INCOME TAX ACT OF 1967 (EXCERPT)
Act 281 of 1967

PART 3

CHAPTER 17

206.701 Definitions.

Sec. 701. As used in this chapter:

(a) "Casino" means that term as defined in section 110.

(b) "Casino licensee" means a person licensed to operate a casino under the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.201 to 432.226.

(c) "Eligible production company" means that term as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

(d) "Flow-through entity" means an entity that for the applicable tax year is treated as an S corporation under section 1362(a) of the internal revenue code, a general partnership, a limited partnership, a limited liability partnership, or a limited liability company, that for the applicable tax year is not taxed as a corporation for federal income tax purposes. Flow-through entity does not include any entity disregarded or treated as a corporation under section 699.

(e) "Member" means a shareholder of an S corporation, a partner in a general partnership, a limited partnership, or a limited liability partnership, a member of a limited liability company, or a beneficiary of a trust, that is a flow-through entity.

(f) "Nonresident" means an individual who is not a resident of or domiciled in this state, a business entity that does not have its commercial domicile in this state, or a trust not organized in this state.

(g) "Partnership" means a taxpayer that is required to or has elected to file as a partnership for federal income tax purposes.

(h) "Publicly traded partnership" means that term as defined under section 7704 of the internal revenue code.

(i) "Race meeting licensee" and "track licensee" mean a person to whom a race meeting license or track license is issued pursuant to section 8 of the horse racing law of 1995, 1995 PA 279, MCL 431.308.

(j) "S corporation" means a corporation electing taxation under sections 1361 to 1379 of the internal revenue code.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 194, Eff. Jan. 1, 2012;—Am. 2011, Act 311, Eff. Jan. 1, 2012;—Am. 2022, Act 148, Imd. Eff. July 19, 2022;—Am. 2024, Act 177, Imd. Eff. Dec. 23, 2024.

Compiler's note: This section was assigned the compilation number "206.701". To avoid a conflict with another section numbered "206.701" added by Act 38 of 2011, Sec. 701 of 2006 PA 513 has been renumbered as 206.901.

206.703 Tax withholding; deduction; amount; computation; duties of employer; flow-through entity; casino licensee; racing licensee or track licensee; eligible production company; publicly traded partnership; agreement with community college; nonresident individual; exemption certificate; disbursement pursuant to qualified charitable gift annuity; receipt of exemption certificate from member other than nonresident individual; tax withheld by flow-through entity; revocation of election provided in subsection (16); election to file return and pay tax; exception from certain withholding requirements; conditions.

Sec. 703. (1) A person who disburses pension or annuity payments, except as otherwise provided under this section, shall withhold a tax in an amount computed by applying the rate prescribed in section 51 on the taxable part of payments from an employer pension, annuity, profit-sharing, stock bonus, or other deferred compensation plan as well as from an individual retirement arrangement, an annuity, an endowment, or a life insurance contract issued by a life insurance company. Withholding shall be calculated on the taxable disbursement after deducting from the taxable portion the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act. Withholding is not required on any part of a distribution that is not expected to be includable in the recipient's gross income or that is deductible from adjusted gross income under section 30(1)(e) or (f).

(2) Every employer in this state required under the provisions of the internal revenue code to withhold a tax on the compensation of an individual, except as otherwise provided, shall deduct and withhold a tax in an amount computed by applying, except as provided by subsection (14), the rate prescribed in section 51 to the remainder of the compensation after deducting from compensation the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act that the period of time covered

by the compensation is of 1 year. The department may prescribe withholding tables that may be used by employers to compute the amount of tax required to be withheld.

(3) Except as otherwise provided under this section, for tax years that begin before July 1, 2016, every flow-through entity in this state shall withhold a tax in an amount computed by applying the rate prescribed in section 51 to the distributive share of taxable income reasonably expected to accrue after allocation and apportionment under chapter 3 of each nonresident member who is an individual after deducting from that distributive income the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act. All of the taxes withheld under this section shall accrue to the state on April 15, July 15, and October 15 of the flow-through entity's tax year and January 15 of the following year, except a flow-through entity that is not on a calendar year basis shall substitute the appropriate due dates in the flow-through entity's fiscal year that correspond to those in a calendar year. Withholding for each period shall be equal to 1/4 of the total withholding calculated on the distributive share that is reasonably expected to accrue during the tax year of the flow-through entity.

(4) Except as otherwise provided under this section, for tax years that begin before July 1, 2016, every flow-through entity with business activity in this state that has more than $200,000.00 of business income reasonably expected to accrue in the tax year after allocation or apportionment shall withhold a tax in an amount computed by applying the rate prescribed in section 623 to the distributive share of the business income of each member that is a corporation or that is a flow-through entity. For purposes of calculating the $200,000.00 withholding threshold, the business income of a flow-through entity shall be apportioned to this state by multiplying the business income by the sales factor of the flow-through entity. The sales factor of the flow-through entity is a fraction, the numerator of which is the total sales of the flow-through entity in this state during the tax year and the denominator of which is the total sales of the flow-through entity everywhere during the tax year. As used in this subsection, "business income" means that term as defined in section 603(2). For a partnership or S corporation, business income includes payments and items of income and expense that are attributable to business activity of the partnership or S corporation and separately reported to the members. As used in this subsection, "sales" means that term as defined in section 609 and sales in this state is determined as provided in sections 665 and 669. All of the taxes withheld under this section shall accrue to the state on April 15, July 15, and October 15 of the flow-through entity's tax year and January 15 of the following year, except a flow-through entity that is not on a calendar year basis shall substitute the appropriate due dates in the flow-through entity's fiscal year that correspond to those in a calendar year. Withholding for each period shall be equal to 1/4 of the total withholding calculated on the distributive share of business income that is reasonably expected to accrue during the tax year of the flow-through entity.

(5) For tax years that begin before July 1, 2016, if a flow-through entity is subject to the withholding requirements of subsection (4), then a member of that flow-through entity that is itself a flow-through entity shall withhold a tax on the distributive share of business income as described in subsection (4) of each of its members. The department shall apply tax withheld by a flow-through entity on the distributive share of business income of a member flow-through entity to the withholding required of that member flow-through entity. All of the taxes withheld under this section shall accrue to the state on April 15, July 15, and October 15 of the flow-through entity's tax year and January 15 of the following year, except a flow-through entity that is not on a calendar year basis shall substitute the appropriate due dates in the flow-through entity's fiscal year that correspond to those in a calendar year. Withholding for each period shall be equal to 1/4 of the total withholding calculated on the distributive share of business income that is reasonably expected to accrue during the tax year of the flow-through entity.

(6) Every casino licensee shall withhold a tax in an amount computed by applying the rate prescribed in section 51 to the winnings of a nonresident reportable by the casino licensee under the internal revenue code.

(7) Every race meeting licensee or track licensee shall withhold a tax in an amount computed by applying the rate prescribed in section 51 to a payoff price on a winning ticket of a nonresident reportable by the race meeting licensee or track licensee under the internal revenue code that is the result of pari-mutuel wagering at a licensed race meeting.

(8) Every casino licensee or race meeting licensee or track licensee shall report winnings of a resident reportable by the casino licensee or race meeting licensee or track licensee under the internal revenue code to the department in the same manner and format as required under the internal revenue code.

(9) Every eligible production company shall, to the extent not withheld by a professional services corporation or professional employer organization, deduct and withhold a tax in an amount computed by applying the rate prescribed in section 51 to the remainder of the payments made to the professional services corporation or professional employer organization for the services of a performing artist or crew member after deducting from those payments the same proportion of the total amount of personal and dependency exemptions of the individuals allowed under this act.

(10) Every publicly traded partnership that has equity securities registered with the securities and exchange commission under section 12 of title I of the securities and exchange act of 1934, 15 USC 78*l*, shall not be subject to withholding.

(11) Except as otherwise provided under this subsection, all of the taxes withheld under this section shall accrue to the state on the last day of the month in which the taxes are withheld but shall be returned and paid to the department by the employer, eligible production company, casino licensee, or race meeting licensee or track licensee within 15 days after the end of any month or as provided in section 705. For an employer that has entered into an agreement with a community college pursuant to chapter 13 of the community college act of 1966, 1966 PA 331, MCL 389.161 to 389.166, a portion of the taxes withheld under this section that are attributable to each employee in a new job created pursuant to the agreement shall accrue to the community college on the last day of the month in which the taxes are withheld but shall be returned and paid to the community college by the employer within 15 days after the end of any month or as provided in section 705 for as long as the agreement remains in effect. For purposes of this act and 1941 PA 122, MCL 205.1 to 205.31, payments made by an employer to a community college under this subsection shall be considered income taxes paid to this state.

(12) A person required by this section to deduct and withhold taxes on income under this section holds the amount of tax withheld as a trustee for this state and is liable for the payment of the tax to this state or, if applicable, to the community college and is not liable to any individual for the amount of the payment.

(13) An employer in this state is not required to deduct and withhold a tax on the compensation paid to a nonresident individual employee, who, under section 256, may claim a tax credit equal to or in excess of the tax estimated to be due for the tax year or is exempted from liability for the tax imposed by this act. In each tax year, the nonresident individual shall furnish to the employer, on a form approved by the department, a verified statement of nonresidence.

(14) A person required to withhold a tax under this act, by the fifteenth day of the following month, shall provide the department with a copy of any exemption certificate on which a person with income subject to withholding under subsection (6) or (7) claims more than 9 personal or dependency exemptions, claims a status that exempts the person subject to withholding under subsection (6) or (7) from withholding under this section.

(15) A person who disburses annuity payments pursuant to the terms of a qualified charitable gift annuity is not required to deduct and withhold a tax on those payments as prescribed under subsection (1). As used in this subsection, "qualified charitable gift annuity" means an annuity described under section 501(m)(5) of the internal revenue code and issued by an organization exempt under section 501(c)(3) of the internal revenue code.

(16) Notwithstanding the requirements of subsections (4) and (5), if a flow-through entity receives an exemption certificate from a member other than a nonresident individual, the flow-through entity shall not withhold a tax on the distributive share of the business income of that member if all of the following conditions are met:

(a) The exemption certificate is completed by the member in the form and manner prescribed by the department and certifies that the member will do all of the following:

(*i*) File the returns required under this act.

(*ii*) Pay or withhold the tax required under this act on the distributive share of the business income received from any flow-through entity in which the member has an ownership or beneficial interest, directly or indirectly through 1 or more other flow-through entities.

(*iii*) Submit to the taxing jurisdiction of this state for purposes of collection of the tax under this act together with related interest and penalties under 1941 PA 122, MCL 205.1 to 205.31, imposed on the member with respect to the distributive share of the business income of that member.

(b) The department may require the member to file the exemption certificate with the department and provide a copy to the flow-through entity.

(c) The department may require a flow-through entity that receives an exemption certificate to attach a copy of the exemption certificate to the annual reconciliation return as required by section 711. A flow-through entity that is entirely exempt from the withholding requirements of subsection (4) or (5) by this subsection may be required to furnish a copy of the exemption certificate in another manner prescribed by the department.

(d) A copy of the exemption certificate shall be retained by the member and flow-through entity and made available to the department upon request. Any copy of the exemption certificate shall be maintained in a format and for the period required by 1941 PA 122, MCL 205.1 to 205.31.

(17) The department may revoke the election provided for in subsection (16) if it determines that the member or a flow-through entity is not abiding by the terms of the exemption certificate or the requirements

of subsection (16). If the department does revoke the election option under subsection (16), the department shall notify the affected flow-through entity that withholding is required on the member under subsection (4) or (5), beginning 60 days after notice of revocation is received.

(18) Notwithstanding the requirements of subsections (4) and (5), a flow-through entity is not required to withhold in accordance with this section for a member that voluntarily elects to file a return and pay the tax imposed by the Michigan business tax act under section 680 or section 500 of the Michigan business tax act, 2007 PA 36, MCL 208.1500.

(19) Notwithstanding the withholding requirements of subsection (3), (4), or (5), a flow-through entity is not required to comply with those withholding requirements to the extent that the withholding would violate any of the following:

(a) Housing assistance payment programs distribution restrictions under 24 CFR part 880, 881, 883, or 891.

(b) Rural housing service return on investment restrictions under 7 CFR 3560.68 or 3560.305.

(c) Articles of incorporation or other document of organization adopted pursuant to section 83 or 93 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1483 and 125.1493.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 188, Eff. Jan. 1, 2012;—Am. 2012, Act 217, Imd. Eff. June 28, 2012;—Am. 2013, Act 15, Eff. Apr. 16, 2013;—Am. 2014, Act 295, Imd. Eff. Sept. 30, 2014;—Am. 2016, Act 158, Eff. July 1, 2016.

Compiler's note: This section as added by Act 38 of 2011 was assigned the compilation number "206.703". To avoid a conflict with another section previously numbered "206.703", Sec. 703 of 2006 PA 513 has been renumbered as 206.903.

Enacting section 1 of Act 15 of 2013 provides:

"Enacting section 1. This amendatory act is retroactive and effective January 1, 2013."

206.705 Payment at other than monthly periods or deposit in separate bank account; grounds.

Sec. 705. All provisions relating to the administration, collection, and enforcement of this act and 1941 PA 122, MCL 205.1 to 205.31, apply to all persons required to withhold taxes and to the taxes required to be withheld under this part. If the department has reasonable grounds to believe that a person required to withhold taxes under this part will not pay taxes withheld to this state or, if applicable, to the community college, as prescribed by this part, or to provide a more efficient administration, the department may require that person to make the return and pay to the department or, if applicable, to the community college, the tax deducted and withheld at other than monthly periods, or from time to time, or require that person to deposit the tax in a bank approved by the department in a separate account, in trust for the department or, if applicable, the community college, and payable to the department or the community college, and to keep the amount of the taxes in the account until payment over to the department or the community college.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 192, Eff. Jan. 1, 2012.

Compiler's note: This section as added by Act 38 of 2011 was assigned the compilation number "206.705". To avoid a conflict with another section previously numbered "206.705", Sec. 705 of 2006 PA 513 has been renumbered as 206.905.

206.707 Filing 1099-MISC; failure to comply with filing requirement; penalty; filing with city.

Sec. 707. (1) A person required under the internal revenue code to file a form 1099-MISC for a tax year shall file a copy of that form 1099-MISC with the department on or before January 31 each year or on or before the day required for filing form 1099-MISC under the internal revenue code, whichever is later.

(2) A person who fails to comply with subsection (1) is liable to the department for a penalty of $50.00 for each form 1099-MISC the taxpayer fails to file.

(3) A person required to file a form 1099-MISC under this section shall also file a copy of the form 1099-MISC with the city reported as the payee's address on the form 1099-MISC if that city imposes a city income tax pursuant to the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

Compiler's note: This section as added by Act 38 of 2011 was assigned the compilation number "206.707". To avoid a conflict with another section previously numbered "206.707", Sec. 707 of 2006 PA 513 has been renumbered as 206.907.

206.709 Federal or state employer; return by officer of employer having control of payment of compensation.

Sec. 709. If the employer is the United States or this state, or any political subdivision of the United States or this state, or any agency or instrumentality of any of the foregoing, the return of the amount deducted and withheld upon compensation may be made by any officer of the employer having control of the payment of the compensation or an officer appropriately designated for that purpose.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

Compiler's note: This section as added by Act 38 of 2011 was assigned the compilation number "206.709". To avoid a conflict with another section previously numbered "206.709", Sec. 709 of 2006 PA 513 has been renumbered as 206.909.

206.711 Income other than distributive share from flow-through entity; tax withholding and deduction; duplicate statement; annual reconciliation return; agreement with community college; delineation of taxes withheld and paid to state attributable to certified new jobs under good jobs for Michigan program; filing revised information; failure or refusal to furnish information.

Sec. 711. (1) Every person required by this part to deduct and withhold taxes for a tax year on income other than distributive share of income from a flow-through entity shall furnish to the person who received the income a statement in duplicate on or before January 31 of the succeeding year of the total income paid during the tax year and the amount deducted or withheld. However, if employment is terminated before the close of a calendar year by a person that goes out of business or permanently ceases to exist, then the statement required by this subsection shall be issued within 30 days after the last compensation, winnings, or payoff of a winning ticket is paid. A duplicate of a statement made pursuant to this section and an annual reconciliation return, MI-W3, shall be filed with the department by February 28 of the succeeding year for tax years before the 2018 tax year and by January 31 of the succeeding year for the 2018 tax year and each tax year after 2018 except that a person that goes out of business or permanently ceases to exist shall file the statement and the annual reconciliation return within 30 days after going out of business or permanently ceasing to exist. For tax years that begin before July 1, 2016, a flow-through entity that was required to withhold taxes on distributive shares of business income shall file an annual reconciliation return with the department no later than the last day of the second month following the end of the flow-through entity's federal tax year. The department may require a flow-through entity to file an annual business income information return with the department on the due date, including extensions, of its annual federal information return.

(2) Every person required by this part to deduct or withhold taxes shall make a return or report in form and content and at times as prescribed by the department. An employer that has more than 250 employees shall file its annual return or report required under this section in electronic form. An employer that has entered into an agreement with a community college pursuant to chapter 13 of the community college act of 1966, 1966 PA 331, MCL 389.161 to 389.166, and is required to deduct or withhold taxes from compensation and make payments to a community college pursuant to the agreement for a portion of those taxes withheld shall, for as long as the agreement remains in effect, delineate in the return or report required under this subsection between the amount deducted or withheld and paid to the state and that amount paid to a community college. An employer that has entered into a written agreement pursuant to the good jobs for Michigan program created under section 90h of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090h, shall, for as long as the written agreement remains in effect, delineate in the return or report required under this subsection the portion of those taxes withheld and paid to the state that are attributable to certified new jobs.

(3) Every person who receives income subject to withholding under this part shall furnish to the person required by this part to deduct and withhold taxes information required to make an accurate withholding. A person who receives income subject to withholding under this part shall file with the person required by this part to deduct and withhold taxes revised information within 10 days after a decrease in the number of exemptions or a change in status from a nonresident to a resident. The person who receives income subject to withholding under this part may file revised information when the number of exemptions increases or when a change in status occurs from that of a resident of this state to a nonresident of this state. Revised information shall not be given retroactive effect for withholding purposes. A person required by this part to deduct and withhold taxes shall rely on this information for withholding purposes unless directed by the department to withhold on some other basis. If a person who receives income subject to withholding under this part fails or refuses to furnish information, the person required by this part to deduct and withhold taxes shall withhold at the full rate of tax from the person's income subject to withholding under this part.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 193, Eff. Jan. 1, 2012;—Am. 2016, Act 158, Eff. July 1, 2016;—Am. 2017, Act 110, Eff. Aug. 25, 2017;—Am. 2018, Act 118, Imd. Eff. Apr. 26, 2018.

Compiler's note: This section as added by Act 38 of 2011 was assigned the compilation number "206.711". To avoid a conflict with another section previously numbered "206.711", Sec. 711 of 2006 PA 513 has been renumbered as 206.911.

206.713 Report on operation and effectiveness of new jobs training programs and corresponding withholding requirements; contents.

Sec. 713. By July 1 of each year, based on the information received from each community college district pursuant to section 163 of the community college act of 1966, 1966 PA 331, MCL 389.163, the department

shall submit to the governor, the clerk of the house of representatives, the secretary of the senate, the chairperson of each standing committee that has jurisdiction over economic development issues, the chairperson of each legislative budget subcommittee that has jurisdiction over economic development issues, and the president of the Michigan strategic fund an annual report concerning the operation and effectiveness of the new jobs training programs and the corresponding withholding requirements under this chapter. The report shall include all of the following:

(a) The number of community colleges participating in the new jobs training program and the names of those colleges.

(b) The number of employers that have entered into agreements with community colleges pursuant to the new jobs training program and the names of those employers organized by major industry group under the standard industrial classification code as compiled by the United States department of labor.

(c) The total amount of money from a new jobs credit from withholding each employer described in subdivision (b) has remitted to the community college district.

(d) The total amount of new jobs training revenue bonds each community college district has authorized, issued, or sold.

(e) The total amount of each community college district's debt related to agreements at the end of the calendar year.

(f) The number of degrees or certificates awarded to program participants in the calendar year.

(g) The number of individuals who entered a program at each community college district in the calendar year; who completed the program in the calendar year; and who were enrolled in a program at the end of the calendar year.

(h) The number of individuals who completed a program and were hired by an employer described in subdivision (b) to fill new jobs.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.715 Employer credit for paid adoption leave.

Sec. 715. (1) Subject to an appropriation and the limitations under this section, for tax years beginning on and after January 1, 2023, a qualified employer that voluntarily provides paid adoption leave to qualified employees may claim a credit against the taxes required to be withheld and remitted to this state under this chapter in an amount equal to 50% of the wages paid to each qualified employee during any period during the tax year in which the qualified employee is on adoption leave. The maximum amount of credit allowed per qualified employee for a single adoption leave period is $4,000.00. The maximum amount of leave with respect to any qualified employee for which a credit may be claimed under this section must not exceed 12 weeks. Any adoption leave that is paid by this state or a political subdivision of this state or that is required to be paid by law must not be included in determining the amount of the credit under this section for wages paid to a qualified employee for adoption leave.

(2) A qualified employer claiming a credit under this section against the withholdings tax payments made under this chapter shall, in form and content as prescribed by the department, claim the credit allowed under this section on the annual return required under section 711 for that same calendar year.

(3) As used in this section:

(a) "Adoption leave" means a period of absence related to the adoption of a child by an employee to provide time for bonding and adjustments immediately after placement of that child with the employee.

(b) "Parental leave" means the period of absence related to the active participation or supervision in the day-to-day, ongoing care or maintenance of an employee's child immediately following the birth of that child, for which the employee reduces or eliminates the number of hours worked for the employer in a normal work-time period.

(c) "Qualified employee" means an individual who has been employed by the employer for at least 1 year, and for the preceding year had compensation that does not exceed 60% of the amount applicable for highly compensated employees under section 414(q)(1)(B) of the internal revenue code for that same year.

(d) "Qualified employer" means an employer that has a written policy offering parental leave and adoption leave that satisfies both of the following:

(*i*) Provides at least 2 weeks of paid parental leave and adoption leave for each full-time qualified employee and a proportionate amount of parental leave and adoption leave for each part-time qualified employee.

(*ii*) The rate of payment for parental leave and adoption leave is not less than 50% of the wages normally paid to that same employee for services performed for the employer.

(e) "Wages" means that term as defined in section 3306(b) of the internal revenue code.

History: Add. 2022, Act 207, Imd. Eff. Oct. 7, 2022.

206.716 Repealed. 2024, Act 186, Eff. Apr. 2, 2025.

Compiler's note: The repealed section pertained to definitions relative to a research and development credit.

206.717 Research and development credit.

Sec. 717. (1) Subject to the limitations under this section, for tax years beginning on and after January 1, 2025, an employer that is an authorized business may claim a credit against the taxes required to be withheld and remitted to this state under this chapter as follows:

(a) For an authorized business with 250 or more employees, an amount equal to the sum of 3% of the employer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year up to the base amount and 10% of the employer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year in excess of the base amount. The credit amount calculated under this subdivision must not exceed $2,000,000.00 per tax year per employer.

(b) For an authorized business with less than 250 employees, an amount equal to the sum of 3% of the employer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year up to the base amount and 15% of the employer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year in excess of the base amount. The credit amount calculated under this subdivision must not exceed $250,000.00 per tax year per employer.

(2) Subject to the limitations under this section, an employer that is an authorized business may claim an additional credit equal to 5% of the qualifying research and development expenses used to calculate the credit under subsection (1) that were incurred in collaboration with a research university in this state pursuant to a written agreement between the employer and the research university. In order to claim the additional credit under this subsection, if requested by the department, the employer must provide the department with a copy of the written agreement with the research university. The additional credit allowed under this subsection must not exceed $200,000.00 per tax year per employer.

(3) To be eligible for a credit under this section, an employer must submit, in a form and manner as prescribed by the department, a tentative claim for which a credit under this section is sought to the department on or before April 1, 2026 for tentative claims made for qualifying research and development expenses incurred during the 2025 calendar year and for tentative claims made for qualifying research and development expenses incurred for each calendar year after 2025 on or before March 15 after the calendar year ending with or within the tax year for which the employer intends to submit a claim for the credit. The tentative claim required under this subsection must include, at a minimum, all of the following information:

(a) If the credit is to be claimed under subsection (1)(a) or (b).

(b) The amount of qualifying research and development expenses incurred for which a credit is being claimed.

(c) If an additional credit is to be claimed under subsection (2) for collaboration with a research university.

(4) The department shall review all tentative claims submitted under subsection (3) and if the amount of tentative claims submitted exceeds the amount allowed under subsection (5), the department shall publish a notice on its website notifying claimants of the adjustment to the tentative claims for that calendar year as required under subsection (5).

(5) The aggregate amount of credits allowed to be claimed by all employers under this section and all taxpayers under section 677 based on qualifying research and development expenses incurred in a single calendar year must not exceed $100,000,000.00. If the aggregate amount of tentative claims submitted under this section and section 677 exceeds $100,000,000.00, the department shall prorate the amount of credits allowed for each claimant as follows:

(a) If the aggregate amount of tentative claims submitted by all employers qualifying under subsection (1)(b) and all taxpayers qualifying under section 677(1)(b) does not exceed $25,000,000.00, the amount of credits claimed by each of those claimants must not be prorated. However, for employers submitting a tentative claim for a credit under subsection (1)(a) or taxpayers submitting a tentative claim for a credit under section 677(1)(a), the amount of tentative claims submitted must be prorated so that each claimant's allowed credits equal that claimant's pro rata share of the remaining amount of credits allowed to be claimed under this subsection and section 677(5).

(b) Except as provided in subdivision (c), if the aggregate amount of tentative claims submitted by all employers qualifying under subsection (1)(b) and all taxpayers qualifying under section 677(1)(b) exceeds $25,000,000.00, the amount of tentative claims submitted by each of those claimants must be prorated so that each claimant's allowed credits equal that claimant's pro rata share of $25,000,000.00, and the amount of tentative claims submitted by each employer qualifying under subsection (1)(a) or taxpayer qualifying under

section 677(1)(a) must be prorated so that each claimant's allowed credits equal that claimant's pro rata share of $75,000,000.00.

(c) If the aggregate amount of tentative claims submitted by all employers qualifying under subsection (1)(b) and all taxpayers qualifying under section 677(1)(b) exceeds 25% of the aggregate amount of tentative claims submitted by all employers under this section and all taxpayers under section 677, then the proration under subdivision (b) does not apply, and the amount of tentative claims submitted by each employer under this section and taxpayer under section 677 shall be prorated so that each claimant's allowed credits equal that claimant's pro rata share of $100,000,000.00.

(6) A member of a flow-through entity that submits a claim for a credit under this section is not allowed to claim any portion of that credit. An employer shall not assign or transfer all or any portion of a credit allowed under this section. A credit or any portion of a credit allowed under this section is not assignable or transferable either by agreement or by operation of law.

(7) An employer shall, in a form and manner as prescribed by the department, file a claim for a credit under this section with the annual return required under section 711 for the tax year in which a tentative claim for a credit under this section is submitted. The credits allowed under this section must be claimed after all allowable nonrefundable credits under this act. If the amount of the credits allowed under this section exceeds the tax liability of the employer for the tax year, that portion of the credit that exceeds the tax liability of the employer for the tax year must be refunded.

(8) As used in this section:

(a) "Authorized business" means, except as otherwise provided under this subdivision, a flow-through entity that is subject to the withholding requirements under section 703(2) and that has incurred during the calendar year ending with or within the tax year for which a credit is being claimed under this section qualifying research and development expenses in excess of the base amount. Authorized business does not include a flow-through entity that is subject to the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1519, or part 2, for the tax year.

(b) "Base amount" means the average annual amount of qualifying research and development expenses incurred during the 3 calendar years immediately preceding the calendar year ending with or within the tax year for which a credit is being claimed under this section. An authorized business with no prior qualifying research and development expenses has a base amount of zero. If qualifying research and development expenses were incurred in only 1 or 2 of the immediately preceding 3 calendar years, the average annual amount must be based on the number of calendar years during which qualifying research and development expenses were incurred.

(c) "Qualifying research and development expenses" means qualified research expenses as that term is defined in section 41(b) of the internal revenue code of 1986, 26 USC 41, for research conducted in this state. Qualifying research and development expenses do not include qualified research expenses for research conducted outside of this state.

(d) "Research university" means a public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963 or an independent nonprofit college or university in this state.

History: Add. 2024, Act 187, Eff. Apr. 2, 2025.

206.718 Annual report; research and development tax credits.

Sec. 718. (1) By July 1 of each year, the department, in cooperation with the board of directors of the Michigan strategic fund, shall submit to each member of the legislature, the governor, the clerk of the house of representatives, the secretary of the senate, and the senate and house fiscal agencies an annual report concerning the operation and effectiveness of the research and development tax credits created under sections 677 and 717. The report shall include all of the following:

(a) A brief assessment of the overall effectiveness of the research and development tax credits created under sections 677 and 717. The department may use the applicable provisions of the economic development incentive evaluation prepared under the economic development incentive evaluation act, 2018 PA 540, MCL 18.1751 to 18.1759, to satisfy this subdivision.

(b) The number of authorized businesses filing tentative claims for a research and development tax credit for the immediately preceding calendar year.

(c) The name of each authorized business submitting claims for a research and development credit with an annual return and the amount of the research and development tax credit allowed for the immediately preceding calendar year.

(d) The name of each authorized business claiming an additional credit for collaboration with a research university in this state and the amount of that additional credit for the immediately preceding calendar year.

(2) The board of directors of the Michigan strategic fund may delegate any actions under this chapter to

authorized employees, officers, and agents of the fund, which may include employees of the MEDC.

(3) As used in this section:

(a) "MEDC" means that term as defined in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004.

(b) "Michigan strategic fund" means the Michigan strategic fund created under section 5 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2005.

History: Add. 2024, Act 119, Eff. Apr. 2, 2025.

CHAPTER 18

206.721 Definitions; partnership audits.

Sec. 721. As used in this chapter:

(a) "Administrative adjustment request" means an administrative adjustment request filed by a partnership under section 6227 of the internal revenue code.

(b) "Audited partnership" means a partnership subject to a partnership level audit resulting in a federal adjustment.

(c) "Corporate partner" means a partner, other than a unitary business group, that is subject to tax under chapter 11, including a partner that has unrelated business activity.

(d) "Direct partner" means a partner that holds an interest directly in a partnership or other flow-through entity.

(e) "Exempt partner" means a partner that is exempt from taxation under this act and does not have unrelated business activity.

(f) "Federal adjustment" means a change to an item or amount determined under the internal revenue code that is used by a taxpayer to compute tax liability under this act whether that change results from action by the IRS, including a partnership level audit, or the filing of an amended federal return, federal refund claim, or an administrative adjustment request by the taxpayer. A federal adjustment is positive to the extent that it increases tax due under this act and is negative to the extent that it decreases the tax due under this act.

(g) "Federal adjustments report" includes methods or forms required by the department for use by a taxpayer to report final federal adjustments, including an amended tax return or information return.

(h) "Federal partnership representative" means the person the partnership designates for the reviewed year as the partnership's representative, or the person the IRS has appointed to act as the federal partnership representative, pursuant to section 6223 of the internal revenue code.

(i) "Final determination date" means that term as defined in section 325.

(j) "Final federal adjustment" means a federal adjustment after the final determination date for that federal adjustment has passed.

(k) "Flow-through entity" means an entity that for the applicable tax year is treated as an S corporation under section 1362(a) of the internal revenue code, a general partnership, a limited partnership, a limited liability partnership, or a limited liability company, that for the applicable tax year is not taxed as a corporation for federal income tax purposes. Flow-through entity does not include any entity disregarded under section 699.

(*l*) "Indirect partner" means a partner in a partnership or other flow-through entity that itself holds an interest directly, or through another indirect partner, in a partnership or other flow-through entity.

(m) "IRS" means the Internal Revenue Service of the United States Department of the Treasury.

(n) "Nonresident partner" means an individual, estate, or trust partner that is not a resident partner.

(o) "Partner" means a person that holds an interest directly or indirectly in a partnership or other flow-through entity.

(p) "Partnership" means an entity subject to taxation under subchapter K of the internal revenue code.

(q) "Partnership level audit" means an examination by the IRS at the partnership level pursuant to sections 6221 to 6241 of the internal revenue code, which results in federal adjustments.

(r) "Resident" means that term as defined in section 18.

(s) "Resident partner" means an individual, estate, or trust that is a resident for the relevant tax year.

(t) "Reviewed year" means the tax year of a partnership that is subject to a partnership level audit from which a federal adjustment arises.

(u) "Taxpayer" means all of the following:

(*i*) Any person subject to the taxes imposed by part 1.

(*ii*) A corporation or unitary business group subject to a tax imposed by part 2. As used in this subparagraph, "corporation" means that term as defined in section 605.

(*iii*) A partnership subject to a partnership level audit or a partnership that has made an administrative

adjustment request, as well as a tiered partner of that partnership.

(v) "Tiered partner" means any partner that is a partnership or other flow-through entity.

(w) "Unitary business group" means that term as defined in section 611.

(x) "Unrelated business activity" means that term as defined in section 611.

History: Add. 2022, Act 148, Imd. Eff. July 19, 2022.

Compiler's note: Enacting section 1 of Act 148 of 2022 provides:
"Enacting section 1. This amendatory act is retroactive and applies to all tax years that begin on and after January 1, 2018."

206.723 Partnership level audits; administrative adjustment requests; reporting requirements; state partnership representative; irrevocable election to pay tax; reporting to partners; alternative reporting and payment methods; credit or refund of overpayment; rules.

Sec. 723. (1) Except for adjustments required to be reported for federal purposes by taking those adjustments into account in the partnership return for the year of adjustment, partnerships and partners shall report final federal adjustments arising from a partnership level audit or an administrative adjustment request and make payments as required under this section.

(2) With respect to an action required or permitted to be taken by a partnership under this section and any other proceeding or action permitted under this chapter or 1941 PA 122, MCL 205.1 to 205.31, the state partnership representative for the reviewed year has the sole authority to act on behalf of the partnership. The partnership's direct partners and indirect partners are bound by those actions. The state partnership representative for the reviewed year is the partnership's federal partnership representative unless the partnership designates in writing another person as its state partnership representative. The department may establish reasonable qualifications and procedures for designating a person, other than the federal partnership representative, to be the state partnership representative.

(3) Except for final federal adjustments subject to a properly made election under subsection (4), final federal adjustments must be reported as follows:

(a) No later than 90 days after the final determination date, the partnership shall do all of the following:

(*i*) File a completed federal adjustments report, including information as required by the department.

(*ii*) Report to each of its direct partners for the reviewed year their distributive share of the final federal adjustments including information as required by the department.

(*iii*) Submit a payment on behalf of any nonresident partner previously included on a composite return for the reviewed year for the additional amount of tax that would have been due had the final federal adjustments been reported properly as required.

(b) If the partner's increase in the amount of tax due that results from the final federal adjustment is $25.00 or more, no later than 180 days after the final determination date, each direct partner for that reviewed year that is a corporate partner, resident partner, or nonresident partner whose payment is not included in the composite return payment under subdivision (a)(*iii*) shall file a federal adjustments report reporting that partner's share of the adjustments reported under subdivision (a)(*ii*) and pay any additional amount of tax due as if final federal adjustments had been properly reported, plus any penalty and interest as provided under 1941 PA 122, MCL 205.1 to 205.31. If the department determines that the taxpayer has overpaid the tax imposed by this act, a credit or refund of the overpayment must be issued immediately as provided in section 30 of 1941 PA 122, MCL 205.30.

(4) An audited partnership that makes an election under this subsection is subject to the laws related to reporting, assessment, payment, and collection of the tax calculated under this act and under 1941 PA 122, MCL 205.1 to 205.31, and shall do all of the following:

(a) No later than 90 days after the final determination date, file a completed federal adjustments report, including information as required by the department, and notify the department that it is making the election under this subsection.

(b) Subject to the limitation in subsection (5), no later than 180 days after the final determination date, exclude from final federal adjustments the distributive share of those adjustments attributed to direct exempt partners not subject to the tax under this act and pay an amount equal to the sum of the following along with any penalty and interest as provided in 1941 PA 122, MCL 205.1 to 205.31, in lieu of taxes owed by its direct partners and indirect partners:

(*i*) For the distributive shares of the remaining final federal adjustments that are attributed to direct corporate partners, determine the amount allocated or apportioned to this state under part 2 and multiply that share amount by the tax rate imposed under section 623 for the reviewed year.

(*ii*) For the distributive shares of the remaining final federal adjustments that are attributed to direct tiered partners determine, as prescribed by the department, as follows:

(A) The distributive shares that are attributed to indirect corporate partners and that are allocated or apportioned to this state under part 2 and multiply that amount by the tax rate imposed under section 623 for the reviewed year.

(B) The distributive shares that are attributed to indirect resident or nonresident partners and that are allocated or apportioned to this state under part 1 and multiply that amount by the tax rate imposed under section 51 for the reviewed year.

(C) For the remaining distributive shares of the final federal adjustments that are not attributed under sub-subparagraph (A) or (B), determine the amount allocated or apportioned to this state under part 2 and multiply that amount by the tax rate imposed under section 623 for the reviewed year.

(*iii*) For the distributive shares of the remaining final federal adjustments that are attributed to direct partners subject to the tax under part 1, determine the amount allocated and apportioned to this state under part 1 and multiply that amount by the tax rate imposed under section 51 for the reviewed year.

(5) In determining the amount of the tax under subsection (4)(b), if reasonably identified by the audited partnership, final federal adjustments must not include the distributive share of final federal adjustments attributed to any direct or indirect corporate partner that is unitary with the audited partnership for apportionment purposes as provided under section 663.

(6) The direct and indirect partners of an audited partnership that are tiered partners, and all of the partners of those tiered partners that are subject to tax under this act are subject to the reporting and payment requirements of subsection (3) and the tiered partners are entitled to make the elections provided in subsections (4) and (7). The tiered partners or their partners shall make required reports and payments no later than 90 days after the time for filing and furnishing statements to tiered partners and their partners as established under section 6226 of the internal revenue code.

(7) In accordance with procedures adopted by the department, an audited partnership or tiered partner may submit an application to the department, in a form and manner as prescribed by the department, for an alternative reporting and payment method within the time allowed for an election under subsection (3) or (4), as applicable. If the application is approved by the department, an audited partnership or tiered partner shall enter into an agreement with the department to utilize an alternative reporting and payment method, including applicable time requirements or any other provision of this section, if the audited partnership or tiered partner demonstrates that the requested method will reasonably provide for the reporting and payments of taxes, penalties, and interest due under this section.

(8) An election made under subsection (4) or (7) is irrevocable, unless the department, in its discretion, determines otherwise. If properly reported and paid by the audited partnership or tiered partner, the amount determined under subsection (4)(b) or alternatively under subsection (7) is considered paid in lieu of taxes owed by its direct and indirect partners, to the extent applicable, on the same final federal adjustments. The direct partners or indirect partners may not take any deduction or credit under this act for this amount or claim a refund of the amount. This subsection does not preclude a direct resident partner from claiming a credit under section 255 against taxes paid to this state under this act, for any amounts paid by the audited partnership or tiered partner on the resident partner's behalf to another state or local tax jurisdiction. If a partnership or tiered partner fails to timely make any report or payment as required under this section, the department may assess direct partners or indirect partners for taxes owed as determined based on the best information available.

(9) If a taxpayer files a federal adjustments report or an amended return as required and within the time period specified in this section, the department may not assess additional tax, interest, and penalties arising from final federal adjustments after the expiration of the limitations period specified in section 27a of 1941 PA 122, MCL 205.27a. If a taxpayer fails to file the federal adjustments report within the time period specified in this section or the taxpayer files a federal adjustments report that omits adjustments or understates the correct amount of tax owed, the department may assess additional tax, interest, and penalties arising from those federal adjustments if the department issues a notice of assessment to the taxpayer within 6 years after the final determination date.

(10) A taxpayer that expects to owe additional tax as a result of a pending partnership level audit may make payments, as prescribed by the department, prior to the due date of the federal adjustments report. The department shall credit any payments against any tax liability ultimately found to be due under the federal adjustments report and any payments made limit the accrual of further statutory interest on that amount.

(11) Except for adjustments required to be reported for federal purposes by taking those adjustments into account in the partnership return for the year of adjustment, a taxpayer may file a claim for a refund or credit of the overpayment of the tax arising from final federal adjustments before the expiration of the statute of limitations established under section 27a of 1941 PA 122, MCL 205.27a. For a taxpayer that is a partnership, any claim for a refund or credit under this section must be made within 2 years of the final determination date

of the federal adjustment.

(12) The time periods provided for in this section may be extended as provided under either of the following:

(a) Automatically, upon written notice to the department, by 60 days for an audited partnership or tiered partner that has 10,000 or more direct partners.

(b) By written agreement between the taxpayer and the department.

(13) The department may promulgate rules to implement this section and establish procedures and interim time periods for the reports and payments required by tiered partners and their partners and for making the elections under this section. To the extent practicable, the department shall establish rules and regulations that conform as closely as possible to the federal rules and procedures.

History: Add. 2022, Act 148, Imd. Eff. July 19, 2022.

Compiler's note: Enacting section 1 of Act 148 of 2022 provides:
"Enacting section 1. This amendatory act is retroactive and applies to all tax years that begin on and after January 1, 2018."

206.725 Effective date of chapter.

Sec. 725. This chapter is effective and applies to all tax years that begin on and after January 1, 2018.

History: Add. 2022, Act 148, Imd. Eff. July 19, 2022.

Compiler's note: Enacting section 1 of Act 148 of 2022 provides:
"Enacting section 1. This amendatory act is retroactive and applies to all tax years that begin on and after January 1, 2018."