

# HOUSE BILL NO. 4191

February 14, 2019, Introduced by Reps. Coleman, Webber and Sheppard 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,**

1 **208.1435, and 208.1437**, a taxpayer that has been approved to  
2 receive, has received, or has been assigned a certificated credit  
3 that has not been fully claimed or paid prior to January 1, 2012  
4 may, for the taxpayer's first tax year ending after December 31,  
5 2011 only, elect to file a return and pay the tax imposed by the  
6 Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in  
7 lieu of the tax imposed by this part. An election under this  
8 subsection shall continue for the period prescribed in section  
9 500(1) of the Michigan business tax act, 2007 PA 36, MCL 208.1500.

10 (2) A taxpayer with a certificated credit under section 435 or  
11 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1435 and  
12 208.1437, which certificated credit may be claimed in a tax year  
13 ending after December 31, 2011 may elect to pay the tax imposed by  
14 the Michigan business tax act, 2007 PA 36, MCL 208.1101 to  
15 208.1601, in the tax year in which that certificated credit or any  
16 unused carryforward may be claimed in lieu of the tax imposed by  
17 this part.

18 (3) A taxpayer that is a member of a unitary business group  
19 and that has a certificated credit under sections 431 and 434(2)  
20 and (5) of the Michigan business tax act, 2007 PA 36, MCL 208.1431  
21 and 208.1434, is not required to file a combined return as a  
22 unitary business group and may elect to file a separate return and  
23 pay the tax, if any, under the Michigan business tax act, 2007 PA  
24 36, MCL 208.1101 to 208.1601.

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

29 **(5) If a taxpayer acquires the rights, privileges, assets, or**

1 liabilities of another person or member of another unitary business  
2 group that has been approved to receive, has received, or has been  
3 assigned a certificated credit under section 431, 435, or 437 of  
4 the Michigan business tax act, 2007 PA 36, MCL 208.1431, 208.1435,  
5 and 208.1437, that has not been fully claimed or paid prior to the  
6 effective date of the transaction, and that person has filed a  
7 return or has been included in a combined return filed by another  
8 unitary business group and paid the tax imposed by the Michigan  
9 business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for a tax  
10 year ending after December 31, 2011, in lieu of the tax imposed by  
11 this part, in order to claim that certificated credit, then the  
12 acquiring taxpayer may, only for the first tax year ending after  
13 the effective date of the acquisition of the certificated credit or  
14 credits resulting from the transaction, elect to pay the tax  
15 imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101  
16 to 208.1601, in lieu of the tax imposed by this part as long as the  
17 Michigan economic growth authority or its successor determines that  
18 the transfer of the credit reduces the net liability to this state.  
19 A taxpayer that elects under this subsection to pay the tax imposed  
20 by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to  
21 208.1601, for a tax year ending before the enactment date of the  
22 amendatory act that added this subsection and for which the  
23 taxpayer has already filed a return under this part shall file an  
24 amended return for that tax year and each tax year thereafter, if  
25 applicable, and file an original return as provided under section  
26 505 of the Michigan business tax act, 2007 PA 36, MCL 208.1505. An  
27 election under this subsection shall continue for the period  
28 prescribed in section 500 of the Michigan business tax act, 2007 PA  
29 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 effect  
7       unless all of the following bills of the 100th Legislature are  
8       enacted into law:

9       (a) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
10      00134'19).

11      (b) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
12      00193'19).