

SENATE BILL No. 1162

(As amended December 8, 2016)

November 10, 2016, Introduced by Senator BRANDENBURG and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 680 (MCL 206.680), as amended by 2012 PA 70.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 680. (1) Notwithstanding any other provision of this
2 part, except as otherwise provided in subsection (2) for a
3 certificated credit under section 435 or 437 of the Michigan
4 business tax act, 2007 PA 36, MCL 208.1435 and 208.1437, **OR IN**
5 **SUBSECTION (5) FOR A CERTIFICATED CREDIT UNDER SECTION 431, <<432,>> 435,**
6 **437 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1431,**
7 **208.1435, AND 208.1437,** a taxpayer that has been approved to
8 receive, has received, or has been assigned a certificated credit
9 that has not been fully claimed or paid prior to January 1, 2012
10 may, for the taxpayer's first tax year ending after December 31,
11 2011 only, elect to file a return and pay the tax imposed by the

Senate Bill No. 1162 as amended December 8, 2016

1 Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in
2 lieu of the tax imposed by this part. An election under this
3 subsection shall continue for the period prescribed in section
4 500(1) of the Michigan business tax act, 2007 PA 36, MCL 208.1500.

5 (2) A taxpayer with a certificated credit under section 435 or
6 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1435 and
7 208.1437, which certificated credit may be claimed in a tax year
8 ending after December 31, 2011 may elect to pay the tax imposed by
9 the Michigan business tax act, 2007 PA 36, MCL 208.1101 to
10 208.1601, in the tax year in which that certificated credit or any
11 unused carryforward may be claimed in lieu of the tax imposed by
12 this part.

13 (3) A taxpayer that is a member of a unitary business group
14 and that has a certificated credit under sections 431 and 434(2)
15 and (5) of the Michigan business tax act, 2007 PA 36, MCL 208.1431
16 and 208.1434, is not required to file a combined return as a
17 unitary business group and may elect to file a separate return and
18 pay the tax, if any, under the Michigan business tax act, 2007 PA
19 36, MCL 208.1101 to 208.1601.

20 (4) A taxpayer that elects to pay the tax imposed by the
21 Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601,
22 under this section is not required to file an annual return under
23 this part.

24 (5) IF A TAXPAYER ACQUIRES BY <<REORGANIZATION IN ACCORDANCE WITH
25 SECTION 708(B) (2) OR SECTIONS 368(A) (1) AND 304(C) OF THE INTERNAL
26 REVENUE CODE OR BY>> MERGER ALL RIGHTS, PRIVILEGES,
27 AND LIABILITIES OF ANOTHER PERSON OR MEMBER OF ANOTHER UNITARY
BUSINESS GROUP THAT HAS BEEN APPROVED TO RECEIVE, HAS RECEIVED, OR
HAS BEEN ASSIGNED A CERTIFICATED CREDIT UNDER SECTION 431, <<432,>> 435,
OR

Senate Bill No. 1162 as amended December 8, 2016

437 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1431,
208.1435, AND 208.1437, THAT HAS NOT BEEN FULLY CLAIMED OR PAID
PRIOR TO THE EFFECTIVE DATE OF THE <<REORGANIZATION OR>> MERGER, AND
THAT PERSON HAS
FILED A RETURN OR HAS BEEN INCLUDED IN A COMBINED RETURN FILED BY
ANOTHER UNITARY BUSINESS GROUP AND PAID THE TAX IMPOSED BY THE
MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1101 TO 208.1601,
FOR A TAX YEAR ENDING AFTER DECEMBER 31, 2011, IN LIEU OF THE TAX
IMPOSED BY THIS PART, IN ORDER TO CLAIM THAT CERTIFICATED CREDIT,
THEN THE ACQUIRING TAXPAYER MAY, ONLY FOR THE FIRST TAX YEAR ENDING
AFTER THE EFFECTIVE DATE OF THE ACQUISITION OF THE CERTIFICATED
CREDIT OR CREDITS RESULTING FROM THE <<REORGANIZATION OR>> MERGER,
ELECT TO PAY THE TAX
IMPOSED BY THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1101
TO 208.1601, IN LIEU OF THE TAX IMPOSED BY THIS PART. A TAXPAYER
THAT ELECTS UNDER THIS SUBSECTION TO PAY THE TAX IMPOSED BY THE
MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1101 TO 208.1601,
FOR A TAX YEAR ENDING BEFORE THE ENACTMENT DATE OF THE AMENDATORY
ACT THAT ADDED THIS SUBSECTION AND FOR WHICH THE TAXPAYER HAS
ALREADY FILED A RETURN UNDER THIS PART SHALL FILE AN AMENDED RETURN
FOR THAT TAX YEAR AND EACH TAX YEAR THEREAFTER, IF APPLICABLE, AND
FILE AN ORIGINAL RETURN AS PROVIDED UNDER SECTION 505 OF THE
MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1505. AN ELECTION
UNDER THIS SUBSECTION SHALL CONTINUE FOR THE PERIOD PRESCRIBED IN
SECTION 500 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL
208.1500.

(6) ~~(5)~~As used in this section, "certificated credit" means
that term as defined in section 107 of the Michigan business tax
act, 2007 PA 36, MCL 208.1107.

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

3 Enacting section 2. This amendatory act does not take effect
4 unless House Bill No. 5558 of the 98th Legislature is enacted into
5 law.