

SENATE BILL No. 429

June 13, 2013, Introduced by Senators CASPERSON, COLBECK, ROBERTSON, PAVLOV, BRANDENBURG, JONES, GREEN, KOWALL and PAPPAGEORGE and referred to the Committee on Economic Development.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending sections 107 and 433 (MCL 208.1107 and 208.1433),
section 107 as amended by 2011 PA 292 and section 433 as amended by
2007 PA 215.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 107. (1) "Certificated credit" means any of the
2 following:

3 (a) A tax voucher certificate that has been issued to a
4 taxpayer under an agreement entered into before January 1, 2012
5 under section 419 or section 23 of the Michigan early stage venture
6 investment act of 2003, 2003 PA 296, MCL 125.2253.

7 (b) A credit for which a preapproval letter has been issued to
8 a qualified taxpayer under section 437 before January 1, 2012 to
9 the extent the credit has not been fully claimed or paid prior to

1 January 1, 2012.

2 (c) Except as otherwise provided under subdivision (i), a
3 credit or voucher certificate for which a taxpayer or a qualified
4 taxpayer has entered into an agreement with the Michigan economic
5 growth authority under sections 430, 431, 431a, 431b, 431c, 432,
6 434, or 450 before January 1, 2012 to the extent the credit or
7 voucher certificate has not been fully claimed or paid prior to
8 January 1, 2012.

9 (d) A credit for which a taxpayer or eligible production
10 company has entered into an agreement with the Michigan film office
11 with the concurrence of the state treasurer under section 455 or
12 457 before January 1, 2012 to the extent the credit has not been
13 fully claimed or paid before January 1, 2012.

14 (e) A credit for which a qualified taxpayer has received a
15 part 2 approval, approved rehabilitation plan, approved high
16 community impact rehabilitation plan, or preapproval letter from
17 the state historic preservation office under section 435 before
18 January 1, 2012 to the extent the credit has not been fully claimed
19 or paid before January 1, 2012.

20 (f) A credit under section 433 but only for a taxpayer that
21 has a development agreement executed between a taxpayer and the
22 Michigan strategic fund before January 1, 2012, ~~or~~ for a taxpayer
23 that has entered into a qualified collaborative agreement under the
24 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
25 125.2696, before January 1, 2012, **OR FOR A TAXPAYER THAT HAS**
26 **ENTERED INTO A DEVELOPMENT AGREEMENT UNDER SECTION 8I OF THE**
27 **MICHIGAN RENAISSANCE ZONE ACT, 1996 PA 376, MCL 125.2688I.** As used

1 in this subsection, "qualified collaborative agreement" means that
2 term as defined in section 8d of the Michigan renaissance zone act,
3 1996 PA 376, MCL 125.2688d.

4 (g) A credit applicable to this act granted under section
5 36109 of the natural resources and environmental protection act,
6 1994 PA 451, MCL 324.36109.

7 (h) A credit allowed a taxpayer under section 409 if the
8 taxpayer has met the capital expenditure requirements under section
9 409(4).

10 (i) A credit for which a taxpayer has entered into an
11 agreement with the Michigan economic growth authority under section
12 434(6) before July 1, 2012.

13 (2) "Client" means an entity whose employment operations are
14 managed by a professional employer organization.

15 (3) "Compensation" means all wages, salaries, fees, bonuses,
16 commissions, other payments made in the tax year on behalf of or
17 for the benefit of employees, officers, or directors of the
18 taxpayers, and any earnings that are net earnings from self-
19 employment as defined under section 1402 of the internal revenue
20 code of the taxpayer or a partner or limited liability company
21 member of the taxpayer. Compensation includes, but is not limited
22 to, payments that are subject to or specifically exempt or excepted
23 from withholding under sections 3401 to 3406 of the internal
24 revenue code. Compensation also includes, on a cash or accrual
25 basis consistent with the taxpayer's method of accounting for
26 federal income tax purposes, payments to a pension, retirement, or
27 profit sharing plan other than those payments attributable to

1 unfunded accrued actuarial liabilities, and payments for insurance
2 for which employees are the beneficiaries, including payments under
3 health and welfare and noninsured benefit plans and payment of fees
4 for the administration of health and welfare and noninsured benefit
5 plans. Compensation for a taxpayer licensed under article 25 or 26
6 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and
7 339.2601 to 339.2637, includes payments to an independent
8 contractor licensed under article 25 or 26 of the occupational
9 code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to
10 339.2637. Compensation does not include any of the following:

11 (a) Discounts on the price of the taxpayer's merchandise or
12 services sold to the taxpayer's employees, officers, or directors
13 that are not available to other customers.

14 (b) Except as otherwise provided in this subsection, payments
15 to an independent contractor.

16 (c) Payments to state and federal unemployment compensation
17 funds.

18 (d) The employer's portion of payments under the federal
19 insurance contributions act, chapter 21 of subtitle C of the
20 internal revenue code, 26 USC 3101 to 3128, the railroad retirement
21 tax act, chapter 22 of subtitle C of the internal revenue code, 26
22 USC 3201 to 3233, and similar social insurance programs.

23 (e) Payments, including self-insurance payments, for worker's
24 compensation insurance or federal employers' liability act
25 insurance pursuant to 45 USC 51 to 60.

26 (4) "Corporation" means a taxpayer that is required or has
27 elected to file as a corporation under the internal revenue code.

1 (5) "Department" means the department of treasury.

2 Sec. 433. (1) A taxpayer that is a business located and
3 conducting business activity within a renaissance zone may claim a
4 credit against the tax imposed by this act for the tax year to the
5 extent and for the duration provided pursuant to the Michigan
6 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, equal
7 to the lesser of the following:

8 (a) The tax liability attributable to business activity
9 conducted within a renaissance zone in the tax year.

10 (b) Ten percent of adjusted services performed in a designated
11 renaissance zone.

12 (c) For a taxpayer located and conducting business activity in
13 a renaissance zone before December 31, 2002, the product of the
14 following:

15 (i) The credit claimed under section 39b of former 1975 PA 228
16 for the tax year ending in 2007.

17 (ii) The ratio of the taxpayer's payroll in this state in the
18 tax year divided by the taxpayer's payroll in this state in its tax
19 year ending in 2007 under former 1975 PA 228.

20 (iii) The ratio of the taxpayer's renaissance zone business
21 activity factor for the tax year divided by the taxpayer's
22 renaissance zone business activity factor for its tax year ending
23 in 2007 under section 39b of former 1975 PA 228.

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

27 (3) The credit allowed under this section continues through

1 the tax year in which the renaissance zone designation expires.

2 (4) If the amount of the credit allowed under this section
3 exceeds the tax liability of the taxpayer for the tax year, that
4 portion of the credit that exceeds the tax liability shall not be
5 refunded.

6 (5) A taxpayer that claims a credit under this section shall
7 not employ, pay a speaker fee to, or provide any remuneration,
8 compensation, or consideration to any person employed by the state,
9 the state administrative board created in 1921 PA 2, MCL 17.1 to
10 17.3, or the renaissance zone review board created in 1996 PA 376,
11 MCL 125.2681 to 125.2696, whose employment relates or related in
12 any way to the authorization or enforcement of the credit allowed
13 under this section for any year in which the taxpayer claims a
14 credit under this section and for the 3 years after the last year
15 that a credit is claimed.

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

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

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

(9) As used in this section:

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

(i) Except as provided in subparagraph (ii), the sum of the taxpayer's payroll for services performed in a designated renaissance zone plus an amount equal to the amount deducted in arriving at federal taxable income for the tax year for depreciation, amortization, or immediate or accelerated write-off for tangible property exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, in the tax year or, for new property, in the immediately following tax year.

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

(A) Business income.

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

(C) The renaissance zone business activity factor.

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

(c) "New property" means property that has not been subject to, or exempt from, the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to ~~211.157~~, **211.155**, and has not been subject to, or exempt from, ad valorem property taxes

1 levied in another state, except that receiving an exemption as
2 inventory property does not disqualify property.

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

5 (e) "Renaissance zone" means that term as defined in the
6 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
7 125.2696.

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

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

18 Enacting section 1. This amendatory act does not take effect
19 unless Senate Bill No. 430

20 of the 97th Legislature is enacted into law.