

HOUSE BILL No. 6575

December 4, 2018, Introduced by Rep. Tedder and referred to the Committee on Tax Policy.

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, 435, OR**
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,

1 2011 only, elect to file a return and pay the tax imposed by the
2 Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in
3 lieu of the tax imposed by this part. An election under this
4 subsection shall continue for the period prescribed in section
5 500(1) of the Michigan business tax act, 2007 PA 36, MCL 208.1500.

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

14 (3) A taxpayer that is a member of a unitary business group
15 and that has a certificated credit under sections 431 and 434(2)
16 and (5) of the Michigan business tax act, 2007 PA 36, MCL 208.1431
17 and 208.1434, is not required to file a combined return as a
18 unitary business group and may elect to file a separate return and
19 pay the tax, if any, under the Michigan business tax act, 2007 PA
20 36, MCL 208.1101 to 208.1601.

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

25 **(5) IF A TAXPAYER ACQUIRES THE RIGHTS, PRIVILEGES, ASSETS, OR**
26 **LIABILITIES OF ANOTHER PERSON OR MEMBER OF ANOTHER UNITARY BUSINESS**
27 **GROUP THAT HAS BEEN APPROVED TO RECEIVE, HAS RECEIVED, OR HAS BEEN**

1 ASSIGNED A CERTIFICATED CREDIT UNDER SECTION 431, 435, OR 437 OF
2 THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1431, 208.1435,
3 AND 208.1437, THAT HAS NOT BEEN FULLY CLAIMED OR PAID PRIOR TO THE
4 EFFECTIVE DATE OF THE TRANSACTION, AND THAT PERSON HAS FILED A
5 RETURN OR HAS BEEN INCLUDED IN A COMBINED RETURN FILED BY ANOTHER
6 UNITARY BUSINESS GROUP AND PAID THE TAX IMPOSED BY THE MICHIGAN
7 BUSINESS TAX ACT, 2007 PA 36, MCL 208.1101 TO 208.1601, FOR A TAX
8 YEAR ENDING AFTER DECEMBER 31, 2011, IN LIEU OF THE TAX IMPOSED BY
9 THIS PART, IN ORDER TO CLAIM THAT CERTIFICATED CREDIT, THEN THE
10 ACQUIRING TAXPAYER MAY, ONLY FOR THE FIRST TAX YEAR ENDING AFTER
11 THE EFFECTIVE DATE OF THE ACQUISITION OF THE CERTIFICATED CREDIT OR
12 CREDITS RESULTING FROM THE TRANSACTION, ELECT TO PAY THE TAX
13 IMPOSED BY THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1101
14 TO 208.1601, IN LIEU OF THE TAX IMPOSED BY THIS PART. IF THE
15 MICHIGAN ECONOMIC GROWTH AUTHORITY OR ITS SUCCESSOR DETERMINES THAT
16 THE TRANSFER OF THE CREDIT REDUCES THE NET LIABILITY TO THIS STATE.
17 A TAXPAYER THAT ELECTS UNDER THIS SUBSECTION TO PAY THE TAX IMPOSED
18 BY THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1101 TO
19 208.1601, FOR A TAX YEAR ENDING BEFORE THE ENACTMENT DATE OF THE
20 AMENDATORY ACT THAT ADDED THIS SUBSECTION AND FOR WHICH THE
21 TAXPAYER HAS ALREADY FILED A RETURN UNDER THIS PART SHALL FILE AN
22 AMENDED RETURN FOR THAT TAX YEAR AND EACH TAX YEAR THEREAFTER, IF
23 APPLICABLE, AND FILE AN ORIGINAL RETURN AS PROVIDED UNDER SECTION
24 505 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1505. AN
25 ELECTION UNDER THIS SUBSECTION SHALL CONTINUE FOR THE PERIOD
26 PRESCRIBED IN SECTION 500 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA
27 36, MCL 208.1500.

1 **(6)** ~~(5)~~ As used in this section, "certificated credit" means
2 that term as defined in section 107 of the Michigan business tax
3 act, 2007 PA 36, MCL 208.1107.

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

6 Enacting section 2. This amendatory act does not take
7 effect unless all of the following bills of the 99th Legislature
8 are enacted into law:

9 (a) Senate Bill No. _____ or House Bill No. 6577 (request no.
10 01573'17 *).

11 (b) Senate Bill No. _____ or House Bill No. 6576 (request no.
12 01574'17 *).

13 (c) Senate Bill No. _____ or House Bill No. 6574 (request no.
14 05854'17 *).