

HOUSE BILL No. 5011

September 26, 2013, Introduced by Rep. Haugh and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 673 (MCL 206.673), as added by 2011 PA 181.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 673. (1) A taxpayer that has claimed a credit under
2 former 1975 PA 228 or under the Michigan business tax act, 2007 PA
3 36, MCL 208.1101 to 208.1601, that included a provision that
4 allowed for a reduction in the credit amount, a termination of the
5 credit, or a percentage of the credit amount previously claimed
6 added back to the tax liability of that taxpayer under that act if
7 the taxpayer failed to comply with any terms of the agreement or
8 other conditions of that credit or if the taxpayer sells or
9 otherwise moves the property for which a credit was claimed less

1 than 5 years after the year in which the credit was originally
2 claimed under former 1975 PA 228 or the Michigan business tax act,
3 2007 PA 36, MCL 208.1101 to 208.1601, shall have a percentage, or
4 the entire amount, of the credit amount previously claimed under
5 former 1975 PA 228 or the Michigan business tax act, 2007 PA 36,
6 MCL 208.1101 to 208.1601, added back to the taxpayer's tax
7 liability under this act in the year that the taxpayer failed to
8 satisfy or breached the conditions of that credit set forth under
9 former 1975 PA 228 or the Michigan business tax act, 2007 PA 36,
10 MCL 208.1101 to 208.1601.

11 (2) A taxpayer that has claimed a credit under section 35a of
12 former 1975 PA 228 or under section 403 of the Michigan business
13 tax act, 2007 PA 36, MCL 208.1403, for a tangible asset that the
14 taxpayer has sold, transferred out of this state, or otherwise
15 disposed of during the current tax year shall to the extent the
16 credit was used, and at the rate at which the credit was used,
17 ~~under former 1975 PA 228 or at the rate at which the credit was~~
18 ~~used under section 403 of the Michigan business tax act, 2007 PA~~
19 ~~36, MCL 208.1403,~~ have an amount equal to the sum of the amounts
20 calculated under subdivisions (a) ~~, AND~~ (b) ~~, and (c)~~ added back to
21 the taxpayer's liability under this act for that same tax year:

22 (a) Calculate the gross proceeds or benefit derived from the
23 sale or other disposition of tangible assets, other than mobile
24 tangible assets, minus the gain, multiplied by the apportionment
25 factor for the taxable year as prescribed in chapter 14, and plus
26 the loss, multiplied by the apportionment factor for the taxable
27 year as prescribed in chapter 14 from the sale or other disposition

1 reflected in federal taxable income. ~~and minus the gain from the~~
2 ~~sale or other disposition added to the corporate income tax base in~~
3 ~~section 623.~~

4 (b) Calculate the gross proceeds or benefit derived from the
5 sale or other disposition of mobile tangible assets minus the gain
6 and plus the loss from the sale or other disposition reflected in
7 federal taxable income. ~~and minus the gain from the sale or other~~
8 ~~disposition added to the corporate income tax base in section 623.~~

9 This amount shall be multiplied by the apportionment factor for the
10 tax year as prescribed in chapter 14.

11 (3) ~~(c) Calculate~~ **A TAXPAYER THAT HAS CLAIMED A CREDIT UNDER**
12 **SECTION 35A OF FORMER 1975 PA 228 OR UNDER SECTION 403 OF THE**
13 **MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1403, FOR A TANGIBLE**
14 **ASSET THAT THE TAXPAYER HAS SOLD, TRANSFERRED OUT OF THIS STATE, OR**
15 **OTHERWISE DISPOSED OF DURING THE CURRENT TAX YEAR SHALL TO THE**
16 **EXTENT THE CREDIT WAS USED, AND AT THE RATE AT WHICH THE CREDIT WAS**
17 **USED, CALCULATE** the federal basis used for determining gain or loss
18 as of the date of the transfer of tangible assets other than mobile
19 tangible assets **AND ADD THAT AMOUNT BACK TO THE TAXPAYER'S**
20 **LIABILITY UNDER THIS ACT FOR THAT SAME TAX YEAR.**

21 Enacting section 1. This amendatory act is retroactive and
22 effective for tax years beginning after December 31, 2011.