be proportioned based on the ratio that the gross  
26 receipts for the 1,000 cubic feet miles transported in this state  
27 bear to the gross receipts for the 1,000 cubic feet miles



1 transported by the person everywhere.

2 (12) For purposes of subsection (11), if a taxpayer can show  
3 that revenue mile information is not available or cannot be  
4 obtained without unreasonable expense to the taxpayer, receipts  
5 attributable to this state shall be that portion of the revenue  
6 derived from transportation services everywhere performed that the  
7 miles of transportation services performed in this state bears to  
8 the miles of transportation services performed everywhere. If the  
9 department determines that the information required for the  
10 calculations under subsection (11) are not available or cannot be  
11 obtained without unreasonable expense to the taxpayer, the  
12 department may use other available information that in the opinion  
13 of the department will result in an equitable allocation of the  
14 taxpayer's receipts to this state.

15 (13) Except as provided in subsections (14) through (19),  
16 receipts from the sale of telecommunications service or mobile  
17 telecommunications service are in this state if the customer's  
18 place of primary use of the service is in this state. As used in  
19 this subsection, "place of primary use" means the customer's  
20 residential street address or primary business street address where  
21 the customer's use of the telecommunications service primarily  
22 occurs. For mobile telecommunications service, the customer's  
23 residential street address or primary business street address is  
24 the place of primary use only if it is within the licensed service  
25 area of the customer's home service provider.

26 (14) Receipts from the sale of telecommunications service sold  
27 on an individual call-by-call basis are in this state if either of

1 the following applies:

2 (a) The call both originates and terminates in this state.

3 (b) The call either originates or terminates in this state and  
4 the service address is located in this state.

5 (15) Receipts from the sale of postpaid telecommunications  
6 service are in this state if the origination point of the  
7 telecommunication signal, as first identified by the service  
8 provider's telecommunication system or as identified by information  
9 received by the seller from its service provider if the system used  
10 to transport telecommunication signals is not the seller's, is  
11 located in this state.

12 (16) Receipts from the sale of prepaid telecommunications  
13 service or prepaid mobile telecommunications service are in this  
14 state if the purchaser obtains the prepaid card or similar means of  
15 conveyance at a location in this state. Receipts from recharging a  
16 prepaid telecommunications service or mobile telecommunications  
17 service is in this state if the purchaser's billing information  
18 indicates a location in this state.

19 (17) Receipts from the sale of private communication services  
20 are in this state as follows:

21 (a) 100% of the receipts from the sale of each channel  
22 termination point within this state.

23 (b) 100% of the receipts from the sale of the total channel  
24 mileage between each termination point within this state.

25 (c) 50% of the receipts from the sale of service segments for  
26 a channel between 2 customer channel termination points, 1 of which  
27 is located in this state and the other is located outside of this

1 state, which segments are separately charged.

2 (d) The receipts from the sale of service for segments with a  
3 channel termination point located in this state and in 2 or more  
4 other states or equivalent jurisdictions, and which segments are  
5 not separately billed, are in this state based on a percentage  
6 determined by dividing the number of customer channel termination  
7 points in this state by the total number of customer channel  
8 termination points.

9 (18) Receipts from the sale of billing services and ancillary  
10 services for telecommunications service are in this state based on  
11 the location of the purchaser's customers. If the location of the  
12 purchaser's customers is not known or cannot be determined, the  
13 sale of billing services and ancillary services for  
14 telecommunications service are in this state based on the location  
15 of the purchaser.

16 (19) Receipts to access a carrier's network or from the sale  
17 of telecommunications services for resale are in this state as  
18 follows:

19 (a) 100% of the receipts from access fees attributable to  
20 intrastate telecommunications service that both originates and  
21 terminates in this state.

22 (b) 50% of the receipts from access fees attributable to  
23 interstate telecommunications service if the interstate call either  
24 originates or terminates in this state.

25 (c) 100% of the receipts from interstate end user access line  
26 charges, if the customer's service address is in this state. As  
27 used in this subdivision, "interstate end user access line charges"

1 includes, but is not limited to, the surcharge approved by the  
2 federal communications commission and levied pursuant to 47 CFR 69.

3 (d) Gross receipts from sales of telecommunications services  
4 to other telecommunication service providers for resale shall be  
5 sourced to this state using the apportionment concepts used for  
6 non-resale receipts of telecommunications services if the  
7 information is readily available to make that determination. If the  
8 information is not readily available, then the taxpayer may use any  
9 other reasonable and consistent method.

10 (20) Except as otherwise provided under this subsection, for a  
11 taxpayer whose business activities include live radio or television  
12 programming as described in subsector code 7922 of industry group  
13 792 under the standard industrial classification code as compiled  
14 by the United States department of labor or are included in  
15 industry group 483, 484, 781, or 782 under the standard industrial  
16 classification code as compiled by the United States department of  
17 labor, or any combination of the business activities included in  
18 those groups, media receipts are in this state and attributable to  
19 this state only if the commercial domicile of the customer is in  
20 this state and the customer has a direct connection or relationship  
21 with the taxpayer pursuant to a contract under which the media  
22 receipts are derived. For media receipts from the sale of  
23 advertising, if the customer of that advertising is commercially  
24 domiciled in this state and receives some of the benefit of the  
25 sale of that advertising in this state, the media receipts from the  
26 advertising to that customer are included in the numerator of the  
27 apportionment factor in proportion to the extent that the customer

1 receives the benefit of the advertising in this state. For purposes  
2 of this subsection, if the taxpayer is a broadcaster and if the  
3 customer receives some of the benefit of the advertising in this  
4 state, the media receipts for that sale of advertising from that  
5 customer shall be proportioned based on the ratio that the  
6 broadcaster's viewing or listening audience in this state bears to  
7 its total viewing or listening audience everywhere. As used in this  
8 subsection:

9 (a) "Media property" means motion pictures, television  
10 programs, internet programs and websites, other audiovisual works,  
11 and any other similar property embodying words, ideas, concepts,  
12 images, or sound without regard to the means or methods of  
13 distribution or the medium in which the property is embodied.

14 (b) "Media receipts" means receipts from the sale, license,  
15 broadcast, transmission, distribution, exhibition, or other use of  
16 media property and receipts from the sale of media services. Media  
17 receipts do not include receipts from the sale of media property  
18 that is a consumer product that is ultimately sold at retail.

19 (c) "Media services" means services in which the use of the  
20 media property is integral to the performance of those services.

21 (21) Terms used in subsections (13) through (20) have the same  
22 meaning as those terms defined in the streamlined sales and use tax  
23 agreement administered under the streamlined sales and use tax  
24 administration act, 2004 PA 174, MCL 205.801 to 205.833.

25 (22) For purposes of this section, a borrower is considered  
26 located in this state if the borrower's billing address is in this  
27 state.

1       Sec. 403. (1) Notwithstanding any other provision in this act,  
2 the credits provided in this section shall be taken before any  
3 other credit under this act. Except as otherwise provided in  
4 subsection (6), for the 2008 tax year, the total combined credit  
5 allowed under this section shall not exceed 50% of the tax  
6 liability imposed under this act before the imposition and levy of  
7 the surcharge under section 281. For the 2009 tax year and each tax  
8 year after 2009, the total combined credit allowed under this  
9 section shall not exceed 52% of the tax liability imposed under  
10 this act before the imposition and levy of the surcharge under  
11 section 281.

12       (2) Subject to the limitation in subsection (1), for the 2008  
13 tax year a taxpayer may claim a credit against the tax imposed by  
14 this act equal to 0.296% of the taxpayer's compensation in this  
15 state. For the 2009 tax year and each tax year after 2009, subject  
16 to the limitation in subsection (1), a taxpayer may claim a credit  
17 against the tax imposed by this act equal to 0.370% of the  
18 taxpayer's compensation in this state. For purposes of this  
19 subsection, a taxpayer includes a person subject to the tax imposed  
20 under chapter 2A and a person subject to the tax imposed under  
21 chapter 2B. A professional employer organization shall not include  
22 payments by the professional employer organization to the officers  
23 and employees of a client of the professional employer organization  
24 whose employment operations are managed by the professional  
25 employer organization. A client may include payments by the  
26 professional employer organization to the officers and employees of  
27 the client whose employment operations are managed by the

1 professional employer organization.

2 (3) Subject to the limitation in subsection (1), for the 2008  
3 tax year a taxpayer may claim a credit against the tax imposed by  
4 this act equal to 2.32% multiplied by the result of subtracting the  
5 sum of the amounts calculated under subdivisions (d), (e), and (f)  
6 from the sum of the amounts calculated under subdivisions (a), (b),  
7 and (c). Subject to the limitation in subsection (1), for the 2009  
8 tax year and each tax year after 2009, a taxpayer may claim a  
9 credit against the tax imposed by this act equal to 2.9% multiplied  
10 by the result of subtracting the sum of the amounts calculated  
11 under subdivisions (d), (e), and (f) from the sum of the amounts  
12 calculated under subdivisions (a), (b), and (c):

13 (a) Calculate the cost, including fabrication and  
14 installation, paid or accrued in the taxable year of tangible  
15 assets of a type that are, or under the internal revenue code will  
16 become, eligible for depreciation, amortization, or accelerated  
17 capital cost recovery for federal income tax purposes, provided  
18 that the assets are physically located in this state for use in a  
19 business activity in this state and are not mobile tangible assets.

20 (b) Calculate the cost, including fabrication and  
21 installation, paid or accrued in the taxable year of mobile  
22 tangible assets of a type that are, or under the internal revenue  
23 code will become, eligible for depreciation, amortization, or  
24 accelerated capital cost recovery for federal income tax purposes.  
25 This amount shall be multiplied by the apportionment factor for the  
26 tax year as prescribed in chapter 3.

27 (c) For tangible assets, other than mobile tangible assets,

1 purchased or acquired for use outside of this state in a tax year  
 2 beginning after December 31, 2007 and subsequently transferred into  
 3 this state and purchased or acquired for use in a business  
 4 activity, calculate the federal basis used for determining gain or  
 5 loss as of the date the tangible assets were physically located in  
 6 this state for use in a business activity plus the cost of  
 7 fabrication and installation of the tangible assets in this state.

8 (d) If the cost of tangible assets described in subdivision  
 9 (a) was paid or accrued in a tax year beginning after December 31,  
 10 2007, or before December 31, 2007 to the extent the credit is used  
 11 and at the rate at which the credit was used under former 1975 PA  
 12 228 or **TO THE EXTENT THE CREDIT WAS USED, AND AT THE RATE AT WHICH**  
 13 **THE CREDIT WAS USED UNDER** this act, calculate the gross proceeds or  
 14 benefit derived from the sale or other disposition of the tangible  
 15 assets minus the gain, multiplied by the apportionment factor for  
 16 the taxable year as prescribed in chapter 3, and plus the loss,  
 17 multiplied by the apportionment factor for the taxable year as  
 18 prescribed in chapter 3 from the sale or other disposition  
 19 reflected in federal taxable income. ~~and minus the gain from the~~  
 20 ~~sale or other disposition added to the business income tax base in~~  
 21 ~~section 201.~~

22 (e) If the cost of **MOBILE** tangible assets described in  
 23 subdivision (b) was paid or accrued in a tax year beginning after  
 24 December 31, 2007, or before December 31, 2007 to the extent the  
 25 credit is used and at the rate at which the credit was used under  
 26 former 1975 PA 228 or **TO THE EXTENT THE CREDIT WAS USED, AND AT THE**  
 27 **RATE AT WHICH THE CREDIT WAS USED UNDER** this act, calculate the



1 gross proceeds or benefit derived from the sale or other  
2 disposition of the **MOBILE** tangible assets minus the gain and plus  
3 the loss from the sale or other disposition reflected in federal  
4 taxable income. ~~and minus the gain from the sale or other~~  
5 ~~disposition added to the business income tax base in section 201.~~  
6 This amount shall be multiplied by the apportionment factor for the  
7 tax year as prescribed in chapter 3.

8 (f) For assets purchased or acquired in a tax year beginning  
9 after December 31, 2007, or before December 31, 2007 to the extent  
10 the credit is used and at the rate at which the credit was used  
11 under former 1975 PA 228 or **TO THE EXTENT THE CREDIT WAS USED, AND**  
12 **AT THE RATE AT WHICH THE CREDIT WAS USED UNDER** this act, that were  
13 eligible for a credit under subdivision (a) or (c) and that were  
14 transferred out of this state, calculate the federal basis used for  
15 determining gain or loss as of the date of the transfer. **FOR**  
16 **PURPOSES OF THIS SUBDIVISION, "TRANSFERRED OUT OF THIS STATE" MEANS**  
17 **REMOVAL FROM THIS STATE OF TANGIBLE ASSETS, OTHER THAN MOBILE**  
18 **TANGIBLE ASSETS, BY MEANS OTHER THAN SALE OR OTHER DISPOSITION.**

19 (4) For a tax year in which the amount of the credit  
20 calculated under subsection (3) is negative, the absolute value of  
21 that amount is added to the taxpayer's tax liability for the tax  
22 year.

23 (5) A taxpayer that claims a credit under this section is not  
24 prohibited from claiming a credit under section 405. However, the  
25 taxpayer shall not claim a credit under this section and section  
26 405 based on the same costs and expenses.

27 (6) For a taxpayer primarily engaged in furnishing electric

1 and gas utility service that makes capital investments in electric  
 2 and gas distribution assets for which a portion of the credit  
 3 provided under subsection (3) would be denied for the 2008 tax year  
 4 by reason of the 50% limitation of subsection (1), the 50%  
 5 limitation on the total combined credit for the 2008 tax year  
 6 provided in subsection (1) shall be increased by an amount not to  
 7 exceed the lesser of the amount of the denied credit or 50% of the  
 8 tax increase under this act accrued for financial reporting  
 9 purposes due to the elimination of the deduction under section  
 10 168(k) of the internal revenue code by ~~the amendatory act that~~  
 11 ~~added this subsection.~~ **2008 PA 434.** Provided, however, that the  
 12 total combined credit allowed under this section for the 2008 tax  
 13 year shall not exceed 80% of the tax liability imposed under this  
 14 act after the imposition and levy of the surcharge under section  
 15 281.

16       Sec. 433. (1) A taxpayer that is a business located and  
 17 conducting business activity within a renaissance zone may claim a  
 18 credit against the tax imposed by this act for the tax year to the  
 19 extent and for the duration provided pursuant to the Michigan  
 20 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, ~~equal~~  
 21 ~~to the lesser of the following~~ **AS FOLLOWS:**

22       **(A) EXCEPT AS OTHERWISE PROVIDED UNDER SUBDIVISION (B), FOR A**  
 23 **TAXPAYER LOCATED AND CONDUCTING BUSINESS ACTIVITY IN A RENAISSANCE**  
 24 **ZONE AFTER NOVEMBER 30, 2002, A CREDIT EQUAL TO THE LESSER OF THE**  
 25 **FOLLOWING:**

26       **(i)** ~~(a)~~ The tax liability attributable to business activity  
 27 conducted within a renaissance zone in the tax year.

1           (ii) ~~(b)~~ Ten percent of adjusted services performed in a  
2 designated renaissance zone.

3           (B) ~~(c)~~ For a taxpayer located and conducting business  
4 activity in a renaissance zone before December 31-1, 2002, ~~the A~~

5 CREDIT EQUAL TO THE GREATER OF THE FOLLOWING:

6           (i) THE AMOUNT CALCULATED UNDER SUBDIVISION (A) (i) OR (ii) ,  
7 WHICHEVER IS LESS.

8           (ii) THE product of the following:

9           (A) ~~(i)~~ The credit claimed under section 39b of former 1975 PA  
10 228 for the tax year ending in 2007.

11           (B) ~~(ii)~~ The ratio of the taxpayer's payroll in this state in  
12 the tax year divided by the taxpayer's payroll in this state in its  
13 tax year ending in 2007 under former 1975 PA 228.

14           (C) ~~(iii)~~ The ratio of the taxpayer's renaissance zone business  
15 activity factor for the tax year divided by the taxpayer's  
16 renaissance zone business activity factor for its tax year ending  
17 in 2007 under section 39b of former 1975 PA 228.

18           (2) Any portion of the taxpayer's tax liability that is  
19 attributable to illegal activity conducted in the renaissance zone  
20 shall not be used to calculate a credit under this section.

21           (3) The credit allowed under this section continues through  
22 the tax year in which the renaissance zone designation expires.

23           (4) If the amount of the credit allowed under this section  
24 exceeds the tax liability of the taxpayer for the tax year, that  
25 portion of the credit that exceeds the tax liability shall not be  
26 refunded.

27           (5) A taxpayer that claims a credit under this section shall

1 not employ, pay a speaker fee to, or provide any remuneration,  
2 compensation, or consideration to any person employed by the state,  
3 the state administrative board created in 1921 PA 2, MCL 17.1 to  
4 17.3, or the renaissance zone review board created in **SECTION 5 OF**  
5 **THE RENAISSANCE ZONE ACT**, 1996 PA 376, MCL ~~125.2681 to 125.2696,~~  
6 **125.2685**, whose employment relates or related in any way to the  
7 authorization or enforcement of the credit allowed under this  
8 section for any year in which the taxpayer claims a credit under  
9 this section and for the 3 years after the last year that a credit  
10 is claimed.

11 (6) To be eligible for the credit allowed under this section,  
12 an otherwise qualified taxpayer shall file an annual return under  
13 this act in a format determined by the department.

14 (7) Any portion of the taxpayer's tax liability that is  
15 attributable to business activity related to the operation of a  
16 casino, and business activity that is associated or affiliated with  
17 the operation of a casino, including, but not limited to, the  
18 operation of a parking lot, hotel, motel, or retail store, shall  
19 not be used to calculate a credit under this section.

20 (8) For purposes of this section, taxpayer includes a person  
21 subject to the tax imposed under ~~chapters~~ **CHAPTER 2A** and **A PERSON**  
22 **SUBJECT TO THE TAX IMPOSED UNDER CHAPTER 2B.**

23 (9) As used in this section:

24 (a) "Adjusted services performed in a designated renaissance  
25 zone" means either of the following:

26 (i) Except as provided in subparagraph (ii), the sum of the  
27 taxpayer's payroll for services performed in a designated

1 renaissance zone plus an amount equal to the amount deducted in  
2 arriving at federal taxable income for the tax year for  
3 depreciation, amortization, or immediate or accelerated write-off  
4 for tangible property exempt under section 7ff of the general  
5 property tax act, 1893 PA 206, MCL 211.7ff, in the tax year or, for  
6 new property, in the immediately following tax year.

7 (ii) For a partnership, limited liability company, S  
8 corporation, or individual, the amount determined under  
9 subparagraph (i) plus the product of the following as related to the  
10 taxpayer if greater than zero:

11 (A) Business income.

12 (B) The ratio of the taxpayer's total sales in this state  
13 during the tax year divided by the taxpayer's total sales  
14 everywhere during the tax year.

15 (C) The renaissance zone business activity factor.

16 (b) "Casino" means a casino regulated by this state pursuant  
17 to the Michigan gaming control and revenue act, 1996 IL 1, MCL  
18 432.201 to 432.226.

19 (c) "New property" means property that has not been subject  
20 to, or exempt from, the collection of taxes under the general  
21 property tax act, 1893 PA 206, MCL 211.1 to ~~211.157~~, **211.155**, and  
22 has not been subject to, or exempt from, ad valorem property taxes  
23 levied in another state, except that receiving an exemption as  
24 inventory property does not disqualify property.

25 (d) "Payroll" means total salaries and wages before deducting  
26 any personal or dependency exemptions.

27 (e) "Renaissance zone" means that term as defined in the

1 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
2 125.2696.

3 (f) "Renaissance zone business activity factor" means a  
4 fraction, the numerator of which is the ratio of the average value  
5 of the taxpayer's property located in a designated renaissance zone  
6 to the average value of the taxpayer's property in this state plus  
7 the ratio of the taxpayer's payroll for services performed in a  
8 designated renaissance zone to all of the taxpayer's payroll in  
9 this state and the denominator of which is 2.

10 (g) "Tax liability attributable to business activity conducted  
11 within a renaissance zone" means the taxpayer's tax liability  
12 multiplied by the renaissance zone business activity factor.

13 **SEC. 508. (1) IF, AS A RESULT OF THE CHANGES ENACTED BY THE**  
14 **AMENDATORY ACT THAT ADDED THIS SECTION, A TAXPAYER HAS AN**  
15 **OVERPAYMENT OF TAX FOR ANY TAX YEAR BEGINNING AFTER DECEMBER 31,**  
16 **2009 THROUGH THE TAX YEAR BEGINNING AFTER DECEMBER 31, 2013, THE**  
17 **TAXPAYER SHALL, IN ACCORDANCE WITH SECTIONS 27A AND 30 OF 1941 PA**  
18 **122, MCL 205.27A AND 205.30, FILE A CLAIM FOR A REFUND, ON OR AFTER**  
19 **JANUARY 1, 2015 BUT NO LATER THAN DECEMBER 31, 2015, USING A FORM,**  
20 **PROCESS, OR FORMAT AS PRESCRIBED BY THE DEPARTMENT. A CLAIM FILED**  
21 **PURSUANT TO THIS SECTION IS LIMITED TO THE DETERMINATION OF ANY TAX**  
22 **LIABILITY AND ANY OVERPAYMENT RESULTING FROM THE CHANGES ENACTED BY**  
23 **THE AMENDATORY ACT THAT ADDED THIS SECTION. INTEREST SHALL BE**  
24 **CALCULATED IN ACCORDANCE WITH SECTION 23 OF 1941 PA 122, MCL**  
25 **205.23. ANY REFUND PAID UNDER THIS SECTION SHALL BE PAID IN EQUAL**  
26 **ANNUAL PAYMENTS OVER 6 YEARS BEGINNING IN 2016.**

27 (2) NOTWITHSTANDING SECTION 21(6) AND (7) OF 1941 PA 122, MCL

1 205.21, AND THE STATUTE OF LIMITATIONS PERIOD PRESCRIBED UNDER  
2 SECTION 27A(2) OF 1941 PA 122, MCL 205.27A, THE DEPARTMENT MAY  
3 ASSESS A TAXPAYER THAT CLAIMED A REFUND PURSUANT TO THIS SECTION  
4 FOR ANY AMOUNT DETERMINED AFTER AUDIT OR INVESTIGATION TO HAVE  
5 EXCEEDED THE PROPER AND CORRECT AMOUNT OF OVERPAYMENT RESULTING  
6 FROM THE CHANGES ENACTED BY THE AMENDATORY ACT THAT ADDED THIS  
7 SECTION. THE ASSESSMENT ISSUED UNDER THIS SUBSECTION SHALL NOT BE  
8 ISSUED MORE THAN 4 YEARS AFTER THE DATE THE TAXPAYER FILED ITS  
9 CLAIM UNDER THIS SECTION AND SHALL BE LIMITED TO THE CHANGES  
10 ENACTED BY THE AMENDATORY ACT THAT ADDED THIS SECTION.

11 (3) THERE IS APPROPRIATED TO THE DEPARTMENT FOR THE 2014-2015  
12 STATE FISCAL YEAR THE SUM OF \$1,000,000.00 TO BEGIN IMPLEMENTING  
13 THE REQUIREMENTS OF THE AMENDATORY ACT THAT ADDED THIS SECTION. ANY  
14 PORTION OF THIS AMOUNT UNDER THIS SECTION THAT IS NOT EXPENDED IN  
15 THE 2014-2015 STATE FISCAL YEAR SHALL NOT LAPSE TO THE GENERAL FUND  
16 BUT SHALL BE CARRIED FORWARD IN A WORK PROJECT ACCOUNT THAT IS IN  
17 COMPLIANCE WITH SECTION 451A OF THE MANAGEMENT AND BUDGET ACT, 1984  
18 PA 431, MCL 18.1451A, FOR THE FOLLOWING STATE FISCAL YEAR.

19 Enacting section 1. 1969 PA 343, MCL 205.581 to 205.589, is  
20 repealed retroactively and effective beginning January 1, 2008. It  
21 is the intent of the legislature that the repeal of 1969 PA 343,  
22 MCL 205.581 to 205.589, is to express the original intent of the  
23 legislature regarding the application of section 301 of the  
24 Michigan business tax act, 2007 PA 36, MCL 208.1301, and the  
25 intended effect of that section to eliminate the election provision  
26 included within section 1 of 1969 PA 343, MCL 205.581, and that the  
27 2011 amendatory act that amended section 1 of 1969 PA 343, MCL

Senate Bill No. 156 (H-1) as amended September 9, 2014

1 205.581, was to further express the original intent of the  
2 legislature regarding the application of section 301 of the  
3 Michigan business tax act, 2007 PA 36, MCL 208.1301, and to clarify  
4 that the election provision included within section 1 of [1969 PA 343  
5 ], MCL 205.581, is not available under the income tax act of  
6 1967, 1967 PA 281, MCL 206.1 to 206.713.

7 Enacting section 2. This amendatory act is retroactive and is  
8 effective for tax years beginning on and after January 1, 2010.