

SINGLE BUSINESS TAX ACT (EXCERPT)

Act 228 of 1975

CHAPTER 2

***** 208.31 THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.31 Specific tax on adjusted tax base; rates; “adjusted tax base” defined; tax imposed on privilege of doing business; reduction of adjusted tax base in lieu of reduction; limitation; applicability of subsection (4); effect of comprehensive annual financial report; annualized rate.

Sec. 31. (1) Except as provided in subsections (5) and (6), there is levied and imposed a specific tax upon the adjusted tax base of every person with business activity in this state that is allocated or apportioned to this state at the following rates for the specified periods:

(a) Before October 1, 1994, 2.35%.

(b) After September 30, 1994 and before January 1, 1999, 2.30%.

(c) Beginning January 1, 1999 and each January 1 after 1999, the rate under this subsection shall be reduced as provided in subsection (5).

(2) As used in this section, “adjusted tax base” means the tax base allocated or apportioned to this state pursuant to chapter 3 with the adjustments prescribed by sections 23 and 23b and the exemptions prescribed by section 35. If the adjusted tax base exceeds 50% of the sum of gross receipts plus the adjustments provided in section 23b(a) to (g), apportioned or allocated to Michigan with the apportionment fraction calculated pursuant to chapter 3, the adjusted tax base may, at the option of the taxpayer, be reduced by that excess. If a taxpayer reduces the adjusted tax base under this subsection, the taxpayer is not entitled to the adjustment provided in subsection (4) for the same taxable year. This subsection does not apply to an adjusted tax base under section 22a.

(3) The tax levied under this section and imposed is upon the privilege of doing business and not upon income.

(4) In lieu of the reduction provided in subsection (2), a person may elect to reduce the adjusted tax base by the percentage that the compensation divided by the tax base exceeds 63%. The deduction shall not exceed 37% of the adjusted tax base. For purposes of computing the deduction allowed by this subsection, as effective for the respective tax year, compensation does not include amounts of compensation exempt from tax under section 35(1)(e). This subsection does not apply to an adjusted tax base under section 22a.

(5) If the comprehensive annual financial report of this state for a state fiscal year, published pursuant to section 494 of the management and budget act, 1984 PA 431, MCL 18.1494, reports an ending balance of more than \$250,000,000.00 in the countercyclical budget and economic stabilization fund created under section 351 of the management and budget act, 1984 PA 431, MCL 18.1351, for that state fiscal year, the tax rate under this section shall be reduced by 0.1 percentage point on the January 1 following the end of the state fiscal year for which the report was issued.

(6) The department shall annualize the rate under this section as necessary, and the applicable annualized rate shall be imposed.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1976, Act 389, Imd. Eff. Dec. 30, 1976;—Am. 1977, Act 273, Imd. Eff. Dec. 15, 1977;—Am. 1981, Act 208, Imd. Eff. Dec. 30, 1981;—Am. 1982, Act 414, Imd. Eff. Dec. 28, 1982;—Am. 1987, Act 262, Imd. Eff. Dec. 28, 1987;—Am. 1991, Act 77, Imd. Eff. July 16, 1991;—Am. 1993, Act 329, Eff. Apr. 1, 1994;—Am. 1994, Act 247, Eff. July 7, 1994;—Am. 1999, Act 115, Imd. Eff. July 14, 1999.

Constitutionality: In *Trinova Corp. v. Michigan Department of Treasury*, 111 S.Ct. 818 (1991), the United States Supreme Court held that Michigan's single business tax is not violative of the Commerce Clause or Due Process Clause of the Fourteenth Amendment of the United States Constitution. The Court stated that the single business tax meets the Court's test for sustaining a Commerce Clause challenge, by being a tax that: (1) Is applied to an activity with a substantial nexus with the taxing state; (2) Is fairly apportioned; (3) Does not discriminate against interstate commerce; and (4) Is fairly related to the services provided by the state. Neither does the tax violate due process requirements because there is a “minimal connection between the interstate activities and the taxing State, and a rational relationship between the income attributed to the State and the intrastate values of the enterprise.”

Compiler's note: Section 2 of Act 414 of 1982 provides: “This amendatory act shall take effect for tax years commencing after December 31, 1982.”

Section 3 of Act 208 of 1981 provides: “Deletions of the word “total” made by this amendatory act in section 31 of the single business tax act, Act No. 281 of the Public Acts of 1975, as amended, being section 208.35 of the Michigan Compiled Laws, shall serve to cure and clarify any misinterpretation of the operation of section 31 since the effective date of Act No. 273 of the Public Acts of 1977. When originally enacted by Act No. 228 of the Public Acts of 1975, section 31 used the term “total tax base” to indicate that the exclusions made by section 9(4)(c) of the single business tax act of a portion of the depreciation, amortization, or immediate or accelerated write-off related to the cost of tangible assets should be added back to the tax base, before apportionment or allocation, for purposes of section 31. Rendered Thursday, January 03, 2008

However when, by Act No. 273 of the Public Acts of 1977, section 9(4)(c) was amended to require that all depreciation, amortization, or immediate or accelerated write-off related to the cost of tangible assets be included in a person's tax base, there became no difference between the "tax base" and "total tax base" of a person. The deletion of the word "total" by this amendatory act is an expression of the Legislature's intent that the terms "total tax base" and "tax base" were, since the effective date of Act No. 273 of the Public Acts of 1977, to be considered synonymous and that its deletion by this amendatory act should be interpreted as a resolution of further misinterpretations."

Enacting section 3 of 1999 PA 115 provides:

"Enacting section 3. The single business tax act, 1975 PA 228, MCL 208.1 to 208.145, is repealed effective on the January 1 of the year in which the rate under section 31 is reduced to 0.0%, and is not effective for tax years that begin on or after that date."

***** 208.31a THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.31a Tax credit for qualified start-up business; criteria; definitions.

Sec. 31a. (1) For tax years that begin after December 31, 2004, a taxpayer that meets the criteria under subsection (4) and that is a qualified start-up business that does not have business income for 2 consecutive tax years may claim a credit against the tax imposed under this act for the second of those 2 consecutive tax years and each immediately following consecutive tax year in which the taxpayer does not have business income equal to the taxpayer's tax liability for the tax year in which the taxpayer has no business income. If the taxpayer has business income in any tax year after the credit under this section is claimed, the taxpayer shall claim the credit under this section for any following tax year only if the taxpayer subsequently has no business income for 2 consecutive tax years. The taxpayer may claim the credit for the second of those 2 consecutive tax years and each immediately following consecutive tax year in which the taxpayer does not have business income. A credit under this section shall not be claimed for more than a total of 5 tax years.

(2) If a taxpayer that took the credit under this section has no business activity in this state and has any business activity outside of this state for any of the first 3 tax years after the last tax year for which it took the credit under this section, the taxpayer shall add to its tax liability the following amounts:

(a) If the taxpayer has no business activity in this state for the first tax year after the last tax year for which a credit under this section is claimed, 100% of the total of all credits claimed under this section.

(b) If the taxpayer has no business activity in this state for the second tax year after the last tax year for which a credit under this section is claimed, 67% of the total of all credits claimed under this section.

(c) If the taxpayer has no business activity for the third tax year after the last tax year for which a credit under this section is claimed, 33% of the total of all credits claimed under this section.

(3) A member of an affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 CFR 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall determine number of employees, sales, and business income for purposes of this section on a consolidated basis.

(4) For the tax year for which a credit under this section is claimed, compensation, director's fees, or distributive shares paid by the taxpayer to any 1 of the following does not exceed \$135,000.00:

(a) A shareholder or officer of a corporation other than an S corporation.

(b) A partner of a partnership or limited liability partnership.

(c) A shareholder of an S corporation.

(d) A member of a limited liability corporation.

(e) An individual who is an owner.

(5) As used in this section:

(a) "Business income" means business income as defined in section 3 excluding funds received from small business innovation research grants and small business technology transfer programs established under the small business innovation development act of 1982, Public Law 97-219, reauthorized under the small business research and development enhancement act, Public Law 102-564, and subsequently reauthorized under the small business reauthorization act of 2000, Public Law 106-554.

(b) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, as amended, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

(c) "Qualified start-up business" means a business that meets all of the following criteria as certified annually by the Michigan economic development corporation:

(i) Has fewer than 25 full-time equivalent employees.

(ii) Has sales of less than \$1,000,000.00 in the tax year for which the credit under this section is claimed.

(iii) Research and development make up at least 15% of its expenses in the tax year for which the credit under this section is claimed.

(iv) Is not publicly traded.

(v) Met 1 of the following criteria during 1 of the initial 2 consecutive tax years in which the qualified start-up business had no business income:

(A) During the immediately preceding 7 years was in 1 of the first 2 years of contribution liability under section 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19.

(B) During the immediately preceding 7 years would have been in 1 of the first 2 years of contribution liability under section 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19, if the qualified start-up business had employees and was liable under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(C) During the immediately preceding 7 years would have been in 1 of the first 2 years of contribution liability under section 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19, if the qualified start-up business had not assumed successor liability under section 15(g) of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.15.

(d) "Research and development" means qualified research as that term is defined in section 41(d) of the internal revenue code.

History: Add. 2004, Act 126, Imd. Eff. May 28, 2004.

Compiler's note: Former MCL 208.31a, which pertained to annualized rate, was repealed by Act 115 of 1999, Imd. Eff. July 14, 1999.

208.32 Repealed. 2006, Act 472, Imd. Eff. Dec. 20, 2006.

Compiler's note: The repealed section pertained to tax credit for research and development of qualified technology.

***** 208.34 THIS SECTION IS REPEALED BY ACT 472 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.34 Tax credit; taxpayer engaged in research and development of qualified technology; conditions; definitions.

Sec. 34. (1) For tax years that begin on or after January 1, 2006 and end before January 1, 2016, a taxpayer that is engaged in research and development of a qualified technology may claim a credit against the tax imposed by this act equal to 3.9% of the compensation as defined in section 4 for services performed in a qualified facility, paid to the employees at the qualified facility in the tax year, if the taxpayer has entered into an agreement before April 1, 2007 with the Michigan economic growth authority that provides all of the following:

(a) The type and number of jobs at the qualified facility to which the agreement applies.

(b) The type of work to be performed by the employees performing the jobs provided under subdivision (a) by the taxpayer.

(c) Any other terms and conditions that the Michigan economic growth authority considers to be in the public interest.

(2) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion that exceeds the tax liability shall be refundable.

(3) The maximum amount of the credit allowed under this section that any 1 taxpayer may claim shall not exceed \$3,000,000.00 in a single tax year.

(4) As used in this section:

(a) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(b) "Motor vehicle" means a motor vehicle as defined in section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33, that is designed as a passenger vehicle, or sport utility vehicle, but does not include a motor home, bus, truck other than a pickup truck or van, or a vehicle designed to travel on less than 4 wheels.

(c) "Qualified city" means a city that meets both of the following criteria:

(i) Has a population of not less than 80,000 and not more than 82,000 as designated by the United States bureau of the census in the 2000 census.

(ii) Is located in a county that has a population of not less than 1,000,000 and not more than 1,300,000 as designated by the United States bureau of the census in the 2000 census.

(d) "Qualified facility" means a leased facility in a qualified city used for the research and development of a qualified technology.

(e) "Qualified technology" means a hybrid system the primary purpose of which is the propulsion of a

motor vehicle.

(f) "Research and development" means "qualified research" as that term is defined in section 41(d) of the internal revenue code.

History: Add. 2006, Act 472, Imd. Eff. Dec. 20, 2006.

***** 208.35 THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.35 Exemptions.

Sec. 35. (1) The following are exempt from the tax imposed by this act:

(a) For tax years beginning after 1976 and before January 1, 1989, the first \$40,000.00; for tax years beginning in 1989, the first \$41,000.00; for tax years beginning in 1990, the first \$42,000.00; for tax years beginning in 1991, the first \$43,000.00; for tax years beginning in 1992, the first \$44,000.00; and for tax years beginning after 1992, the first \$45,000.00 of the tax base of every person. This exemption shall be increased by \$12,000.00 for each partner of a partnership or shareholder of a subchapter S corporation or professional corporation in excess of 1 who is a full-time employee of the taxpayer, whose business income from that business is at least \$12,000.00, and who owns at least 10% of that business. The total increase in the exemption shall be not more than \$48,000.00. For a taxpayer whose business activity is for a fractional part of a year, the exemption provided in this subdivision including the increase in the exemption shall be prorated for the period of the taxpayer's business activity. This exemption shall be reduced by \$2.00 for each \$1.00 that business income exceeds the amount of the exemption. For the purposes of computing the exemption, "business income" means that term as defined in section 3 plus compensation and director's fees of shareholders of a corporation and any carryback or carryover of a net operating loss or capital loss to the extent deducted in arriving at federal taxable income. In calculating eligibility for the exemption provided in this subdivision, a person who is not a corporation may elect to average its business income for the current year and the previous 4 taxable years. Business income as defined in this subdivision shall not be less than zero. For the purposes of this subdivision, tax base shall be after allocation and apportionment provided in chapter 3 and the adjustments provided in sections 23 and 23b. This subdivision does not apply to an adjusted tax base under section 22a.

(b) The United States, this state, other states, and the agencies, political subdivisions, and enterprises of each.

(c) A person who is exempt from federal income tax under the internal revenue code, and, for tax years that begin after December 31, 1995, a partnership, limited liability company, joint venture, general partnership, limited partnership, unincorporated association, or other group or combination of entities acting as a unit if the activities of the entity are exclusively related to the charitable, educational, or other purpose or function that is the basis for the exemption under the internal revenue code from federal income taxation of the partners or members and if all of the partners or members of the entity are exempt from federal income tax under the internal revenue code, except the following:

(i) An organization included under section 501(c)(12) or 501(c)(16) of the internal revenue code.

(ii) An organization exempt under section 501(c)(4) of the internal revenue code that would be exempt under section 501(c)(12) of the internal revenue code but for its failure to meet the requirements in section 501(c)(12) that 85% or more of its income must consist of amounts collected from members.

(iii) The adjusted tax base attributable to the activities giving rise to the unrelated taxable business income of an exempt person.

(d) Before August 3, 1987, a foreign or alien insurance company subject to the provisions of the premium tax under sections 440 to 446 of the insurance code of 1956, 1956 PA 218, as those sections were in effect on December 27, 1987. This exemption does not apply to the tax base derived from a business activity other than insurance carrier services.

(e) Before August 3, 1987, that portion of the payroll of a domestic insurer or of a marketing corporation that constitutes insurance sales commissions paid to employees and salaries of employees primarily concerned with the adjustment of claims. This exemption does not apply to a marketing corporation that is not controlled, directly or indirectly, by stock ownership or common management, by the domestic insurer or insurers from which it derives all or substantially all of its gross income, exclusive of income from investments.

(f) Beginning August 3, 1987 and after being apportioned under section 62, the first \$130,000,000.00 of disability insurance premiums written in Michigan, or, for the 1991 tax year only, the first \$162,500,000.00 of disability insurance premiums written in Michigan, other than credit insurance and disability income insurance premiums, of each insurer subject to tax under this act. This exemption shall be reduced by \$2.00

for each \$1.00 by which the insurer's gross premiums from insurance carrier services in this state and outside this state exceed \$180,000,000.00, or, for the 1991 tax year only, \$225,000,000.00.

(g) A nonprofit cooperative housing corporation. As used in this subdivision, "nonprofit cooperative housing corporation" means a cooperative housing corporation that is engaged in providing housing services to its stockholders and members and that does not pay dividends or interest upon stock or membership investment but that does distribute all earnings to its stockholders or members. This exemption does not apply to a business activity of a nonprofit cooperative housing corporation other than providing housing services to its stockholders and members.

(h) That portion of the tax base attributable to the production of agricultural goods by a person whose primary activity is the production of agricultural goods. "Production of agricultural goods" means commercial farming including, but not limited to, cultivation of the soil; growing and harvesting of an agricultural, horticultural, or floricultural commodity; dairying; raising of livestock, bees, fish, fur-bearing animals, or poultry; or turf or tree farming, but not including the marketing at retail of agricultural goods except for sales of nursery stock grown by the seller and sold to a nursery dealer licensed under section 9 of the insect pest and plant disease act, 1931 PA 189, MCL 286.209.

(i) Except as provided in subsection (3), a farmers' cooperative corporation organized within the limitations of section 98 of 1931 PA 327, MCL 450.98, that was at any time exempt under subdivision (c) because the corporation was exempt from federal income taxes under section 521 of the internal revenue code and that would continue to be exempt under section 521 of the internal revenue code except for either of the following activities:

(i) The corporation's repurchase from nonproducer customers of portions or components of commodities the corporation markets to those nonproducer customers and the corporation's subsequent manufacturing or marketing of the repurchased portions or components of the commodities.

(ii) The corporation's incidental or emergency purchases of commodities from nonproducers to facilitate the manufacturing or marketing of commodities purchased from producers.

(j) That portion of the tax base attributable to the direct and indirect marketing activities of a farmers' cooperative corporation organized within the limitations of section 98 of 1931 PA 327, MCL 450.98, if those marketing activities are provided on behalf of the members of that corporation and are related to the members' direct sales of their products to third parties, or, for livestock, are related to the members' direct or indirect sales of that product to third parties. Marketing activities for a product that is not livestock are not exempt under this subdivision if the farmers' cooperative corporation takes physical possession of the product. As used in this subdivision, "marketing activities" includes, but is not limited to, activities under the agricultural commodities marketing act, 1965 PA 232, MCL 290.651 to 290.674, and the agricultural marketing and bargaining act, 1972 PA 344, MCL 290.701 to 290.726; dissemination of market information; establishment of price and other terms of trade; promotion; and research relating to members' products.

(k) That portion of the tax base attributable to the services provided by an attorney-in-fact to a reciprocal insurer pursuant to chapter 72 of the insurance code of 1956, 1956 PA 218, MCL 500.7200 to 500.7234.

(l) For tax years that begin after December 31, 2000, that portion of the tax base attributable to a multiple employer welfare arrangement that provides dental benefits only and that has a certificate of authority under chapter 70 of the insurance code of 1956, 1956 PA 218, MCL 500.7001 to 500.7090.

(2) An affiliated group, a controlled group of corporations as defined by section 1563 of the internal revenue code, or an entity under common control as defined by the internal revenue code is entitled to only 1 exemption allowed by subsection (1)(a) whether or not a combined or consolidated return is filed.

(3) Subsection (1)(i) does not exempt a farmers' cooperative corporation if the total dollar value of the corporation's incidental and emergency purchases described in subsection (1)(i)(ii) are equal to or greater than either of the following:

(a) For tax years that end before January 1, 1995, 5% of the total dollar value of the corporation's repurchases described in subsection (1)(i)(i).

(b) For tax years that end after December 31, 1994, 5% of the corporation's total purchases.

(4) For tax years that end after December 31, 1990 and except as otherwise provided in this section, a farmers' cooperative corporation shall exclude from adjusted tax base the revenue and expenses attributable to business transacted with farmer or farmer cooperative corporation patrons to whom net earnings are allocated in the form of patronage dividends as defined in section 1388 of the internal revenue code. In computing the adjusted tax base of a farmers' cooperative corporation, each of the additions and deductions under sections 9, 23, and 23b shall be multiplied by a fraction, the numerator of which is the gross profit of the nonpatronage sourced business of the farmers' cooperative corporation and the denominator of which is the gross profits of the farmers' cooperative corporation. As used in this subsection only, "farmers' cooperative corporation" means a farmers' cooperative corporation organized within the limitations of section

98 of 1931 PA 327, MCL 450.98.

(5) As used in subsection (1)(c), “exclusively” means that term as applied for purposes of section 501(c)(3) of the internal revenue code.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1976, Act 389, Imd. Eff. Dec. 30, 1976;—Am. 1977, Act 273, Imd. Eff. Dec. 15, 1977;—Am. 1987, Act 262, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 390, Imd. Eff. Dec. 21, 1988;—Am. 1989, Act 285, Imd. Eff. Dec. 26, 1989;—Am. 1992, Act 170, Imd. Eff. July 21, 1992;—Am. 1995, Act 255, Imd. Eff. Jan. 5, 1996;—Am. 1997, Act 124, Imd. Eff. Nov. 5, 1997;—Am. 1998, Act 240, Imd. Eff. July 3, 1998;—Am. 2000, Act 429, Imd. Eff. Jan. 9, 2001;—Am. 2001, Act 224, Imd. Eff. Jan. 2, 2002.

***** 208.35a THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.35a Tax credit for year beginning after December 31, 1999.

Sec. 35a. (1) For a tax year beginning after December 31, 1999, a taxpayer may claim a credit against the tax imposed by this act of equal to the percentage determined under subsection (2) multiplied by the result of subtracting the sum of the amounts calculated under subdivisions (d), (e), and (f) from the sum of the amounts calculated under subdivisions (a), (b), and (c):

(a) Calculate the cost, including fabrication and installation, paid or accrued in the taxable year of tangible assets of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes, provided that the assets are physically located in this state for use in a business activity in this state and are not mobile tangible assets.

(b) Calculate the cost, including fabrication and installation, paid or accrued in the taxable year of mobile tangible assets of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes. This amount shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 3.

(c) For tangible assets, other than mobile tangible assets, purchased or acquired for use outside of this state in a tax year beginning after December 31, 1996 and physically located in this state in a tax year beginning after December 31, 1999 and after the assets are purchased or acquired for use in a business activity, calculate the federal basis used for determining gain or loss as of the date the tangible assets were physically located in this state for use in a business activity plus the cost of fabrication and installation of the tangible assets in this state.

(d) If the cost of tangible assets described in subdivision (a) was paid or accrued in a tax year beginning after December 31, 1999, calculate the gross proceeds or benefit derived from the sale or other disposition of the tangible assets minus the gain, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3, and plus the loss, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3 from the sale or other disposition reflected in federal taxable income and minus the gain from the sale or other disposition added to the tax base in section 9(6).

(e) If the cost of tangible assets described in subdivision (b) was paid or accrued in a tax year beginning after December 31, 1999, calculate the gross proceeds or benefit derived from the sale or other disposition of the tangible assets minus the gain and plus the loss from the sale or other disposition reflected in federal taxable income and minus the gain from the sale or other disposition added to the tax base in section 9(6). This amount shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 3.

(f) For assets purchased or acquired in a tax year beginning after December 31, 1996 that were eligible for a deduction under subdivision (a) or (c) and that were transferred out of this state, calculate the federal basis used for determining gain or loss as of the date of the transfer.

(2) The amount calculated under subsection (1) shall be multiplied by a percentage determined by dividing the tax rate for the tax year in which the credit is claimed by 2.3% and multiplying that result by the following percentage as applicable:

(a) For taxpayers with adjusted gross receipts for the tax year of \$1,000,000.00 or less, 2.3%.

(b) For taxpayers with adjusted gross receipts for the tax year of more than \$1,000,000.00 but \$2,500,000.00 or less, 1.5%.

(c) For taxpayers with adjusted gross receipts for the tax year of more than \$2,500,000.00 but \$5,000,000.00 or less, 1.0%.

(d) For taxpayers with adjusted gross receipts for the tax year of more than \$5,000,000.00, 0.85%.

(3) For a tax year in which the amount calculated under subsection (1) and multiplied by the percentage determined under subsection (2) is negative, the absolute value of that amount is added to the taxpayer's tax liability for the tax year.

(4) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 9 taxable years or until the excess credit is used up, whichever occurs first.

(5) Notwithstanding any other provision of this act, the credit provided in this section shall be taken before any other credit under this act and the credits under other sections of this act shall be calculated using the tax liability after the calculation of the credit under this section and, to the extent provided by law, after the calculation of credits under other sections of this act.

(6) A taxpayer that reduces the adjusted tax base under section 31(2) shall not claim a credit under this section.

(7) A taxpayer that reduces the adjusted tax base under section 31(4) shall reduce the credit under this section by a percentage not to exceed 100% determined by dividing the applicable tax rate under section 31(1) by the percentage determined under subsection (2) and multiplying the result by the percentage reduction to the adjusted tax base claimed by the taxpayer for the tax year under section 31(4).

(8) A member of an affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall determine adjusted gross receipts for purposes of subsection (2) on a consolidated basis.

(9) A taxpayer that calculates its tax base under section 22a is not eligible for the credit allowed under this section.

(10) As used in subsection (2), "adjusted gross receipts" means the sum of the following:

(a) Gross receipts apportioned or allocated to Michigan with the apportionment fraction calculated pursuant to chapter 3.

(b) Adjustments provided in section 23b(a) to (g).

(c) Adjustments provided in subsection (1)(d) to (f).

History: Add. 1999, Act 115, Imd. Eff. July 14, 1999;—Am. 2000, Act 44, Imd. Eff. Mar. 27, 2000;—Am. 2000, Act 429, Imd. Eff. Jan. 9, 2001.

***** 208.35b THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007 *****

208.35b Calculation of compensation related to United States business activity by foreign transporter; election; definitions.

Sec. 35b. (1) Notwithstanding anything to the contrary in section 19, a foreign person that does not have a permanent establishment in the United States and whose business activity consists of the transportation of persons or property for others by motor vehicle may elect, for purposes of section 19, to calculate compensation related to United States business activity by 1 of the following methods:

(a) Calculate compensation under section 19 and reduce the final calculation by 50%.

(b) Calculate compensation by determining total compensation everywhere, apportioned to the United States by a formula, the numerator of which is revenue miles traveled in the United States and the denominator of which is revenue miles traveled everywhere.

(2) A person that calculates compensation related to United States business activity under subsection (1)(a) shall not claim a reduction under section 31(4).

(3) As used in this section:

(a) "Permanent establishment" means either of the following:

(i) If an income tax treaty applies to the foreign person, that term as defined in that income tax treaty in effect between the United States and another nation.

(ii) If no income tax treaty applies to the foreign person, that term as defined in the United States model income tax convention.

(b) "Foreign person" means that term as defined in section 19(6).

(c) "Revenue miles" means that term as defined in section 57.

History: Add. 2000, Act 373, Imd. Eff. Jan. 2, 2001.

***** 208.35c THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007 *****

208.35c Conditions for project approval by chairperson of Michigan economic growth authority.

Sec. 35c. For purposes of approving projects for a credit allowed under section 38g(33), the chairperson of the Michigan economic growth authority or his or her designee is subject to both of the following:

(a) The total of all credits for all projects approved under section 38g(33) shall not exceed \$10,000,000.00 in any calendar year.

(b) If the chairperson of the Michigan economic growth authority or his or her designee approves a project under section 38g(33), the chairperson of the Michigan economic growth authority or his or her designee shall issue a preapproval letter that states all of the following:

(i) That the taxpayer is a qualified taxpayer.

(ii) The maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued.

(iii) The project number assigned by the Michigan economic growth authority.

History: Add. 2006, Act 111, Imd. Eff. Apr. 10, 2006.

***** 208.35d THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.35d Industrial personal property; tax credit; tax years on and after January 1, 2006 and before January 1, 2007.

Sec. 35d. (1) For tax years beginning on and after January 1, 2006 and before January 1, 2007, for taxes levied after December 31, 2005, a person may claim a credit against the tax imposed by this act equal to 15% of the property taxes paid in the tax year by the person on industrial personal property.

(2) A person that is not otherwise required to file a return under this act may claim the credit under this section.

(3) To qualify for the credits under this section for an item of tangible personal property, a person that is otherwise eligible to claim the credit allowed under this section shall file within the time required the statement of personal property described in section 19 of the general property tax act, 1893 PA 206, MCL 211.19, for items of tangible personal property that are classified as industrial personal property for the location at which the tangible personal property that is the basis of the credit allowed under this section is located.

(4) If the credit allowed under this section exceeds the tax liability of the person for the tax year or if the person does not have a tax liability under this act for the tax year, the excess or the amount of the credit shall be refunded or paid to the person. The state treasurer may establish a reserve account in the department to fund and provide for payment of the amount of refunds or payments for credits under this section that are attributable to the fiscal years ending in the tax years for which credits are claimed.

(5) The credit allowed under this section shall be calculated after application of all other credits allowed under this act.

(6) As used in this section:

(a) "Industrial personal property" means personal property classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(b) "Property taxes" means any of the following:

(i) Taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(ii) Taxes levied under 1974 PA 198, MCL 207.551 to 207.572.

(iii) Taxes levied under the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(iv) Any payments made by the taxpayer pursuant to a contract with the Michigan strategic fund in connection with the creation of a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, to the extent that those payments are made by the taxpayer to reimburse all taxing units for property taxes that would otherwise be exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff.

(v) Any payments made by a taxpayer pursuant to a contract with an eligible local assessing district to the extent that those payments are made to reimburse taxing units for property taxes that would otherwise be payable under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. As used in this subparagraph, "eligible local assessing district" means that term as defined in section 9f of the general property tax act, 1893 PA 206, MCL 211.9f.

History: Add. 2005, Act 289, Imd. Eff. Dec. 20, 2005.

***** 208.35e THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.35e Certificate of completion; credit assignment or subsequent reassignment; form; definitions.

Sec. 35e. (1) For projects approved under section 38g for which a certificate of completion is issued on and after January 1, 2006, a qualified taxpayer may assign all or a portion of a credit allowed under section 38g(2), (3), or (33) under this section. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completion is issued pursuant to section 38g. An assignee may subsequently assign a credit or any portion of a credit assigned under this section to 1 or more assignees. An assignment under this section of a credit allowed under section 38g(2), (3), or (33) shall not be made after 10 years after the first tax year in which that credit under section 38g(2), (3), or (33) may be claimed. The credit assignment or a subsequent reassignment under this section shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which an assignment or reassignment is made. An assignee or subsequent reassignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment or reassignment is made and the assignee or reassignee first claims a credit, which shall be the same tax year. A credit assignment based on a credit for a component of a multiphase project that is completed before January 1, 2006 shall be made under section 38g(18). A credit assignment based on a credit for a component of a multiphase project that is completed on or after January 1, 2006 may be made under this section. In addition to all other procedures and requirements under this section, the following apply if the total of all credits for a project is more than \$10,000,000.00 but \$30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(2) As used in this section, "multiphase project", "project", and "qualified taxpayer" mean those terms as defined in section 38g.

History: Add. 2006, Act 224, Eff. Jan. 1, 2006.

Compiler's note: Former MCL 208.35e, which pertained to credit assignment or reassignment, was retroactively repealed by Act 224 of 2006, Eff. Jan. 1, 2006.

Enacting section 2 of Act 224 of 2006 provides:

"Enacting section 2. This amendatory act is intended to be retroactive and effective January 1, 2006."

***** 208.35f *THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007*

208.35f Industrial personal property; tax credit; tax years beginning on and after January 1, 2007 and before January 1, 2008.

Sec. 35f. (1) For tax years beginning on and after January 1, 2007 and before January 1, 2008, a person may claim a credit against the tax imposed by this act equal to 15% of the property taxes paid in the tax year by the person on industrial personal property.

(2) A person that is not otherwise required to file a return under this act may claim the credit under this section.

(3) To qualify for the credits under this section for an item of tangible personal property, a person that is otherwise eligible to claim the credit allowed under this section shall file within the time required the statement of personal property described in section 19 of the general property tax act, 1893 PA 206, MCL 211.19, for items of tangible personal property that are classified as industrial personal property for the location at which the tangible personal property that is the basis of the credit allowed under this section is located.

(4) If the credit allowed under this section exceeds the tax liability of the person for the tax year or if the person does not have a tax liability under this act for the tax year, the excess or the amount of the credit shall be refunded or paid to the person. The state treasurer may establish a reserve account in the department to

fund and provide for payment of the amount of refunds or payments for credits under this section that are attributable to the fiscal years ending in the tax years for which credits are claimed.

(5) The credit allowed under this section shall be calculated after application of all other credits allowed under this act.

(6) As used in this section:

(a) "Industrial personal property" means personal property classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(b) "Property taxes" means any of the following:

(i) Taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(ii) Taxes levied under 1974 PA 198, MCL 207.551 to 207.572.

(iii) Taxes levied under the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(iv) Any payments made by the taxpayer pursuant to a contract with the Michigan strategic fund in connection with the creation of a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, to the extent that those payments are made by the taxpayer to reimburse all taxing units for property taxes that would otherwise be exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff.

(v) Any payments made by a taxpayer pursuant to a contract with an eligible local assessing district to the extent that those payments are made to reimburse taxing units for property taxes that would otherwise be payable under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. As used in this subparagraph, "eligible local assessing district" means that term as defined in section 9f of the general property tax act, 1893 PA 206, MCL 211.9f.

History: Add. 2005, Act 290, Imd. Eff. Dec. 20, 2005.

***** 208.35g *THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007*

208.35g Industrial personal property; tax credit; tax years on and after January 1, 2008 and before January 1, 2009.

Sec. 35g. (1) For tax years beginning on and after January 1, 2008 and before January 1, 2009, a person may claim a credit against the tax imposed by this act equal to 15% of the property taxes paid in the tax year by the person on industrial personal property.

(2) A person that is not otherwise required to file a return under this act may claim the credit under this section.

(3) To qualify for the credits under this section for an item of tangible personal property, a person that is otherwise eligible to claim the credit allowed under this section shall file within the time required the statement of personal property described in section 19 of the general property tax act, 1893 PA 206, MCL 211.19, for items of tangible personal property that are classified as industrial personal property for the location at which the tangible personal property that is the basis of the credit allowed under this section is located.

(4) If the credit allowed under this section exceeds the tax liability of the person for the tax year or if the person does not have a tax liability under this act for the tax year, the excess or the amount of the credit shall be refunded or paid to the person. The state treasurer may establish a reserve account in the department to fund and provide for payment of the amount of refunds or payments for credits under this section that are attributable to the fiscal years ending in the tax years for which credits are claimed.

(5) The credit allowed under this section shall be calculated after application of all other credits allowed under this act.

(6) As used in this section:

(a) "Industrial personal property" means personal property classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(b) "Property taxes" means any of the following:

(i) Taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(ii) Taxes levied under 1974 PA 198, MCL 207.551 to 207.572.

(iii) Taxes levied under the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(iv) Any payments made by the taxpayer pursuant to a contract with the Michigan strategic fund in connection with the creation of a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, to the extent that those payments are made by the taxpayer to reimburse all taxing units for property taxes that would otherwise be exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff.

(v) Any payments made by a taxpayer pursuant to a contract with an eligible local assessing district to the extent that those payments are made to reimburse taxing units for property taxes that would otherwise be payable under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. As used in this subparagraph, "eligible local assessing district" means that term as defined in section 9f of the general property tax act, 1893 PA 206, MCL 211.9f.

History: Add. 2005, Act 291, Imd. Eff. Dec. 20, 2005.

***** 208.35h THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.35h Industrial personal property; tax credit; tax years on and after January 1, 2009 and before January 1, 2010.

Sec. 35h. (1) For tax years beginning on and after January 1, 2009 and before January 1, 2010, a person may claim a credit against the tax imposed by this act equal to 15% of the property taxes paid in the tax year by the person on industrial personal property.

(2) A person that is not otherwise required to file a return under this act may claim the credit under this section.

(3) To qualify for the credits under this section for an item of tangible personal property, a person that is otherwise eligible to claim the credit allowed under this section shall file within the time required the statement of personal property described in section 19 of the general property tax act, 1893 PA 206, MCL 211.19, for items of tangible personal property that are classified as industrial personal property for the location at which the tangible personal property that is the basis of the credit allowed under this section is located.

(4) If the credit allowed under this section exceeds the tax liability of the person for the tax year or if the person does not have a tax liability under this act for the tax year, the excess or the amount of the credit shall be refunded or paid to the person. The state treasurer may establish a reserve account in the department to fund and provide for payment of the amount of refunds or payments for credits under this section that are attributable to the fiscal years ending in the tax years for which credits are claimed.

(5) The credit allowed under this section shall be calculated after application of all other credits allowed under this act.

(6) As used in this section:

(a) "Industrial personal property" means personal property classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(b) "Property taxes" means any of the following:

(i) Taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(ii) Taxes levied under 1974 PA 198, MCL 207.551 to 207.572.

(iii) Taxes levied under the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(iv) Any payments made by the taxpayer pursuant to a contract with the Michigan strategic fund in connection with the creation of a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, to the extent that those payments are made by the taxpayer to reimburse all taxing units for property taxes that would otherwise be exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff.

(v) Any payments made by a taxpayer pursuant to a contract with an eligible local assessing district to the extent that those payments are made to reimburse taxing units for property taxes that would otherwise be payable under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. As used in this subparagraph, "eligible local assessing district" means that term as defined in section 9f of the general property tax act, 1893 PA 206, MCL 211.9f.

History: Add. 2005, Act 292, Imd. Eff. Dec. 20, 2005.

***** 208.35i THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.35i Transfer of jobs to state; tax credit.

Sec. 35i. (1) A taxpayer that provides transferred jobs to this state may claim a credit against the tax imposed by this act equal to 100% of the property taxes paid on tangible personal property used in the performance of the transferred jobs. The credit allowed under this section shall only be available for taxes paid the first year that the taxpayer pays property taxes on that property which shall be the same tax year in which the credit under this section based on those property taxes is claimed.

- (2) The credit under subsection (1) can be claimed only for taxes paid in the 2007 or 2008 tax year.
- (3) The Michigan economic growth authority shall determine if the taxpayer provides transferred jobs. If the Michigan economic growth authority determines that the taxpayer provides transferred jobs, the Michigan economic growth authority shall issue a certificate to the taxpayer that includes all of the following:
- (a) The taxpayer's federal identification number.
 - (b) The number of transferred jobs, as determined by the Michigan economic growth authority.
 - (c) The taxable value of the property used in the performance of the transferred jobs as reported by the taxpayer on the property tax statement required by and filed under section 19 of the general property tax act, 1893 PA 206, MCL 211.19.
- (4) The taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer pursuant to subsection (3). The taxpayer shall attach the certificate to the annual return required under this act on which the credit under this section is claimed.
- (5) If the taxpayer does not maintain the total number of jobs located in this state or, if the jobs qualify under subsection (9)(e)(iii)(B), at the facility, in the tax year immediately preceding the tax year in which the transferred jobs were moved to this state, for 3 years after the year in which a credit under this section was claimed, the following percentage of the credit amount previously claimed under this section shall be added back to the tax liability of the taxpayer in that year:
- (a) If the total number of jobs is less during the first year after the year in which the credit was claimed, 100%.
 - (b) If the total number of jobs is less during the second year after the year in which the credit was claimed and subdivision (a) did not apply, 67%.
 - (c) If the total number of jobs is less during the third year after the year in which the credit was claimed and neither subdivision (a) nor (b) applied, 33%.
- (6) Personal property taxes used to calculate a credit under this section shall not be used to calculate a credit under section 35d, 35f, 35g, or 35h.
- (7) The credit allowed under this section shall be calculated after application of all other credits allowed under this act.
- (8) If the credit allowed under this section exceeds the taxpayer's tax liability for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.
- (9) As used in this section and section 35j:
- (a) "Facility" means, as determined by the Michigan economic growth authority, a site or combination of sites in this state at which transferred jobs are located.
 - (b) "High-technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.
 - (c) "Manufacturing jobs" are jobs for a company that has a classification under sector 33, subsector 321, or subsector 322 of the North American industrial classification system (NAICS).
 - (d) "Property taxes" means any of the following:
 - (i) Taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.
 - (ii) Taxes levied under 1974 PA 198, MCL 207.551 to 207.572.
 - (iii) Taxes levied under the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.
 - (iv) Any payments made by the taxpayer pursuant to a contract with the Michigan strategic fund in connection with the creation of a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, to the extent that those payments are made by the taxpayer to reimburse all taxing units for property taxes that would otherwise be exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff.
 - (e) "Transferred jobs" means jobs that meet all of the following criteria:
 - (i) Are jobs that perform high-technology activity or manufacturing jobs.
 - (ii) Were located in a different state or different country before being moved to this state in the tax year in which the taxpayer claims a credit under this section or in the immediately preceding tax year.
 - (iii) Meet either of the following criteria:
 - (A) Represent an overall increase in full-time equivalent jobs of the taxpayer in this state for the tax year in which the taxpayer claims a credit under this section or the immediately preceding tax year above the total number of full-time equivalent jobs of the taxpayer in the tax year immediately preceding that year.
 - (B) If approved by the Michigan economic growth authority and upon a showing by the taxpayer, meet both of the following criteria:
 - (I) The jobs represent an increase in the number of full-time equivalent jobs of the taxpayer for the tax year in which the taxpayer claims a credit under this section or the immediately preceding tax year at the facility to which the jobs are transferred above the number of full-time equivalent jobs of the taxpayer at the facility for

the tax year immediately preceding that year.

(II) The transfer of jobs to the facility is substantially more likely to occur if the taxpayer receives the credit provided by this section.

(iv) Is not a job into which an employee transfers if the employee worked in this state for the taxpayer, a related entity of the taxpayer, or an entity with which the taxpayer files a consolidated return under section 77 in another job prior to beginning the transferred job.

(v) The benefits for the employee in the transferred job include coverage under health and welfare and noninsured benefit plans, including, but not limited to, prescription coverage, primary health care coverage, and hospitalization that is not limited to emergency room services or subject to dollar limits, deductibles, and coinsurance provisions that are not less favorable than those for physical illness generally.

History: Add. 2005, Act 293, Imd. Eff. Dec. 20, 2005.

Compiler's note: Enacting section 2 of Act 293 of 2005 provides:

"Enacting section 2. If a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired determines that any provision of the credit allowed under the section added by this amendatory act or any other provision of this act that provides a deduction, credit, or exemption with respect to employment, persons, services, taxes, investment, or any other activity that is limited only to this state is unconstitutional or applies to employment, persons, services, taxes, investment, or any other activity outside of this state, then that deduction, credit, or exemption shall be severed from this act in its entirety and shall not be effective for any tax year for which the final ruling applies and the remaining provisions of this act shall remain in effect."

***** 208.35j THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.35j Jobs transferred to state; tax credit; claim for taxes paid in 2009 tax year.

Sec. 35j. (1) A taxpayer that enters into an agreement under subsection (3) and that provides transferred jobs to this state may claim a credit against the tax imposed by this act equal to 100% of the property taxes paid on tangible personal property used in the performance of the transferred jobs. The credit allowed under this section shall only be available for taxes paid the first year that the taxpayer pays property taxes on that property which shall be the same tax year in which the credit under this section based on those property taxes is claimed.

(2) The credit under subsection (1) can be claimed only for taxes paid in the 2009 tax year.

(3) A taxpayer may claim the credit allowed under this section if the taxpayer enters into an agreement with the Michigan economic growth authority that states all of the following:

(a) The taxpayer will provide transferred jobs in this state.

(b) The taxpayer will locate tangible personal property that will be used in the performance of those transferred jobs in this state.

(c) The transfer of the jobs and location of the tangible personal property cannot reasonably be completed by the taxpayer before January 1, 2007.

(4) The Michigan economic growth authority shall determine if the taxpayer provides transferred jobs. If the Michigan economic growth authority determines that the taxpayer provides transferred jobs, the Michigan economic growth authority shall issue a certificate to the taxpayer that includes all of the following:

(a) The taxpayer's federal identification number.

(b) The number of transferred jobs, as determined by the Michigan economic growth authority.

(c) The taxable value of the property used in the performance of the transferred jobs as reported by the taxpayer on the property tax statement required by and filed under section 19 of the general property tax act, 1893 PA 206, MCL 211.19.

(d) A statement that the transfer of the jobs and location of the tangible personal property cannot reasonably be completed by the taxpayer before January 1, 2007.

(5) The taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer pursuant to subsection (4). The taxpayer shall attach the certificate to the annual return required under this act on which the credit under this section is claimed.

(6) If the taxpayer does not maintain the total number of jobs located in this state or, if the jobs qualify under section 35I(9)(e)(iii)(B), at the facility, in the tax year immediately preceding the tax year in which the transferred jobs were moved to this state, for 3 years after the year in which a credit under this section was claimed, the following percentage of the credit amount previously claimed under this section shall be added back to the tax liability of the taxpayer in that year:

(a) If the total number of jobs is less during the first year after the year in which the credit was claimed, 100%.

(b) If the total number of jobs is less during the second year after the year in which the credit was claimed and subdivision (a) did not apply, 67%.

(c) If the total number of jobs is less during the third year after the year in which the credit was claimed and if neither subdivision (a) nor (b) applied, 33%.

(7) Personal property taxes used to calculate a credit under this section shall not be used to calculate a credit under section 35d, 35f, 35g, or 35h.

(8) The credit allowed under this section shall be calculated after application of all other credits allowed under this act.

(9) If the credit allowed under this section exceeds the taxpayer's tax liability for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

(10) As used in this section, "facility", "property taxes", and "transferred jobs" mean those terms as defined in section 35i.

History: Add. 2005, Act 294, Imd. Eff. Dec. 20, 2005.

Compiler's note: In subsection (6), the reference to "section 35i(9)(e)(iii)(B)" evidently should read "section 35i(9)(e)(iii)(B)."

***** 208.36 THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.36 Definitions; credit against tax imposed by § 208.31; qualifications; credit as percentage reduction in tax liability; calculation of percentage reduction; limitation on credit; consolidating business activities of certain entities as prerequisite for credit; filing and paying tax without computing tax imposed under § 208.31.

Sec. 36. (1) As used in this section:

(a) "Active shareholder" means a shareholder who receives at least \$10,000.00 in compensation, director's fees, or dividends from the business, and who owns at least 5% of the outstanding stock.

(b) "Officer" means an officer of a corporation other than a subchapter S corporation including the chairperson of the board, president, vice-president, secretary, and treasurer, or persons performing similar duties.

(c) "Adjusted business income" means business income as defined in section 3 with all of the following adjustments:

(i) Add compensation and director's fees of active shareholders of a corporation.

(ii) Make the adjustments provided in section 9(4)(a) and (b).

(iii) Add compensation and director's fees of officers of a corporation.

(d) "Shareholder" means a person who owns outstanding stock in the business. An individual is considered as the owner of the stock owned, directly or indirectly, by or for family members as defined by section 318(a)(1) of the internal revenue code.

(e) "Loss adjustment" means the amount by which adjusted business income was less than zero in any of the 5 tax years immediately preceding the tax year for which eligibility for the credit provided by this section is being determined. In determining the loss adjustment for a tax year, a taxpayer is not required to use more of the taxpayer's total negative adjusted business income than the amount needed to qualify the taxpayer for the credit under this section. A taxpayer shall not be considered to have used any portion of the taxpayer's negative adjusted business income amount unless the portion used is necessary to qualify for the credit under this section. A taxpayer shall not reuse a negative adjusted business income amount used as a loss adjustment in a previous tax year or use a negative adjusted business income amount from a year in which the taxpayer did not receive the credit under this section.

(f) "Subchapter S corporation" means a corporation electing taxation under subchapter S of chapter 1 of subtitle A of the internal revenue code, sections 1361 to 1379 of the internal revenue code.

(2) The credit provided in this section shall be taken before any other credit under this act, and is available to any person whose gross receipts do not exceed \$6,000,000.00 for tax years commencing on or after January 1, 1984 and before January 1, 1989; \$7,000,000.00 for tax years commencing in 1989; \$7,250,000.00 for tax years commencing in 1990; \$7,500,000.00 for tax years commencing in 1991; or \$10,000,000.00 for tax years commencing after 1991, and whose adjusted business income minus the loss adjustment does not exceed \$475,000.00 for tax years commencing on or after January 1, 1985, subject to the following:

(a) An individual, a partnership, or a subchapter S corporation is disqualified if the individual, any 1 partner of the partnership, or any 1 shareholder of the subchapter S corporation receives more than \$95,000.00 for tax years commencing on or after January 1, 1985 and before January 1, 1998 or more than \$115,000.00 for tax years commencing after December 31, 1997 as a distributive share of the adjusted business income minus the loss adjustment of the individual, the partnership, or the subchapter S corporation.

(b) A corporation other than a subchapter S corporation is disqualified if either of the following occur for the respective tax year:

(i) Compensation and director's fees of a shareholder or officer exceed \$95,000.00 for tax years commencing on or after January 1, 1985 and before January 1, 1998 or exceed \$115,000.00 for tax years commencing after December 31, 1997.

(ii) The sum of the following amounts exceeds \$95,000.00 for tax years commencing on or after January 1, 1985 and before January 1, 1998 or exceeds \$115,000.00 for tax years commencing after December 31, 1997:

(A) Compensation and director's fees of a shareholder.

(B) The product of the percentage of outstanding stock owned by that shareholder multiplied by the difference between the sum of business income and the adjustments provided in section 9(4)(a) and (b) minus the loss adjustment.

(c) Subject to section 36d, for a taxpayer that is eligible for the credit under this subsection for tax years beginning after December 31, 1997, the credit determined under this subsection shall be reduced by the following percentages in the following circumstances:

(i) If an individual, any 1 partner of the partnership, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted gross income minus the loss adjustment of the individual, partnership, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is more than \$95,000.00 but less than \$100,000.00, the credit is reduced by 20%.

(ii) If an individual, any 1 partner of the partnership, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted gross income minus the loss adjustment of the individual, partnership, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$100,000.00 or more but less than \$105,000.00, the credit is reduced by 40%.

(iii) If an individual, any 1 partner of the partnership, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted gross income minus the loss adjustment of the individual, partnership, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$105,000.00 or more but less than \$110,000.00, the credit is reduced by 60%.

(iv) If an individual, any 1 partner of the partnership, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted gross income minus the loss adjustment of the individual, partnership, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$110,000.00 or more but less than \$115,000.00, the credit is reduced by 80%.

(3) For the purposes of determining disqualification under subsection (2), an active shareholder's share of business income shall not be attributed to another active shareholder.

(4) A person who qualifies pursuant to subsection (2) is allowed a credit against the tax imposed by section 31. For tax years commencing before January 1, 1989, the credit is a percentage reduction in tax liability. For tax years commencing on and after January 1, 1989 and through tax years commencing in 1991, the credit is the greater of the amount by which the tax imposed by section 31 exceeds 4% of adjusted business income or 3% of adjusted business income for tax years commencing after 1991 or a percentage reduction in tax liability. However, beginning October 1, 1994, the percentage of adjusted business income shall be 2%. The department shall annualize the rates provided under this subsection as necessary for tax years that end after September 30, 1994 and the applicable annualized rate shall be imposed for those tax years.

(5) The percentage reduction provided in subsection (4) is calculated by subtracting from 100% the percentage computed by dividing adjusted business income by 45% of tax base.

(6) If gross receipts exceed \$5,000,000.00 for tax years commencing on or after January 1, 1984 and before January 1, 1989; \$6,000,000.00 for tax years commencing in 1989; \$6,250,000.00 for tax years commencing in 1990; \$6,500,000.00 for tax years commencing in 1991; or \$9,000,000.00 for tax years commencing after 1991, the credit shall be reduced by a fraction, the numerator of which is the amount of gross receipts over \$5,000,000.00 for tax years commencing on or after January 1, 1984 and before January 1, 1989; \$6,000,000.00 for tax years commencing in 1989; \$6,250,000.00 for tax years commencing in 1990; \$6,500,000.00 for tax years commencing in 1991; or \$9,000,000.00 for tax years commencing after 1991, and the denominator of which is \$1,000,000.00. The credit shall not exceed 50% for tax years commencing before January 1, 1984; 90% for tax years commencing on or after January 1, 1984 and before January 1, 1988; or 100% for tax years commencing on and after January 1, 1988 of the tax liability imposed by section 31.

(7) An affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall not take the credit allowed by this section unless the business activities of the entities are consolidated.

(8) The department shall permit a taxpayer who elects to claim the credit allowed by this section based on the amount by which the tax imposed by section 31 exceeds the percentage of adjusted business income for the tax year as determined under subsection (4), and who is not required to reduce the credit pursuant to subsection (2) or (6), to file and pay the tax imposed by this act without computing the tax imposed under section 31.

History: Add. 1977, Act 273, Imd. Eff. Dec. 15, 1977;—Am. 1982, Act 216, Imd. Eff. July 8, 1982;—Am. 1988, Act 390, Imd. Eff. Dec. 21, 1988;—Am. 1990, Act 257, Imd. Eff. Oct. 15, 1990;—Am. 1992, Act 98, Imd. Eff. June 22, 1992;—Am. 1994, Act 245, Eff. July 7, 1994;—Am. 1995, Act 284, Imd. Eff. Jan. 9, 1996.

Compiler's note: Section 2 of Act 216 of 1982 provides: "This amendatory act shall take effect for tax years commencing on or after January 1, 1984 unless the department of treasury certifies that net collections after refunds of the tax imposed by this act for the 1982-1983 state fiscal year are less than the sum of \$25,000,000.00 plus the product of the percentage increase in the implicit price deflator for government purchases of state and local goods and services, as reported by the bureau of economic analysis of the United States department of commerce for the 1982-1983 state fiscal year multiplied by the net collections after refunds for the 1981-1982 state fiscal year, in which case this amendatory act shall not take effect."

Enacting section 2 of Act 216 of 1982, as amended by Act 250 of 1983, Imd. Eff. Dec. 29, 1983, provides: "This amendatory act shall take effect for tax years commencing on or after January 1, 1984."

***** 208.36a THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.36a Credit against tax imposed by act; amount; refunding excess credit to taxpayer; eligibility of exempt farmers for refund.

Sec. 36a. (1) A taxpayer may claim a credit against the tax imposed by this act for a taxable year encompassing all or a portion of the period between May 1, 1983 and September 15, 1983 in an amount equal to the difference determined by subtracting subdivision (b) from subdivision (a):

(a) One hundred percent of the qualified first-year wages that may be taken into account with respect to any qualified summer youth employee who is a resident of Michigan, as determined and defined by section 51(d)(12) of the internal revenue code, for which the taxpayer is entitled to a credit under section 44B of the internal revenue code for service rendered in Michigan during any 90-day period between May 1, 1983 and September 15, 1983.

(b) The amount of any credit the taxpayer is entitled to under section 44B of the internal revenue code, notwithstanding the limitations of section 53 of the internal revenue code, for qualified first-year wages attributable to service rendered in Michigan by a qualified summer youth employee who is a resident of Michigan, as determined and defined by section 51(d)(12) of the internal revenue code, during any 90-day period between May 1, 1983 and September 15, 1983.

(2) If the credit allowed by this section exceeds the tax liability of the taxpayer for the taxable year, the excess shall be refunded to the taxpayer.

(3) Farmers who are exempt from the single business tax shall be eligible for refunds under section 36a.

History: Add. 1983, Act 85, Imd. Eff. June 16, 1983.

***** 208.36b THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.36b Credit for qualified investments; disposition of portion of credit exceeding tax liability; revocation of credit; report.

Sec. 36b. (1) As used in this section:

(a) "Company" means a minority venture capital company or a MESBIC as defined under section 61 of the Michigan strategic fund act, Act No. 270 of the Public Acts of 1984, being section 125.2061 of the Michigan Compiled Laws.

(b) "Fund" means the Michigan strategic fund created by section 5 of the Michigan strategic fund act, Act No. 270 of the Public Acts of 1984, being section 125.2005 of the Michigan Compiled Laws.

(c) "Certification" means the certification granted to a company pursuant to section 69a of the Michigan strategic fund act, Act No. 270 of the Public Acts of 1984, being section 125.2069a of the Michigan Compiled Laws.

(d) "Qualified investment" means an investment made pursuant to section 69a of the Michigan strategic fund act, Act No. 270 of the Public Acts of 1984, being section 125.2069a of the Michigan Compiled Laws, in an equity interest of a company which is made before or during the time period in which the company becomes certified under section 63 of the Michigan strategic fund act, Act No. 270 of the Public Acts of 1984, being section 125.2063 of the Michigan Compiled Laws, as an eligible recipient of investments that qualify for a credit under this act.

(2) A person subject to the tax imposed by this act may credit against the tax imposed by this act for the taxable year an amount equal to 50% of that portion of the amount of the claimant's qualified investments if the qualified investments were made after the effective date of this section and the person received a tax credit certification in that taxable year.

(3) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceeds the claimant's tax liability for the taxable year, that portion which exceeds the tax liability for the taxable year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years until used or recaptured pursuant to subsection (4).

(4) Notwithstanding the limitations provided by sections 85 and 95, if the certification of a company is revoked within 6 years after the tax year for which a claimant who is an insider of that company has received a credit pursuant to this section for an investment in that company, the credit the claimant who is an insider of that company received shall be revoked and all carried forward credits of the taxpayer for investments in that company shall be forfeited and any previously applied portion of that credit shall be added to the tax liability of the taxpayer in the tax year when revocation occurred. For purposes of this subsection, "insider" means an officer, director, or employee, or a person who owns not less than 10% of the company whose certification was revoked.

(5) On or before June 30, 1987, the department of treasury and the department of commerce shall submit to the chairperson of the house taxation committee and the chairperson of the senate finance committee a report detailing the number of taxpayers claiming a credit under this section, the amount of credits, the amount by which these credits reduced tax liabilities under this act in each calendar year, the amount and disposition of investments made by companies receiving certification, and an estimate of the net tax revenue increases that may be attributable to businesses in which investments have been made by companies that are eligible recipients of investments that qualified for a tax credit under this section.

History: Add. 1986, Act 136, Imd. Eff. June 25, 1986.

Compiler's note: Sections 85 and 95, referred to in subsection (4), were repealed by Act 139 of 1985, Eff. Mar. 26, 1986.

***** 208.36c THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.36c Tax credit; calculations; tax year in which claimed; applicability.

Sec. 36c. (1) For tax years that begin after December 31, 1996 and before January 1, 2000 and if section 23(e) is in effect, a taxpayer may claim a credit equal to a positive amount, if any, that results from the following calculations:

(a) Calculate the taxpayer's tax liability for the tax year before the credit under this section is taken.

(b) Calculate the taxpayer's tax liability for the tax year including the following criteria:

(i) Determine adjustments under section 23 as if section 23(c) is in effect and section 23(e), (f), (g), and (i) are not in effect.

(ii) Determine adjustments under section 23b as if section 23b(c) is in effect and section 23b(d), (e), and (g) are not in effect.

(iii) Determine the apportionment factor for the tax year as if section 45(4) is in effect and section 45(5), (6), and (7) are not in effect.

(iv) Section 45a is not in effect.

(c) Subtract the amount determined under subdivision (b) from the amount determined under subdivision (a). Subtract \$5,000,000.00 from that result.

(2) The credit under this section shall not be claimed by a taxpayer for a tax year in which the taxpayer claims a reduction under section 31(2).

(3) This section does not apply to taxpayers that determine adjusted tax base under section 22a.

History: Add. 1995, Act 282, Imd. Eff. Jan. 9, 1996.

***** 208.36d THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.36d Determination of reduction percentage under § 208.36(2)(c).

Sec. 36d. To determine the reduction percentage under section 36(2)(c), the following apply:

(a) The reduction percentage for a partnership or subchapter S corporation is based on the distributive share of adjusted gross income minus loss adjustment of the partner or shareholder with the greatest distributive share of adjusted gross income minus loss adjustment.

(b) The reduction percentage for a corporation other than a subchapter S corporation is the greater of the following:

(i) The reduction percentage based on the compensation and directors' fees of the shareholder or officer with the greatest amount of compensation and directors' fees.

(ii) The reduction percentage based on the sum of the amounts in section 36(2)(b)(ii)(A) and (B) for the shareholder or officer with the greatest sum of the amounts in section 36(2)(b)(ii)(A) and (B).

History: Add. 1995, Act 285, Imd. Eff. Jan. 9, 1996.

***** 208.37 THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.37 Credit for unincorporated taxpayer or for taxpayer electing subchapter S provisions; schedule.

Sec. 37. Every taxpayer who is unincorporated or who elects the subchapter S provisions of the internal revenue code shall be allowed a credit for a portion of the single business tax liability after the calculation of the credit provided in section 36 for the same year according to the following schedule:

If Business Income Is

\$20,000.00 or less

more than \$20,000.00, but less than \$40,000.00

\$40,000.00 or more

The Credit Is

20% of the single business tax liability

15% of the single business tax liability

10% of the single business tax liability.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1976, Act 389, Imd. Eff. Dec. 30, 1976;—Am. 1977, Act 273, Imd. Eff. Dec. 15, 1977.

***** 208.37a THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.37a Credit for tax liability attributable to qualified business activity in enterprise zone; limitation; definitions.

Sec. 37a. (1) A taxpayer that is a qualified business may credit against the tax imposed by section 31 an amount equal to the tax liability attributable to qualified business activity in an enterprise zone.

(2) The tax liability attributable to qualified business activity in an enterprise zone is the tax liability imposed by this act after the calculation of the credits provided in sections 36, 37, 38, and 39 multiplied by 1 of the following:

(a) For a qualified new business, a fraction the numerator of which is the ratio of property located in the enterprise zone to all property located in this state plus the ratio of payroll in the enterprise zone to all payroll in this state and the denominator of which is 2.

(b) For a qualified existing business, a fraction the numerator of which is the ratio of the value of a new facility to all property located in this state plus the ratio of payroll attributable to the new facility to all payroll in this state and the denominator of which is 2.

(3) The credit allowed under this section shall not exceed the tax liability of the taxpayer for the tax year.

(4) As used in this section, "enterprise zone", "new facility", "qualified business activity", "qualified existing business", and "qualified new business" mean those terms as defined in the enterprise zone act.

History: Add. 1985, Act 226, Imd. Eff. Jan. 13, 1986.

***** 208.37b THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.37b Credit for tax liability attributable to high technology activity.

Sec. 37b. (1) A taxpayer engaged in a high technology activity that qualifies under the criteria of subsection (3) may credit against the tax imposed by section 31 an amount equal to the tax liability attributable to that high technology activity.

(2) The tax liability attributable to the high technology activity described in subsection (1) is the tax liability imposed by this act after the calculation of the credits provided in sections 36, 37, 38, and 39 multiplied by a fraction the numerator of which is the ratio of property used for the high technology activity to all property located in this state plus the ratio of payroll for the high technology activity to all payroll in this state and the denominator of which is 2.

(3) To qualify for the credit allowed under this section, the taxpayer shall comply with all of the following:

(a) The high technology activity is the primary purpose and use of eligible property subject to a tax increment financing plan that provides for the use of captured assessed value from that eligible property.

(b) The taxpayer was not located in the central city before the authority district in which the eligible property is located was created.

(c) The department of treasury issues a certificate to the taxpayer certifying that the eligible property is located in a central city and is used for a high technology activity and that the taxpayer meets the other requirements of this section. A certificate issued under this subdivision shall be effective for 10 years after the date of issuance or until the certificate is revoked. The department of treasury shall revoke a certificate if the taxpayer no longer meets the requirements of this section. A certificate shall not be issued by the department of treasury after December 31, 1991.

(4) The credit allowed under this section shall not exceed the tax liability of the taxpayer for the tax year.

(5) As used in this section:

(a) "Authority district", "eligible property", and "tax increment financing plan" mean those terms as used in the local development financing act.

(b) "Central city" means a city that has the largest population within a metropolitan statistical area as designated by the United States bureau of the census and meets all of the following criteria or a city that has the largest population within a county, but not less than 40,000, and meets all of the following criteria:

(i) Has had a poverty rate for families that is more than the statewide average rate as defined by the most recent federal decennial census.

(ii) Shows a population decline from the next most recent to the most recent federal decennial census.

(iii) Has had an increase in state equalized valuation of real and personal property over the prior 10 calendar years that is less than the statewide average increase in state equalized valuation over the prior 10 calendar years.

(iv) Has had an unemployment rate higher than the state average unemployment rate for 3 of the preceding 5 calendar years.

However, a central city does not include a city of which all or a portion has been designated as an enterprise zone under the enterprise zone act, Act No. 224 of the Public Acts of 1985, being sections 125.2101 to 125.2122 of the Michigan Compiled Laws.

(c) "High technology activity" means an activity specified by section 2(h)(iii) of the local development financing act but shall exclude those businesses also qualifying as eligible property under section 2(h)(i) or 2(h)(ii) of the local development financing act or those businesses whose high technology activity relates to the activity of a business that also qualifies as eligible property under section 2(h)(i) or 2(h)(ii) of the local development financing act.

History: Add. 1986, Act 283, Imd. Eff. Dec. 22, 1986.

***** 208.37c THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.37c Tax credit; authorization and amount determined by Michigan economic growth authority; limitation; certificate; contents; refund; payments to department where qualified new jobs removed from state; statement; limitation on credits claimed; certificate issued after December 31, 2009; distressed business; report; definitions.

Sec. 37c. (1) For tax years beginning after December 31, 1994 and for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, a taxpayer that is an authorized business may credit against the tax imposed by section 31 the amount certified each year by the Michigan economic growth authority.

(2) The credit allowed under subsection (1) for an authorized business for the tax year as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, shall not exceed the payroll of the authorized business attributable to employees who perform qualified new jobs multiplied by the tax rate.

(3) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the return filed under this act on which a credit under this section is claimed.

(4) The certificate required by subsection (3) shall state all of the following:

(a) The taxpayer is an authorized business.

(b) The amount of the credit under this section for the authorized business for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.

(d) For a taxpayer that claims a credit allowed under subsection (10), the taxpayer is a distressed business.

(5) If the credit allowed under subsection (1) exceeds the tax liability of the taxpayer for the tax year, the excess shall be refunded to the taxpayer.

(6) A taxpayer that claims a credit under subsection (1) or section 37d that has an agreement with the Michigan economic growth authority based on qualified new jobs as defined in section 3(n)(ii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803, that removes from this state 51% or more of those qualified new jobs within 3 years after the first year in which the taxpayer claims a credit described in this subsection shall pay to the department no later than 12 months after those qualified new jobs are removed from the state an amount equal to the total of all credits described in this subsection that were claimed by the taxpayer.

(7) If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer who claims the credit under this section get a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same number of new jobs used to calculate the credit under this section, the taxpayer shall get the statement and attach that statement to its annual return under this act on which the credit under this section is claimed.

(8) For a credit allowed under subsection (1), an affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 CFR 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall claim only 1 credit for each tax year for each expansion or location evidenced by a written agreement whether or not a combined or consolidated return is filed.

(9) A credit shall not be claimed by a taxpayer under subsection (1) if the taxpayer's initial certification as required in subsection (3) is issued after December 31, 2009.

(10) In addition to the credit allowed under subsection (1), for tax years that begin after December 31, 2003 and before January 1, 2007, a taxpayer that is an authorized business and is a distressed business, with an initial certification under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, issued after December 31, 2003 and before January 1, 2005 may claim a credit equal to the sum of the following:

(a) Up to 50% of the tax paid in the tax year under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, based on qualified new jobs as defined in section 3(n)(iii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(b) Up to 25% of the tax paid in the tax year under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, based on all jobs other than qualified new jobs as defined in section 3(n)(iii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(11) An authorized business that is a distressed business shall apply to the Michigan economic growth authority, which shall determine the percentage under subsection (10) for that authorized business. The Michigan economic growth authority shall issue a certificate to the authorized business stating the percentage amount and the tax years to which that percentage applies not more than 30 days after receipt of an application under this subsection.

(12) If the credit allowed under subsection (10) for the tax year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 10 tax years or until the excess credit is used up, whichever occurs first.

(13) On or before September 1, 2004, the Michigan economic growth authority shall submit a report to the legislature that includes all of the following information related to credits allowed under subsections (10) and (11):

(a) The status of implementing the provisions of subsection (11) including development of the application form and the standards for determining the percentages for the credits under subsection (10).

(b) The number of authorized businesses that have applied for the credit.

(c) The number of certificates issued under subsection (11).

(14) As used in this section:

(a) "Authority" or "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(b) "Authorized business", "facility", "full-time job", "qualified high-technology business", and "written agreement" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Payroll" means the total salaries and wages before deducting any personal or dependency exemptions.

(d) "Qualified new jobs" means 1 or more of the following:

(i) For a credit allowed under subsection (1), the average number of full-time jobs at a facility of an authorized business for a tax year in excess of the average number of full-time jobs the authorized business maintained in this state prior to the expansion or location as that is determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(ii) After July 1, 2000 for a credit allowed under subsection (1), the average number of full-time jobs at a facility created by an eligible business within 120 days before becoming an authorized business, that is in excess of the average number of full-time jobs that the business maintained in this state 120 days before becoming an authorized business, as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(iii) For credits allowed under subsection (10), that term as defined in section 3(n)(iii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(e) "Tax rate" means the rate imposed under sections 51, 51d, and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51, 206.51d, and 206.51e, for the tax year in which the tax year of the taxpayer for which the credit is being computed begins.

History: Add. 1995, Act 23, Imd. Eff. Apr. 18, 1995;—Am. 1996, Act 470, Imd. Eff. Dec. 26, 1996;—Am. 1999, Act 100, Imd. Eff. July 6, 1999;—Am. 2000, Act 429, Imd. Eff. Jan. 9, 2001;—Am. 2003, Act 251, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 80, Imd. Eff. Apr. 22, 2004.

***** 208.37d THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.37d Tax credit; amount; certificate issued by Michigan economic growth authority; contents of certificate; tax liability; carrying forward unused credit; certificate issued after December 31, 2009; definitions.

Sec. 37d. (1) For tax years beginning after December 31, 1994, and for a period of time not to exceed 20 years as determined by the Michigan economic growth authority plus any carryforward years allowed under subsection (5), a taxpayer that is an authorized business may credit against the tax imposed by section 31 an amount equal to the tax liability attributable to authorized business activity.

(2) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the return filed under this act on which a credit under this section is claimed.

(3) The certificate required by subsection (2) shall state all of the following:

(a) The taxpayer is an authorized business.

(b) The amount of the credit under this section for the authorized business for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan treasury number assigned.

(4) The tax liability attributable to authorized business activity is the tax liability imposed by this act after the calculation of the credits provided in sections 36, 37, 38, and 39 multiplied by either of the following fractions as appropriate:

(a) For an authorized business locating a facility in this state, a fraction the numerator of which is the ratio of the value of the facility to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to qualified new jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(b) For an authorized business expanding at an existing site, a fraction the numerator of which is the ratio of the value of the new property added to the site as part of that expansion to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to qualified new jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(5) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

(6) A credit shall not be claimed by a taxpayer under this section if the taxpayer's initial certification, as required in subsection (2), is issued after December 31, 2009.

(7) As used in this section:

(a) "Authorized business" and "facility" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(b) "Authorized business activity" means the business activity of an authorized business certified under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(d) "Qualified new jobs" means that term as defined in section 37c.

History: Add. 1995, Act 23, Imd. Eff. Apr. 18, 1995;—Am. 1996, Act 470, Imd. Eff. Dec. 26, 1996;—Am. 1999, Act 100, Imd. Eff. July 6, 1999;—Am. 2003, Act 250, Imd. Eff. Dec. 29, 2003.

***** 208.37e THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.37e Tax credit; determination under Michigan early stage venture capital investment act of 2003.

Sec. 37e. (1) For tax years that begin after December 31, 2008, a taxpayer that has been issued a tax voucher certificate under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, or any taxpayer to which all or a portion of a tax voucher is transferred pursuant to the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, may use the tax voucher to pay a liability of the taxpayer due under this act.

(2) The total amount of all tax voucher certificates that shall be approved before November 1, 2005 and on and after November 1, 2005 if subsection (3) is not in effect, under this section and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, for all taxpayers for all years shall not exceed \$150,000,000.00.

(3) On and after the date that the Michigan tobacco settlement finance authority is authorized by law to issue bonds under the Michigan tobacco settlement finance authority act, but not sooner than November 1, 2005, the total amount of all tax voucher certificates that shall be approved under this section and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, shall not exceed an amount sufficient to allow the Michigan early stage venture investment corporation to raise \$450,000,000.00 for the purposes authorized under the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263. The total amount of all tax voucher certificates shall not exceed \$600,000,000.00.

(4) The department shall not approve a tax voucher certificate under section 23(2) of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, after December 31, 2015. For tax voucher certificates approved under subsections (2) and (3), the amount of tax voucher certificates approved by the department for use in any tax year shall not exceed 25% of the total amount of all tax voucher certificates approved by the department.

(5) Investors shall apply to the Michigan early stage venture investment corporation for approval of tax voucher certificates at the time and in the manner required under the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(6) The Michigan early stage venture investment corporation shall determine which investors are eligible for tax vouchers and the amount of the tax vouchers allowed to each investor as provided in the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(7) The tax voucher certificate, and any completed transfer form that was issued pursuant to the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, shall be attached to the taxpayer's annual return under this act. The department may prescribe and implement alternative methods of reporting and recording ownership, transfer, and utilization of tax voucher certificates that are not inconsistent with the provisions of this act.

(8) A tax voucher shall be used to pay a liability of the taxpayer due under this act only in a tax year that begins after December 31, 2008. The amount of the tax voucher that may be used to pay a liability of the taxpayer due under this act in any tax year shall not exceed the lesser of the following:

(a) The amount of the tax voucher stated on the tax voucher certificate held by the taxpayer.

(b) The amount authorized to be used in the tax year under the terms of the tax voucher certificate.

(c) The taxpayer's liability due under this act for the tax year for which the tax voucher is to be applied.

(9) The department shall administer transfers of tax voucher certificates or the transfer of the right to be issued and receive a tax voucher certificate as provided in the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, and shall take any action necessary to enforce and effectuate the permissible issuance and use of tax voucher certificates in a manner authorized under this section and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(10) If the amount of a tax voucher certificate held by a taxpayer or transferee exceeds the amount the taxpayer or transferee may use under subsection (8)(b) or (c) in a tax year, that excess may be used by the taxpayer or transferee to pay, subject to the limitations of subsection (8), any future liability of the taxpayer or

transferee under this act.

(11) Upon the request of a taxpayer, the department shall issue separate replacement tax voucher certificates, or replacement approval letters, evidencing the right of the holder to be issued and receive a tax voucher certificate in an aggregate amount equal to the amount of a tax voucher certificate or an approval letter presented by a taxpayer. Replacement tax voucher certificates may be used, and replacement approval letters may be issued, to evidence the right to be issued and receive a tax voucher certificate that will be used for 1 or more of the following purposes:

(a) To pay any liability of the taxpayer under this act to the extent permitted in any tax year by subsection (8).

(b) To pay any liability of the taxpayer under and to the extent allowed under section 270 of the income tax act of 1967, 1967 PA 281, MCL 206.270.

(c) To be transferred to a taxpayer who may use the replacement tax voucher certificate to pay any liability under this act to the extent allowed under subsection (8).

(d) To be transferred to a person who may use the tax voucher certificate to pay any liability under and to the extent allowed under section 270 of the income tax act of 1967, 1967 PA 281, MCL 206.270.

(12) As used in this section:

(a) "Board", "fund manager", and "investor" mean those terms as defined in the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(b) "Certificate" means the certificate issued under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253.

(c) "Transferee" means a taxpayer to whom a tax voucher certificate has been transferred under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, and this section.

History: Add. 2003, Act 297, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 233, Imd. Eff. Nov. 21, 2005.

***** 208.37f THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.37f Tax credit; payment to employees performing created jobs.

Sec. 37f. (1) For tax years that begin after December 31, 2004 and before January 1, 2006, a taxpayer with gross receipts of \$10,000,000.00 or less for a tax year may claim a credit against the tax imposed by this act equal to the following percentages of compensation paid by the taxpayer to employees who perform created jobs, as determined under subsection (2), for that tax year in the following circumstances:

(a) If the taxpayer makes capital investment in this state of less than \$150,000.00 in the tax year, 0.50%.

(b) If the taxpayer makes capital investment in this state of \$150,000.00 or more but less than \$750,000.00, 1.5%.

(c) If the taxpayer makes capital investment in this state of \$750,000.00 or more in the tax year, 2.0%.

(2) Compensation paid to employees who perform created jobs for purposes of subsection (1) is determined as follows:

(a) For tax years that begin in 2004 and 2005, determine for each tax year the full-time equivalent job for each employee, which shall be the lesser of the following:

(i) An employment period ratio, which is equal to the employee's weeks worked in the tax year divided by 52.

(ii) An hours worked ratio, which is equal to the employee's hours worked during the tax year divided by the full-time equivalent annual hours of work set by the taxpayer. Each taxpayer shall set a full-time equivalent annual hours of work standard which shall be not less than 1,750 hours and not more than 2,080 hours.

(b) For the tax year that begins in 2005, determine the average compensation for full-time equivalent new jobs that perform high-technology activity or manufacturing jobs as follows:

(i) For the tax year that begins in 2005, calculate the sum of full-time equivalent jobs calculated in subdivision (a) for employees who perform high-technology activity or manufacturing jobs and who were hired in the tax year.

(ii) Determine the total compensation, not to exceed \$85,000.00 per employee, paid for all jobs under subparagraph (i).

(iii) Divide the amount determined under subparagraph (ii) by the number determined under subparagraph (i).

(c) Determine the number of created jobs, which shall be determined as follows:

(i) For the tax year that begins in 2004, calculate the sum of the number of full-time equivalent jobs calculated under subdivision (a) for all employees.

(ii) For the tax year that begins in 2005, calculate the sum of the number of full-time equivalent jobs calculated under subdivision (a) for all employees.

(iii) Subtract the number under subparagraph (i) from the number under subparagraph (ii).

(iv) Determine the lesser of (b)(i) and (c)(iii).

(d) Multiply the number under subdivision (c)(iv) by the 2005 average compensation under subdivision (b)(iii).

(3) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 10 tax years or until the excess credit is used up, whichever occurs first.

(4) A member of an affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 CFR 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall determine gross receipts for purposes of this section on a consolidated basis.

(5) For purposes of determining compensation paid to employees, the taxpayer shall not include compensation paid to a spouse, parent, sibling, child, stepchild, adopted child, or stepparent of an active shareholder or officer, a shareholder of an S corporation, a partner of a partnership, a member of a limited liability company, or an individual who is a sole proprietor.

(6) The capital investment threshold for purposes of subsection (1) must be met at the principal place of employment of any employee of the taxpayer who performs a created job.

(7) For purposes of the credit under this section, leased employees are considered employees of the entity whose employment operations are managed by a professional employer organization.

(8) As used in this section:

(a) "Active shareholder" and "officer" mean those terms as defined in section 36.

(b) "Capital investment" means investment that can be used to calculate a credit under section 35a.

(c) "Created jobs" means jobs that meet all of the following criteria:

(i) Are jobs that perform high-technology activity or manufacturing jobs.

(ii) Did not exist in this state in the immediately preceding tax year.

(iii) Represent an overall increase in full-time equivalent jobs of the taxpayer in this state for the tax year above the total number of full-time equivalent jobs of the taxpayer in the immediately preceding tax year.

(iv) Is not a job into which an employee transfers if the employee worked in this state for the taxpayer, a related entity of the taxpayer, or an entity with which the taxpayer files a consolidated return under section 77 in another job prior to beginning the created job.

(v) The benefits for the employee in the created job include coverage under health and welfare and noninsured benefit plans, including, but not limited to, prescription coverage, primary health care coverage, and hospitalization that is not limited to emergency room services or subject to dollar limits, deductibles, and coinsurance provisions that are not less favorable than those for physical illness generally.

(vi) Is not a qualified new job used to calculate a credit under section 37c or 37d.

(d) "High-technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(e) "Manufacturing jobs" are jobs for a company that has a classification under sector 33, subsector 321, or subsector 322 of the North American industrial classification system (NAICS).

(f) "Related entity" means an entity that meets any of the following criteria:

(i) More than 1% is owned by 1 of the following:

(A) Another entity.

(B) An entity that owns more than 1% of another entity.

(ii) It owns more than 1% of another entity.

(iii) It markets itself under a common name or trademark with any other entity or receives payroll, human resources, administrative, or other similar services from a company that provides those services to another entity.

History: Add. 2004, Act 319, Imd. Eff. Aug. 27, 2004.

***** 208.37g *THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007*

208.37g Tax credit for donated automobile.

Sec. 37g. (1) For tax years that begin after December 31, 2004 and before January 1, 2010, a taxpayer may claim a credit against the tax imposed by this act, subject to the applicable limitations provided by this

section, in an amount equal to 50% of the fair market value of an automobile donated by the taxpayer to a qualified organization that intends to provide the automobile to a qualified recipient.

(2) The value of a passenger vehicle shall be determined by the qualified organization or by using the value of the automobile in the appropriate guide published by the national automobile dealers association, whichever is less.

(3) The amount allowable as a credit under this section for a tax year shall not exceed \$100.00.

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

(5) As used in this section, "qualified organization" and "qualified recipient" mean those terms as defined in section 4y of the use tax act, 1937 PA 94, MCL 205.94y.

History: Add. 2004, Act 302, Imd. Eff. July 23, 2004.

***** 208.38 THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.38 Tax credit for charitable contributions to public broadcast station; limitations; conditions; annual report; financial statements; definitions.

Sec. 38. (1) At the election of taxpayers not subject to Act No. 281 of the Public Acts of 1967, as amended, being sections 206.1 to 206.532 of the Michigan Compiled Laws, there shall be allowed as a credit against the tax imposed by this act for the taxable year, an amount, subject to the applicable limitations provided by this section, equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during the year to a public broadcast station as defined by 47 U.S.C. 397 which is not affiliated with an institution of higher education, public libraries, institutions of higher learning located within this state, the Michigan colleges foundation, or to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning. An institution of higher learning which receives the contributions through a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of the institution of higher learning, shall make an annual report to the chairpersons of the house and senate appropriations committees and the house taxation committee and senate finance committee indicating in what manner the contributions were or are being used and any specific conditions under which a particular contribution was received and how the money or property from that contribution was or is being used. The report shall be due not later than February 1 for the immediately preceding calendar year and shall be issued in 1981 and 1982 only. The tax credit shall be permitted only where the donee corporation, fund, foundation, trust, or association is controlled or approved and reviewed by the governing boards of the institutions benefiting from the charitable contributions. The nonprofit corporation, fund, foundation, trust, or association shall provide copies of their annual independently audited financial statements to the auditor general of the state and chairpersons of the senate and house appropriations committees.

(2) The amount allowable as a credit under this section for any taxable year shall not exceed 5% of the tax liability for that year as determined without regard to this section or \$5,000.00, whichever is less.

(3) As used in this section, "institution of higher learning" means an educational institution located within this state meeting all of the following requirements:

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(b) It regularly offers education above the twelfth grade.

(c) It awards associate, bachelors, masters, or doctoral degrees or any combination of those degrees or higher education credits acceptable for those degrees granted by other institutions of higher learning.

(d) It is recognized by the state board of education as an institution of higher learning and appears as an institution of higher learning in the annual publication of the department of education entitled "the directory of institutions of higher education".

(4) As used in this section, "public library or libraries" means a public library as defined in section 2 of Act No. 89 of the Public Acts of 1977, being section 397.552 of the Michigan Compiled Laws.

(5) The credit allowed by this section shall not be in excess of the tax liability of the taxpayer.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1980, Act 318, Imd. Eff. Dec. 9, 1980.

Compiler's note: Section 2 of Act 318 of 1980 provides: "This amendatory act shall take effect for tax years commencing January 1, 1980."

In subsection (3)(d) the word "entitled" evidently should read "entitled".

208.38a Expired. 1982, Act 393, Eff. Jan. 1, 1986.

Compiler's note: This section pertained to a tax credit in an amount equal to the dollar amount of increase in federal unemployment taxes.

***** 208.38b THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.38b Certain employers or carriers required to claim credit; amount; refund of credit in excess of estimated payment; subsequent increase or decrease in amount claimed; credit additional to other credits; refund of credit in excess of tax liability.

Sec. 38b. (1) For amounts paid after March 31, 1984, pursuant to section 352 of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.352 of the Michigan Compiled Laws, a taxpayer that is an employer or carrier subject to Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws, shall claim a credit against the tax imposed by this act for the taxable year in an amount equal to the amount paid during that tax year by the taxpayer pursuant to section 352 of Act No. 317 of the Public Acts of 1969, as certified by the director of the bureau of worker's disability compensation pursuant to section 391(6) of Act No. 317 of the Public Acts of 1969, being section 418.391 of the Michigan Compiled Laws.

(2) A taxpayer claiming a credit under this section shall claim a portion of the credit allowed by this section equal to the payments made during a calendar quarter pursuant to section 352 of Act No. 317 of the Public Acts of 1969, against the estimated tax payments made under section 71. Any credit in excess of an estimated payment shall be refunded to the taxpayer on a quarterly basis within 60 calendar days after receipt of a properly completed estimated tax return. Any subsequent increase or decrease in the amount claimed for payments made by the insurer or self-insurer shall be reflected in the amount of the credit taken for the calendar quarter in which the amount of the adjustment is finalized.

(3) The credit under this section is in addition to any other credits the taxpayer is eligible for under this act.

(4) Any amount of the credit under this section which is in excess of the tax liability of the taxpayer for the tax year shall be refunded, without interest, by the department to the taxpayer within 60 calendar days of receipt of a properly completed annual return required by this act.

History: Add. 1984, Act 45, Imd. Eff. Apr. 9, 1984;—Am. 1995, Act 135, Imd. Eff. July 10, 1995.

***** 208.38c THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.38c Tax credit for 50% of contribution to endowment fund of community foundation; limitations; credit nonrefundable; "community foundation" defined; report.

Sec. 38c. (1) For the 1989 tax year and each tax year after the 1989 tax year and subject to the applicable limitations in this section, a taxpayer who does not claim a credit under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, may credit against the tax imposed by this act 50% of the amount the taxpayer contributes during the taxable year to an endowment fund of a community foundation.

(2) The credit allowed by this section shall not exceed 5% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less.

(3) The credit allowed by this section is nonrefundable so that a taxpayer shall not claim under this section a total credit amount that reduces the taxpayer's tax liability to less than zero.

(4) As used in this section, "community foundation" means an organization that applies for certification on or before May 15 of the tax year for which the taxpayer is claiming the credit and that the department certifies for that tax year as meeting all of the following requirements:

(a) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.

(b) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality or county.

(c) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.

(d) Is publicly supported as defined by the regulations of the United States department of treasury, 26 C.F.R. 1.170A-9(e)(10). To maintain certification, the community foundation shall submit documentation to the department annually that demonstrates compliance with this subdivision.

(e) Is not a supporting organization as an organization is described in section 509(a)(3) of the internal revenue code and the regulations of the United States department of treasury, 26 C.F.R. 1.509(a)-4 and

1.509(a)-5.

(f) Meets the requirements for treatment as a single entity contained in the regulations of the United States department of treasury, 26 C.F.R. 1.170A-9(e)(11).

(g) Except as provided in subsection (6), is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit under this section is claimed and that has an endowment value of at least \$100,000.00 before the expiration of 18 months after the community foundation is incorporated or established.

(h) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(i) Provides evidence to the department that the community foundation has, before the expiration of 6 months after the community foundation is incorporated or established, and maintains continually during the tax year for which the credit under this section is claimed, at least 1 part-time or full-time employee.

(j) For community foundations that have an endowment value of \$1,000,000.00 or more only, the community foundation is subject to an annual independent financial audit and provides copies of that audit to the department not more than 3 months after the completion of the audit. For community foundations that have an endowment value of less than \$1,000,000.00, the community foundation is subject to an annual review and an audit every third year.

(k) In addition to all other criteria listed in this subsection for a community foundation that is incorporated or established after the effective date of the amendatory act that added this subdivision, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing certified community foundation.

(5) On or before July 1 of each year, the department shall report to the house of representatives committee on taxation and the senate committee on finance the total amount of tax credits claimed under this section and under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, for the immediately preceding tax year.

(6) A taxpayer may claim a credit under this section for contributions to a community foundation made before the expiration of the 18-month period after a community foundation was incorporated or established during which the community foundation must build an endowment value of \$100,000.00 as provided in subsection (4)(g). If the community foundation does not reach the required \$100,000.00 endowment value during that 18-month period, contributions to the community foundation made after the date on which the 18-month period expires shall not be used to calculate a credit under this section. At any time after the expiration of the 18-month period under subsection (4)(g) that the community foundation has an endowment value of \$100,000.00, the community foundation may apply to the department for certification under this section.

History: Add. 1988, Act 514, Imd. Eff. Dec. 29, 1988;—Am. 1990, Act 135, Imd. Eff. June 26, 1990;—Am. 1991, Act 170, Imd. Eff. Dec. 20, 1991;—Am. 1993, Act 267, Imd. Eff. Dec. 28, 1993;—Am. 1994, Act 231, Imd. Eff. June 30, 1994;—Am. 1997, Act 190, Imd. Eff. Dec. 30, 1997;—Am. 2000, Act 429, Imd. Eff. Jan. 9, 2001.

Compiler's note: Section 2 of Act 135 of 1990 provides: "This amendatory act shall apply to tax years after 1989."

***** 208.38d THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.38d Tax credit equal to 10% of cost of eligible investment paid or accrued.

Sec. 38d. (1) For tax years that begin after December 31, 1996 and before January 1, 2001, a qualified taxpayer may claim a credit against the tax imposed by this act equal to 10% of the cost of eligible investment paid or accrued by the qualified taxpayer in the tax year.

(2) The maximum total credits claimed under this section for all tax years by each taxpayer that claims a credit under this section shall not exceed \$1,000,000.00.

(3) The credit allowed under this section shall be calculated after application of all other credits allowed under this act.

(4) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

(5) If eligible investment is for the purchase of tangible assets, if the cost of those assets will have been used to calculate a credit under this section, and if the tangible assets are sold or disposed of or transferred from eligible property to any other location, add 10% of the federal basis used for determining gain or loss as

of the date of the sale, disposition, or transfer to the taxpayer's tax liability for the tax year in which the sale, disposition, or transfer occurs.

(6) An affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined in the internal revenue code shall consolidate the eligible investment of the members of the affiliated group, member corporations of the controlled group, or entities under common control for purposes of determining when the maximum allowable credit limit under subsection (2) has been reached.

(7) The department shall develop procedures to implement this section.

(8) As used in this section:

(a) "Eligible activity" means that term as defined in the brownfield redevelopment financing act.

(b) "Eligible investment" means demolition, construction, restoration, alteration, renovation, or improvement of buildings on eligible property and the addition of machinery, equipment, and fixtures to eligible property after the date that eligible activity on that eligible property has started pursuant to a brownfield plan under the brownfield redevelopment financing act, if the costs of the eligible investment are not otherwise reimbursed to the taxpayer or paid for on behalf of the taxpayer from any source other than the taxpayer.

(c) "Eligible property" means property that is a facility as that term is defined in section 20101 of part 201 (environmental remediation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.20101 of the Michigan Compiled Laws, or property that was a facility as defined in section 20101 of Act No. 451 of the Public Acts of 1994 prior to the completion of eligible activity pursuant to a brownfield plan under the brownfield redevelopment financing act.

(d) "Qualified taxpayer" means a taxpayer that meets both of the following criteria:

(i) Owns or leases an eligible property that is located within a brownfield redevelopment zone designated pursuant to the brownfield redevelopment financing act and on which eligible activity has started pursuant to a brownfield plan under the brownfield redevelopment financing act.

(ii) The taxpayer is not liable under section 20126 of part 201 of Act No. 451 of the Public Acts of 1994, being section 324.20126 of the Michigan Compiled Laws, for response activity at an eligible property to which the credit is attributable.

(e) "Response activity" means that term as defined in the brownfield redevelopment financing act.

History: Add. 1996, Act 382, Eff. Sept. 16, 1996.

***** 208.38e THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.38e Apprenticeship tax credit.

Sec. 38e. (1) A taxpayer may claim a credit against the tax imposed by this act equal to the sum of 50% of the qualified expenses defined in subsection (5)(d)(i) and (ii) and 100% of the qualified expenses defined in subsection (5)(d)(iii) paid by the taxpayer in the tax year in each of the following circumstances:

(a) Except for apprentices trained under subdivision (b) or (c), an amount not to exceed \$2,000.00 for each apprentice trained by the taxpayer in the tax year.

(b) For companies that have a classification under the North American industrial classification system (NAICS) of 333511, 333512, 333513, 333514, or 333515 and for tax years that begin after December 31, 2003, an amount not to exceed \$4,000.00 for each apprentice trained by the taxpayer in the tax year.

(c) For companies that have a classification under the North American industrial classification system (NAICS) of 333511, 333512, 333513, 333514, or 333515 and for tax years that begin after December 31, 2003, an amount not to exceed \$1,000.00 for each special apprentice trained by the taxpayer in the tax year.

(2) If the credit allowed under this section exceeds the tax liability of the taxpayer under this act for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

(3) The credit allowed under this section shall be claimed on the annual return required under section 73, or for a taxpayer that is not required to file an annual return, the department shall provide that the credit under this subsection may be claimed on the C-8044 form, a successor form for persons not required to file an annual return, or other simplified form prescribed by the department.

(4) For each year that this credit is in effect, the department of labor and economic growth shall prepare a report containing information including, but not limited to, the number of companies taking advantage of the apprenticeship credit, the number of apprentices participating in the program, the number of apprentices who complete a program the costs of which were the basis of a credit under this section, the number of apprentices that were hired by the taxpayer after the apprenticeship training was completed for which the taxpayer

claimed a credit under this section for the costs of training that apprentice, information on the employment status of individuals who have completed an apprenticeship to the extent the information is available, and the fiscal impact of the apprenticeship credit. This report shall then be transmitted to the house tax policy and senate finance committees and to the house and senate appropriations committees. This report shall be due no later than the first day of March each year.

(5) As used in this section:

(a) "Apprentice" means a person who is a resident of this state, is 16 years of age or older but younger than 20 years of age, has not obtained a high school diploma, is enrolled in high school or a general education development (G.E.D.) test preparation program, and is trained by a taxpayer through a program that meets all of the following criteria:

(i) The program is registered with the bureau of apprenticeship and training of the United States department of labor.

(ii) The program is provided pursuant to an apprenticeship agreement signed by the taxpayer and the apprentice.

(iii) The program is filed with a local workforce development board.

(iv) The minimum term in hours for the program shall be not less than 4,000 hours.

(b) "Enrolled" means currently enrolled or expecting to enroll after a period of less than 3 months during which the program is not in operation and the apprentice is not enrolled.

(c) "Local workforce development board" means a board established by the chief elected official of a local unit of government pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322, that has the responsibility to ensure that the workforce needs of the employers in the geographic area governed by the local unit of government are met.

(d) "Qualified expenses" means all of the following expenses paid by the taxpayer in a tax year that begins after December 31, 1996 for expenses used to calculate a credit under subsection (1)(a) and after December 31, 2003 for expenses used to calculate a credit under subsection (1)(b) that were not paid for with funds the taxpayer received or retained that the taxpayer would not otherwise have received or retained and that are used for training an apprentice:

(i) Salary and wages paid to an apprentice.

(ii) Fringe benefits and other payroll expenses paid for the benefit of an apprentice.

(iii) Costs of classroom instruction and related expenses identified as costs for which the taxpayer is responsible under an apprenticeship agreement, including but not limited to tuition, fees, and books for college level courses taken while the apprentice is enrolled in high school.

(e) "Special apprentice" means a person who is not an apprentice as defined by section (5)(a), is a resident of this state, is 16 years of age or older but younger than 25 years of age, and is trained by a taxpayer through a program that meets all of the criteria under subdivision (a)(i) to (iv).

History: Add. 1996, Act 593, Imd. Eff. Jan. 22, 1997;—Am. 1999, Act 184, Imd. Eff. Nov. 24, 1999;—Am. 2003, Act 273, Imd. Eff. Jan. 8, 2004.

Compiler's note: For transfer of certain powers and duties vested in the department of career development or its director, relating to powers and duties of state board of education or superintendent of public instruction to the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

***** 208.38f THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.38f Contribution to shelter for homeless persons, food kitchen, food bank, or other entity; allowable tax credit.

Sec. 38f. (1) For the 1992 tax year and each tax year after the 1992 tax year, a taxpayer who does not claim a credit for a contribution to a shelter for homeless persons, food kitchen, food bank, or other entity, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, may credit against the tax imposed by this act 50% of the cash amount the taxpayer contributes during the tax year to a shelter for homeless persons, food kitchen, food bank, or other entity, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent if a contribution to that entity is tax deductible for the donor under the internal revenue code.

(2) The credit allowed by this section shall not exceed 5% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less.

(3) The credit allowed by this section is nonrefundable so that a taxpayer shall not claim a credit amount under this section that reduces the taxpayer's tax liability for the tax year to less than zero.

(4) An entity described in subsection (1) may request that the department determine if a contribution to that entity qualifies for the credit under this section. The department shall make a determination and respond to a request no later than 30 days after the department receives the request.

(5) On or before July 1 of each year, the department shall report to the house of representatives committee on tax policy and the senate committee on finance the total amount of tax credits claimed under this section, section 38c, and section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, for the immediately preceding tax year.

History: Add. 1997, Act 191, Imd. Eff. Dec. 30, 1997.

***** 208.38g *THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007*

208.38g Tax credit; conditions; application for project costing more than \$2,000,000 but \$10,000,000 or less; application to Michigan economic growth authority for project costing \$10,000,000 or more; limitations; total credits; criteria; investment on more than 1 property; project completion; tax year credits claimed; leased machinery, equipment, or fixtures; calculation of credits; carryforward provisions; qualified or eligible taxpayer; investment related to sports stadium, casino, or landfill; report; amendment of project; project as multiphase; project \$200,000 or less; repeal of act for tax years beginning after December 31, 2007; effect; definitions.

Sec. 38g. (1) Subject to the criteria under this section, an eligible taxpayer may claim a credit against the tax imposed by this act as determined under subsections (20) to (25); and subject to the criteria under this section, a qualified taxpayer that has a preapproval letter issued after December 31, 1999 and before January 1, 2008, provided that the project is completed not more than 5 years after the preapproval letter for the project is issued, or an assignee under subsection (17) or (18) or section 35e may claim a credit that has been approved under subsection (2), (3), or (33) against the tax imposed by this act equal to either of the following:

(a) If the total of all credits for a project is \$1,000,000.00 or less, 10% of the cost of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property provided that the project does not exceed the amount stated in the preapproval letter. If eligible investment exceeds the amount of eligible investment in the preapproval letter for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(b) If the total of all credits for a project is more than \$1,000,000.00 but \$30,000,000.00 or less and, except as provided in subsection (5)(b), the project is located in a qualified local governmental unit, a percentage as determined by the Michigan economic growth authority not to exceed 10% of the cost of the qualified taxpayer's eligible investment as determined under subsection (8) paid or accrued by the qualified taxpayer on an eligible property. If eligible investment exceeds the amount of eligible investment in the preapproval letter for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(2) If the cost of a project will be for more than \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project. The chairperson of the Michigan economic growth authority or his or her designee is authorized to approve an application or project under this subsection. Only the chairperson of the Michigan economic growth authority is authorized to deny an application or project under this subsection. A project shall be approved or denied not more than 45 days after receipt of the application. If the chairperson of the Michigan economic growth authority or his or her designee does not approve or deny an application within 45 days after the application is received by the Michigan economic growth authority, the application is considered approved as written. The total of all credits for all projects approved under this subsection shall not exceed \$30,000,000.00 in any calendar year. After the first full calendar year after the effective date of the amendatory act that added subsection (33), if the authority approves a total of all credits for all projects under this subsection of less than \$30,000,000.00 in a calendar year, the authority may carry forward for 1 year only the difference between \$30,000,000.00 and the total of all credits for all projects approved under this subsection in the immediately preceding calendar year. The criteria in subsection (6) shall be used when approving projects under this subsection. When approving projects under this subsection, priority shall be given to projects on a facility. The total of all credits for an approved project under this subsection shall not exceed \$1,000,000.00. A taxpayer may apply under this subsection instead of subsection (3) for approval of a project that will be for more than \$10,000,000.00 but the total of all credits for that project shall not exceed \$1,000,000.00. If the chairperson of the Michigan economic growth authority or his or her designee approves a project under this

subsection, the chairperson of the Michigan economic growth authority or his or her designee shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (3) for the same project or for another project.

(3) If the cost of a project will be for more than \$10,000,000.00 and, except as provided in subsection (5)(b), the project is located in a qualified local governmental unit, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project. An application under this subsection shall state whether the project is a multiphase project. The Michigan economic growth authority shall approve or deny the project not more than 65 days after receipt of the application. A project under this subsection shall not be approved without the concurrence of the state treasurer. If the Michigan economic growth authority does not approve or deny the application within 65 days after it receives the application, the Michigan economic growth authority shall send the application to the state treasurer. The state treasurer shall approve or deny the application within 5 days after receipt of the application. If the state treasurer does not deny the application within the 5 days after receipt of the application, the application is considered approved. The Michigan economic growth authority shall approve a limited number of projects under this subsection during each calendar year as provided in subsection (5). The Michigan economic growth authority shall use the criteria in subsection (6) when approving projects under this subsection, when determining the total amount of eligible investment, and when determining the percentage of eligible investment for the project to be used to calculate a credit. The total of all credits for an approved project under this subsection shall not exceed the amount designated in the preapproval letter for that project. If the Michigan economic growth authority approves a project under this subsection, the Michigan economic growth authority shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the percentage of eligible investment for the project determined by the Michigan economic growth authority for purposes of subsection (1)(b); the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. The Michigan economic growth authority shall send a copy of the preapproval letter to the department. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (2) for the same project or for another project.

(4) If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(5) The Michigan economic growth authority may approve not more than 17 projects each calendar year under subsection (3), and the following limitations apply:

(a) Of the 17 projects allowed under this subsection, the total of all credits for each project may be more than \$10,000,000.00 but \$30,000,000.00 or less for up to 2 projects.

(b) Of the 17 projects allowed under this subsection, up to 3 projects may be approved for projects that are not in a qualified local governmental unit if the property is a facility for which eligible activities are identified in a brownfield plan or, for 1 of the 3 projects, if the property is not a facility but is functionally obsolete or blighted, property identified in a brownfield plan. For purposes of this subdivision, a facility includes a building or complex of buildings that was used by a state or federal agency and that is no longer being used for the purpose for which it was used by the state or federal agency.

(c) Of the 2 projects allowed under subdivision (a), 1 may be a project that also qualifies under subdivision (b).

(6) The Michigan economic growth authority shall review all applications for projects under subsection (3) and, if an application is approved, shall determine the maximum total of all credits for that project. Before approving a project for which the total of all credits will be more than \$10,000,000.00 but \$30,000,000.00 or less only, the Michigan economic growth authority shall determine that the project would not occur in this state without the tax credit offered under subsection (3), except that the Michigan economic growth authority may approve 1 project the construction of which began after January 1, 2000 and before January 1, 2001 without determining that the eligible investment would not occur in this state without the tax credit offered under this section. The Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (3) and the chairperson of the Michigan economic growth authority or his or her designee shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (2) or (33) or when considering an amendment to a project under subsection (31):

- (a) The overall benefit to the public.
- (b) The extent of reuse of vacant buildings and redevelopment of blighted property.
- (c) Creation of jobs.
- (d) Whether the eligible property is in an area of high unemployment.
- (e) The level and extent of contamination alleviated by the qualified taxpayer's eligible activities to the extent known to the qualified taxpayer.
- (f) The level of private sector contribution.
- (g) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.
- (h) If the qualified taxpayer is moving from another location in this state, whether the move will create a brownfield.
- (i) Whether the financial statements of the qualified taxpayer indicate that it is financially sound and that the project is economically sound.
- (j) Any other criteria that the Michigan economic growth authority or the chairperson of the Michigan economic growth authority, as applicable, considers appropriate for the determination of eligibility under subsection (2) or (3).

(7) A qualified taxpayer may apply for projects under subsection (2), (3), or (33) for eligible investment on more than 1 eligible property in a tax year. Each project approved and each project for which a certificate of completion is issued under this section shall be for eligible investment on 1 eligible property.

(8) When a project under subsection (2), (3), or (33) is completed, the taxpayer shall submit documentation that the project is completed, an accounting of the cost of the project, the eligible investment of each taxpayer if there is more than 1 taxpayer eligible for a credit for the project, and, if the taxpayer is not the owner or lessee of the eligible property on which the eligible investment was made at the time the project is completed, that the taxpayer was the owner or lessee of that eligible property when all eligible investment of the taxpayer was made. The chairperson of the Michigan economic growth authority or his or her designee, for projects approved under subsection (2) or (33), or the Michigan economic growth authority, for projects approved under subsection (3), shall verify that the project is completed. The Michigan economic growth authority shall conduct an on-site inspection as part of the verification process for projects approved under subsection (3). When the completion of the project is verified, a certificate of completion shall be issued to each qualified taxpayer that has made eligible investment on that eligible property. The certificate of completion shall state the total amount of all credits for the project and that total shall not exceed the maximum total of all credits listed in the preapproval letter for the project under subsection (2) or (3) or section 35c as applicable and shall state all of the following:

- (a) That the taxpayer is a qualified taxpayer.
- (b) The total cost of the project and the eligible investment of each qualified taxpayer.
- (c) Each qualified taxpayer's credit amount.
- (d) The qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.
- (e) The project number.

(f) For a project approved under subsection (3) for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less, the total of all credits and the schedule on which the annual credit amount shall be claimed by the qualified taxpayer.

(g) For a multiphase project under subsection (32), the amount of each credit assigned and the amount of all credits claimed in each tax year before the year in which the project is completed.

(9) Except as otherwise provided in this section, qualified taxpayers shall claim credits under subsections (2), (3), and (33) in the tax year in which the certificate of completion is issued. For a project approved under subsection (3) for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less, the qualified taxpayer shall claim 10% of its approved credit each year for 10 years. A credit assigned based on a multiphase project shall be claimed in the year in which the credit is assigned.

(10) The cost of eligible investment for leased machinery, equipment, or fixtures is the cost of that property had the property been purchased minus the lessor's estimate, made at the time the lease is entered into, of the market value the property will have at the end of the lease. A credit for property described in this subsection is allowed only if the cost of that property had the property been purchased and the lessor's estimate of the market value at the end of the lease are provided to the Michigan economic growth authority.

(11) For credits under subsections (2) and (3), credits claimed by a lessee of eligible property are subject to the total of all credits limitation under this section.

(12) Each qualified taxpayer and assignee under subsection (17) or (18) or section 35e that claims a credit under subsection (1)(a) or (b) or (33) shall attach a copy of the certificate of completion and, if the credit was

assigned, a copy of the assignment form provided for under this section to the annual return filed under this act on which the credit under subsection (2), (3), or (33) is claimed. An assignee of a credit based on a multiphase project shall attach a copy of the assignment form provided for under this section and the component completion certificate provided for in subsection (32) to the annual return filed under this act on which the credit is claimed but is not required to file a copy of a certificate of completion.

(13) Except as otherwise provided in this subsection or subsection (15), (17), (18), or (32) or section 35e, a credit under subsection (2), (3), or (33) shall be claimed in the tax year in which the certificate of completion is issued to the qualified taxpayer. For a project described in subsection (8)(f) for which a schedule for claiming annual credit amounts is designated on the certificate of completion by the Michigan economic growth authority, the annual credit amount shall be claimed in the tax year specified on the certificate of completion.

(14) The credits approved under this section shall be calculated after application of all other credits allowed under this act. The credits under subsections (2), (3), and (33) shall be calculated before the calculation of credits under subsections (20) to (25) and before the credits under sections 37c and 37d.

(15) If the credit allowed under subsection (2), (3), or (33) for the tax year and any unused carryforward of the credit allowed under subsection (2), (3), or (33) exceed the qualified taxpayer's or assignee's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first. Except as otherwise provided in this subsection, the maximum time allowed under the carryforward provisions under this subsection begins with the tax year in which the certificate of completion is issued to the qualified taxpayer. If the qualified taxpayer assigns all or any portion of its credit approved under subsection (2), (3), or (33), the maximum time allowed under the carryforward provisions for an assignee begins to run with the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. The maximum time allowed under the carryforward provisions for an annual credit amount for a credit allowed under subsection (3) begins to run in the tax year for which the annual credit amount is designated on the certificate of completion issued under this section.

(16) If a project or credit under subsection (2), (3), or (33) is for the addition of personal property, if the cost of that personal property is used to calculate a credit under subsection (2), (3), or (33), and if the personal property is sold or disposed of or transferred from eligible property to any other location, the qualified taxpayer that sold, disposed of, or transferred the personal property shall add the same percentage as determined pursuant to subsection (1) of the federal basis of the personal property used for determining gain or loss as of the date of the sale, disposition, or transfer to the qualified taxpayer's tax liability after application of all credits under this act for the tax year in which the sale, disposition, or transfer occurs. If a qualified taxpayer has an unused carryforward of a credit under subsection (2), (3), or (33), the amount otherwise added under this subsection to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under subsection (15).

(17) For credits under subsection (2), (3), or (33) for projects for which a certificate of completion is issued before January 1, 2006 and except as otherwise provided in this subsection, if a qualified taxpayer pays or accrues eligible investment on or to an eligible property that is leased for a minimum term of 10 years or sold to another taxpayer for use in a business activity, the qualified taxpayer may assign all or a portion of the credit based on that eligible investment to the lessee or purchaser of that eligible property. A credit assignment under this subsection shall only be made to a taxpayer that when the assignment is complete will be a qualified taxpayer. All credit assignments under this subsection are irrevocable and, except for a credit based on a multiphase project, shall be made in the tax year in which the certificate of completion is issued, unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. Except as otherwise provided in this subsection, if the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which the certificate of completion is issued or for a credit assigned and claimed for a multiphase project before a certificate of completion is issued, the taxpayer shall claim the credit in the year in which the credit is assigned. If a qualified taxpayer assigns all or a portion of the credit and the eligible property is leased to more than 1 taxpayer, the qualified taxpayer shall determine the amount of credit assigned to each lessee. A lessee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. A purchaser may subsequently assign a credit or any portion of a credit assigned to the purchaser under this subsection to a lessee of the eligible property. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed

assignment form to the Michigan economic growth authority in the tax year in which the assignment is made. The assignee shall attach a copy of the completed assignment form to its annual return required to be filed under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than \$10,000,000.00 but \$30,000,000.00 or less:

- (a) The credit shall be assigned based on the schedule contained in the certificate of completion.
- (b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.
- (c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.
- (d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(18) Except as otherwise provided in this subsection, for projects for which a certificate of completion is issued before January 1, 2006, if a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or a portion of a credit allowed under subsection (2) or (3) to its partners, members, or shareholders, based on their proportionate share of ownership of the partnership, limited liability company, or subchapter S corporation or based on an alternative method approved by the Michigan economic growth authority. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completion is issued. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which the assignment is made. A partner, member, or shareholder who is an assignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. A credit assignment based on a credit for a component of a multiphase project that is completed before January 1, 2006 shall be made under this subsection. A credit assignment based on a credit for a component of a multiphase project that is completed on or after January 1, 2006 may be made under this section or section 35e. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than \$10,000,000.00 but \$30,000,000.00 or less:

- (a) The credit shall be assigned based on the schedule contained in the certificate of completion.
- (b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.
- (c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.
- (d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(19) A qualified taxpayer or assignee under subsection (17) or (18) shall not claim a credit under subsection (1)(a) or (b) based on eligible investment on which a credit claimed under section 38d was based.

(20) In addition to the other credits allowed under this section and sections 37c and 37d, for tax years that begin after December 31, 1999 and for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, an eligible taxpayer may credit against the tax imposed by section 31 the amount certified each year by the Michigan economic growth authority that is 1 of the following:

(a) For an eligible business under section 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount that is not more than 50% of 1 or both of the following as determined by the Michigan economic growth authority:

(i) An amount determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not exceed the payroll of the eligible taxpayer attributable to employees who perform retained jobs multiplied by the tax rate for the tax year.

(ii) The tax liability attributable to the eligible taxpayer's business activity multiplied by a fraction the numerator of which is the ratio of the value of new capital investment to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to retained jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(b) For an eligible business under section 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount that is not more than 1 or both of the following as determined by the Michigan economic growth authority:

(i) An amount determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not exceed the payroll of the eligible taxpayer attributable to employees who perform retained jobs multiplied by the tax rate for the tax year.

(ii) The tax liability attributable to eligible taxpayer's business activity multiplied by a fraction the numerator of which is the ratio of the value of capital investment to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to retained jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(21) An eligible taxpayer shall not claim a credit under subsection (20) unless the Michigan economic growth authority has issued a certificate under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, to the taxpayer. The eligible taxpayer shall attach the certificate to the return filed under this act on which a credit under subsection (20) is claimed.

(22) An affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 CFR 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall claim only 1 credit under subsection (20) for each tax year based on each written agreement whether or not a combined or consolidated return is filed.

(23) A credit shall not be claimed by a taxpayer under subsection (20) if the eligible taxpayer's initial certification under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, is issued after December 31, 2009. If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer who claims the credit under subsection (20) get a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same number of new jobs used to calculate the credit under subsection (20), the taxpayer shall get the statement and attach that statement to its annual return under this act on which the credit under subsection (20) is claimed.

(24) If the credit allowed under subsection (20)(a)(ii) or (b)(ii) for the tax year and any unused carryforward of the credit allowed by subsection (20)(a)(ii) or (b)(ii) exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

(25) If the credit allowed under subsection (20)(a)(i) or (b)(i) exceeds the tax liability of the eligible taxpayer for the tax year, the excess shall be refunded to the eligible taxpayer.

(26) An eligible taxpayer that claims a credit under subsection (1)(a), (1)(b), or (33) is not prohibited from claiming a credit under subsection (20). However, the eligible taxpayer shall not claim a credit under subsection (1)(a), (1)(b), or (33) and subsection (20) based on the same costs.

(27) Eligible investment attributable or related to the operation of a professional sports stadium, and eligible investment that is associated or affiliated with the operation of a professional sports stadium, including, but not limited to, the operation of a parking lot or retail store, shall not be used as a basis for a credit under subsection (2), (3), or (33). Professional sports stadium does not include a professional sports stadium that will no longer be used by a professional sports team on and after the date that an application related to that professional sports stadium is filed under subsection (2), (3), or (33).

(28) Eligible investment attributable or related to the operation of a casino, and eligible investment that is associated or affiliated with the operation of a casino, including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used as a basis for a credit under subsection (2), (3), or (33). As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(29) Eligible investment attributable or related to the construction of a new landfill or the expansion of an existing landfill regulated under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, shall not be used as a basis for a credit under subsection (2), (3), or (33).

(30) The Michigan economic growth authority annually shall prepare and submit to the house of representatives and senate committees responsible for tax policy and economic development issues a report on the credits under subsection (2). The report shall include, but is not limited to, all of the following:

(a) A listing of the projects under subsection (2) that were approved in the calendar year.

(b) The total amount of eligible investment for projects approved under subsection (2) in the calendar year.

(31) If, after a taxpayer's project has been approved and the taxpayer has received a preapproval letter but before the project is completed, the taxpayer determines that the project cannot be completed as preapproved, the taxpayer may petition the Michigan economic growth authority to amend the project. The total of eligible investment for the project as amended shall not exceed the amount allowed in the preapproval letter for that project.

(32) A project under subsection (2), (3), or (33) may be a multiphase project but, for projects completed

before January 1, 2006, only if the project is an industrial or manufacturing project. If a project is a multiphase project, when each component of the multiphase project is completed, the taxpayer shall submit documentation that the component is complete, an accounting of the cost of the component, and the eligible investment for the component of each taxpayer eligible for a credit for the project of which the component is a part to the Michigan economic growth authority or the designee of the Michigan economic growth authority, who shall verify that the component is complete. When the completion of the component is verified, a component completion certificate shall be issued to the qualified taxpayer which shall state that the taxpayer is a qualified taxpayer, the credit amount for the component, the qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer, and the project number. The taxpayer may assign all or part of the credit for a multiphase project as provided in this section after a component completion certificate for a component is issued. The qualified taxpayer may transfer ownership of or lease the completed component and assign a proportionate share of the credit for the entire project to the qualified taxpayer that is the new owner or lessee. A multiphase project shall not be divided into more than 20 components. A component is considered to be completed when a certificate of occupancy has been issued by the local municipality in which the project is located for all of the buildings or facilities that comprise the completed component and a component completion certificate is issued. A credit assigned based on a multiphase project shall be claimed by the assignee in the tax year in which the assignment is made. The total of all credits for a multiphase project shall not exceed the amount stated in the preapproval letter for the project under subsection (1). If all components of a multiphase project are not completed by 10 years after the date on which the preapproval letter for the project was issued, the qualified taxpayer that received the preapproval letter for the project shall pay to the state treasurer, as a penalty, an amount equal to the sum of all credits claimed and assigned for all components of the multiphase project and no credits based on that multiphase project shall be claimed after that date by the qualified taxpayer or any assignee of the qualified taxpayer. The penalty under this subsection is subject to interest on the amount of the credit claimed or assigned determined individually for each component at the rate in section 23(2) of 1941 PA 122, MCL 205.23, beginning on the date that the credit for that component was claimed or assigned. As used in this subsection, "proportionate share" means the same percentage of the total of all credits for the project that the qualified investment for the completed component is of the total qualified investment stated in the preapproval letter for the entire project.

(33) If the total of all credits for a project is \$200,000.00 or less, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project. Subject to section 35c, the chairperson of the Michigan economic growth authority or his or her designee is authorized to approve an application or project under this subsection. Only the chairperson of the Michigan economic growth authority is authorized to deny an application or project under this subsection. A project shall be approved or denied not more than 45 days after receipt of the application. If the chairperson of the Michigan economic growth authority or his or her designee does not approve or deny the application within 45 days after the application is received by the Michigan economic growth authority, the application is considered approved as written. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection for the same project or for another project. The total of all credits for all projects approved under this subsection shall not exceed \$10,000,000.00 in any calendar year. After the first full calendar year after the effective date of the amendatory act that added this subsection, if the authority approves a total of all credits for all projects under this subsection of less than \$10,000,000.00 in a calendar year, the authority may carry forward for 1 year only the difference between \$10,000,000.00 and the total of all credits for all projects under this subsection approved in the immediately preceding calendar year. If the chairperson of the Michigan economic growth authority or his or her designee approves a project under this subsection, the chairperson of the Michigan economic growth authority or his or her designee shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. The Michigan economic growth authority shall develop and implement the use of the application form to be used for projects under this subsection. Before the application form is first used and if the Michigan economic growth authority substantially changes the form, the Michigan economic growth authority shall adopt the form or changes by resolution. After 60 days after the effective date of the amendatory act that added this subsection and before the Michigan economic growth authority substantially changes the application form, the Michigan economic growth authority shall give notice of the proposed resolution to the secretary of the senate, to the clerk of the house of representatives, and to each person who requested from the Michigan economic growth authority in writing or electronically to be notified regarding

proposed resolutions. The notice and proposed resolution and all attachments shall be published on the Michigan economic growth authority's internet website. The Michigan economic growth authority shall hold a public hearing not sooner than 14 days and not later than 30 days after the date notice of a proposed resolution is given and offer an opportunity for persons to present data, views, questions, and arguments. The Michigan economic growth authority board members or 1 or more persons designated by the Michigan economic growth authority who have knowledge of the subject matter of the proposed resolution shall be present at the public hearing and shall participate in the discussion of the proposed resolution. The Michigan economic growth authority may act on the proposed resolution no sooner than 14 days after the public hearing. The Michigan economic growth authority shall produce a final decision document that describes the basis for its decision. The final resolution and all attachments and the decision document shall be provided to the secretary of the senate and to the clerk of the house of representatives and shall be published on the Michigan economic growth authority's internet website. The notice shall include all of the following:

(a) A copy of the proposed resolution and all attachments.

(b) A statement that any person may express any data, views, or arguments regarding the proposed resolution.

(c) The address to which written comments may be sent and the date by which comments must be mailed or electronically transmitted, which date shall not be restricted to only before the date of the public hearing.

(d) The date, time, and place of the public hearing.

(34) If this act is repealed for tax years beginning after December 31, 2007, all of the following apply:

(a) Except as otherwise provided in this subsection, a qualified taxpayer that has a preapproval letter issued before January 1, 2007 for a brownfield credit for a project that is completed after the end of the taxpayer's last tax year but before January 1, 2010 or an assignee may claim the brownfield credit amount that could be claimed for the project for 2008 and 2009 against the taxpayer's or assignee's tax liability under this act on the taxpayer's or assignee's timely filed original or amended annual return filed under this act for the taxpayer's or assignee's last tax year.

(b) Except as otherwise provided in subdivision (e), a credit under this subsection shall be taken after all other credits the taxpayer claims for the tax year under this act and all of the following apply:

(i) The brownfield credit amount that the taxpayer or assignee would have been allowed to claim for projects completed in 2008 after the end of the taxpayer's or assignee's last tax year or for projects completed in 2009 is in addition to the brownfield credit amount that the taxpayer or assignee is allowed to claim for projects completed before the end of the taxpayer's or assignee's last tax year.

(ii) The brownfield credit amount that the taxpayer or assignee is allowed to claim for projects completed in 2008 after the end of the taxpayer's or assignee's last tax year or for projects completed in 2009 on the taxpayer's or assignee's annual return for the taxpayer's or assignee's last tax year or the sum of both brownfield credit amounts shall not exceed the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year after all other credits for that tax year except the taxpayer's or assignee's brownfield credit for the taxpayer's or assignee's last tax year have been taken.

(iii) The brownfield credit amount that the taxpayer or assignee is allowed to claim for its last tax year under this subsection shall not exceed the sum of the amount that the taxpayer or assignee would have been allowed to claim for projects completed in 2008 after the end of the taxpayer's or assignee's last tax year plus the amount that the taxpayer or assignee would have been allowed to claim for projects completed in 2009.

(c) If the amount of the total of all brownfield credit amounts that may be claimed by the taxpayer or assignee under this subsection exceeds the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year, the amount by which the total of all brownfield credit amounts exceeds the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year shall be refunded.

(d) A brownfield credit under this subsection shall not be claimed before a certificate of completion is issued for the project on which the brownfield credit is based.

(e) The credit allowed under this subsection shall be taken before the credit allowed under section 39c(16).

(f) This subsection does not apply to any amount the taxpayer or assignee may claim for the same project for a tax year that begins after December 31, 2007 under any other tax act.

(g) As used in this subsection:

(i) "Assignee" means an assignee under subsection (17) or (18) or under section 35e.

(ii) "Brownfield credit" means the credit allowed under subsections (2), (3), and (33).

(iii) "Last tax year" means the taxpayer's tax year under this act that begins after December 31, 2006 and before January 1, 2008.

(35) As used in this section:

(a) "Annual credit amount" means the maximum amount that a qualified taxpayer is eligible to claim each tax year for a project for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less,

which shall be 10% of the qualified taxpayer's credit amount approved under subsection (3).

(b) "Authority" means a brownfield redevelopment authority created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(c) "Authorized business", "full-time job", "new capital investment", "qualified high-technology business", "retained jobs", and "written agreement" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(d) "Blighted", "brownfield plan", "eligible activities", "eligible property", "facility", "functionally obsolete", "qualified local governmental unit", and "response activity" mean, except as otherwise provided in subdivision (f), those terms as defined in the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(e) "Eligible investment" means demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property and the addition of machinery, equipment, and fixtures to eligible property after the date that eligible activities on that eligible property have started pursuant to a brownfield plan under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, and after the date that the preapproval letter is issued, except that the date that the preapproval letter is issued is not a limitation for 1 project the construction of which began after January 1, 2000 and before January 1, 2001 without the Michigan economic growth authority determining that the project would not occur in this state without the tax credit offered under this section as provided in subsection (7), if the costs of the eligible investment are not otherwise reimbursed to the taxpayer or paid for on behalf of the taxpayer from any source other than the taxpayer. The addition of leased machinery, equipment, or fixtures to eligible property by a lessee of the machinery, equipment, or fixtures is eligible investment if the lease of the machinery, equipment, or fixtures has a minimum term of 10 years or is for the expected useful life of the machinery, equipment, or fixtures, and if the owner of the machinery, equipment, or fixtures is not the qualified taxpayer with regard to that machinery, equipment, or fixtures.

(f) "Eligible property" means that term as defined in the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, except that, for purposes of subsection (33), all of the following apply:

(i) Eligible property means property identified under a brownfield plan that was used or is currently used for commercial, industrial, or residential purposes and that is 1 of the following:

(A) Property for which eligible activities are identified under the brownfield plan, is in a qualified local governmental unit, and is a facility, functionally obsolete, or blighted.

(B) Property that is not in a qualified local governmental unit but is within a downtown development district established under 1975 PA 197, MCL 125.1651 to 125.1681, and is functionally obsolete or blighted, and a component of the project on that eligible property is 1 or more of the following:

(I) Infrastructure improvements that directly benefit the eligible property.

(II) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(III) Lead or asbestos abatement.

(IV) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Property for which eligible activities are identified under the brownfield plan, is not in a qualified local governmental unit, and is a facility.

(ii) Eligible property includes parcels that are adjacent or contiguous to the eligible property if the development of the adjacent or contiguous parcels is estimated to increase the captured taxable value of the property or tax reverted property owned or under the control of a land bank fast track authority pursuant to the land bank fast track authority act, 2003 PA 258, MCL 124.751 to 124.774.

(iii) Eligible property includes, to the extent included in the brownfield plan, personal property located on the eligible property.

(iv) Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(g) "Eligible taxpayer" means an eligible business that meets the criteria under section 8(5) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808.

(h) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(i) "Multiphase project" means a project approved under subsection (2), (3), or (33) that has more than 1 component, each of which can be completed separately.

(j) "Payroll" and "tax rate" mean those terms as defined in section 37c.

(k) "Personal property" means that term as defined in section 8 of the general property tax act, 1893 PA 206, MCL 211.8, except that personal property does not include either of the following:

(i) Personal property described in section 8(h), (i), or (j) of the general property tax act, 1893 PA 206, MCL 211.8.

(ii) Buildings described in section 14(6) of the general property tax act, 1893 PA 206, MCL 211.14.

(l) "Project" means the total of all eligible investment on an eligible property or, for purposes of subsection (5)(b), 1 of the following:

(i) All eligible investment on property not in a qualified local governmental unit that is a facility.

(ii) All eligible investment on property that is not a facility but is functionally obsolete or blighted.

(m) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(n) "Qualified taxpayer" means a taxpayer that meets both of the following criteria:

(i) Owns or leases eligible property.

(ii) Certifies that, except as otherwise provided in this subparagraph, the department of environmental quality has not sued or issued a unilateral order to the taxpayer pursuant to part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response activity on or to the eligible property, or expended any state funds for response activity on or to the eligible property and demanded reimbursement for those expenditures from the qualified taxpayer. However, if the taxpayer has completed all response activity required by part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, is in compliance with any deed restriction or administrative or judicial order related to the required response activity, and has reimbursed the state for all costs incurred by the state related to the required response activity, the taxpayer meets the criteria under this subparagraph.

(o) "Tax liability attributable to authorized business activity" means the tax liability imposed by this act after the calculation of credits provided in sections 36, 37, and 39.

History: Add. 2000, Act 143, Imd. Eff. June 6, 2000;—Am. 2002, Act 726, Imd. Eff. Dec. 30, 2002;—Am. 2003, Act 249, Imd. Eff. Dec. 29, 2003;—Am. 2006, Act 112, Imd. Eff. Apr. 10, 2006;—Am. 2006, Act 240, Imd. Eff. June 27, 2006.

Compiler's note: For transfer of certain powers and duties of the department of treasury or state treasurer related to brownfield redevelopment single business tax credits to the director of department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

***** 208.39 THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

***** 208.39 SUBSECTION (2) EXPIRES DECEMBER 31, 1982: See (2) of 208.39 *****

208.39 Credit for taxpayer subject to § 207.1 et seq.; credit for person eligible to file under § 208.57; expiration of subsection (2).

Sec. 39. (1) A taxpayer subject to Act No. 282 of the Public Acts of 1905, as amended, being sections 207.1 to 207.21 of the Michigan Compiled Laws, shall be allowed a credit against the tax imposed by this act for the taxable year, an amount equal to 5% of the tax imposed under Act No. 282 of the Public Acts of 1905, as amended. The credit allowed by this section shall not be in excess of the tax liability of the taxpayer under this act. Except as provided in subsection (2) this subsection shall not apply to a taxpayer who files pursuant to the provisions of section 57.

(2) A person eligible to file under section 57 who has a net operating loss for 2 or more years or has had a net operating loss for each year of operation immediately preceding the current tax year, shall be allowed a credit against the tax imposed by this act in an amount equal to the following percentage of the tax imposed under Act No. 282 of the Public Acts of 1905, as amended: 5% for the 1977 and 1978 tax year; 4% for the 1979 tax year; 3% for the 1980 tax year; 2% for the 1981 tax year; and 1% for the 1982 tax year. The credit allowed by this subsection shall not be in excess of the tax liability of the taxpayer under this act. This subsection shall expire December 31, 1982.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1976, Act 389, Imd. Eff. Dec. 30, 1976;—Am. 1977, Act 273, Imd. Eff. Dec. 15, 1977.

208.39a Repealed. 1993, Act 329, Eff. Apr. 1, 1994.

Compiler's note: The repealed section pertained to employer payment of child care services for employees.

***** 208.39b THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.39b Business located and conducted within renaissance zone; allowable tax credit; definitions.

Sec. 39b. (1) Except as provided in subsection (2) and for tax years that begin after December 31, 1996, a taxpayer that is a business located and conducting business activity within a renaissance zone may claim a credit against the tax imposed by this act for the tax year to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, equal to the tax liability attributable to business activity conducted within a renaissance zone in the tax year or, for tax years that begin on or after January 1, 2003, either of the following:

(a) Except as provided in subdivision (b), for a business that first locates and begins conducting business activity within a renaissance zone after November 30, 2002, the lesser of the following:

- (i) The tax liability attributable to business activity conducted within a renaissance zone in the tax year.
- (ii) Ten percent of adjusted services performed in a designated renaissance zone.

(b) For a business that is located and conducting business activity within a renaissance zone before December 1, 2002 or a business that before December 1, 2002 has entered into a purchase agreement or lease agreement for real or personal property to be used for business activity within a renaissance zone, the greater of the following:

- (i) The amount calculated under subdivision (a)(i) or (ii), whichever is less.
- (ii) The lesser of the following:

(A) The amount calculated under subdivision (a)(i).

(B) The credit allowed under this section for the tax year beginning in 2002 plus 2% of the increase in the amount calculated under subsection (9)(a)(i) for the tax year over the amount calculated under subsection (9)(a)(i) for the tax year beginning in 2002.

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

(3) The credit allowed under this section continues through the tax year in which the renaissance zone designation expires.

(4) The tax liability used to determine the credit under this section is the taxpayer's tax liability before the calculation of credits provided in sections 37c and 38b and after the calculation of all other credits under this act.

(5) The credit allowed under this section shall not exceed the tax liability of the taxpayer for the tax year.

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

(7) To be eligible for the credit allowed under this section, an otherwise qualified taxpayer shall file an annual return under this act.

(8) Any portion of the taxpayer's tax liability that is attributable to business activity related to the operation of a casino, and business activity that is associated or affiliated with the operation of a casino including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used to calculate a credit under this section. As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, Initiated Law of 1996, MCL 432.201 to 432.226.

(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 added pursuant to section 9(4)(c) for the tax year for 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 apportionment factor as determined under chapter 3.

(C) The renaissance zone business activity factor.

(b) "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, and has not been subject to, or exempt from, ad valorem property taxes levied in another state, except that receiving an exemption as inventory property does not disqualify property.

(c) "Renaissance zone" means that term as defined in 1996 PA 376, MCL 125.2681 to 125.2696.

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

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

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

History: Add. 1996, Act 441, Imd. Eff. Dec. 19, 1996;—Am. 2002, Act 622, Imd. Eff. Dec. 23, 2002.

***** 208.39c THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.39c Rehabilitation of historic resource; tax credit; plan; certification; report; repeal of act for tax years beginning after December 31, 2007; effect; definitions.

Sec. 39c. (1) A qualified taxpayer with a rehabilitation plan certified after December 31, 1998 may credit against the tax imposed by this act the amount determined pursuant to subsection (2) for the qualified expenditures for the rehabilitation of a historic resource pursuant to the rehabilitation plan in the year in which the certification of completed rehabilitation of the historic resource is issued provided that the certification of completed rehabilitation was issued not more than 5 years after the rehabilitation plan was certified by the Michigan historical center.

(2) The credit allowed under this section shall be 25% of the qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, 25% of the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, subject to both of the following:

(a) A taxpayer with qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code may not claim a credit under this section for those qualified expenditures unless the taxpayer has claimed and received a credit for those qualified expenditures under section 47(a)(2) of the internal revenue code.

(b) A credit under this section shall be reduced by the amount of a credit received by the taxpayer for the same qualified expenditures under section 47(a)(2) of the internal revenue code.

(3) To be eligible for the credit under this section, the taxpayer shall apply to and receive from the Michigan historical center certification that the historic significance, the rehabilitation plan, and the completed rehabilitation of the historic resource meet the criteria under subsection (6) and either of the following:

(a) All of the following criteria:

(i) The historic resource contributes to the significance of the historic district in which it is located.

(ii) Both the rehabilitation plan and completed rehabilitation of the historic resource meet the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR part 67.

(iii) All rehabilitation work has been done to or within the walls, boundaries, or structures of the historic resource or to historic resources located within the property boundaries of the property.

(b) The taxpayer has received certification from the national park service that the historic resource's significance, the rehabilitation plan, and the completed rehabilitation qualify for the credit allowed under section 47(a)(2) of the internal revenue code.

(4) If a qualified taxpayer is eligible for the credit allowed under section 47(a)(2) of the internal revenue code, the qualified taxpayer shall file for certification with the center to qualify for the credit allowed under section 47(a)(2) of the internal revenue code. If the qualified taxpayer has previously filed for certification with the center to qualify for the credit allowed under section 47(a)(2) of the internal revenue code, additional filing for the credit allowed under this section is not required.

(5) The center may inspect a historic resource at any time during the rehabilitation process and may revoke certification of completed rehabilitation if the rehabilitation was not undertaken as represented in the rehabilitation plan or if unapproved alterations to the completed rehabilitation are made during the 5 years after the tax year in which the credit was claimed. The center shall promptly notify the department of a revocation.

(6) Qualified expenditures for the rehabilitation of a historic resource may be used to calculate the credit under this section if the historic resource meets 1 of the criteria listed in subdivision (a) and 1 of the criteria

listed in subdivision (b):

(a) The resource is 1 of the following during the tax year in which a credit under this section is claimed for those qualified expenditures:

(i) Individually listed on the national register of historic places or state register of historic sites.

(ii) A contributing resource located within a historic district listed on the national register of historic places or the state register of historic sites.

(iii) A contributing resource located within a historic district designated by a local unit pursuant to an ordinance adopted under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(b) The resource meets 1 of the following criteria during the tax year in which a credit under this section is claimed for those qualified expenditures:

(i) The historic resource is located in a designated historic district in a local unit of government with an existing ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(ii) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and has a population of less than 5,000.

(iii) The historic resource is located in an unincorporated local unit of government.

(iv) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is located within the boundaries of an association that has been chartered under 1889 PA 39, MCL 455.51 to 455.72.

(7) If a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or any portion of a credit allowed under this section to its partners, members, or shareholders, based on the partner's, member's, or shareholder's proportionate share of ownership or based on an alternative method approved by the department. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned to the partner, member, or shareholder under this subsection. A credit amount assigned under this subsection may be claimed against the partner's, member's, or shareholder's tax liability under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. A credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer and assignees shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made and attach a copy of the completed assignment form to the annual return required to be filed under this act for that tax year.

(8) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

(9) If the taxpayer sells a historic resource for which a credit under this section was claimed less than 5 years after the year in which the credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the sale:

(a) If the sale is less than 1 year after the year in which the credit was claimed, 100%.

(b) If the sale is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.

(c) If the sale is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.

(d) If the sale is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.

(e) If the sale is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.

(f) If the sale is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(10) If a certification of completed rehabilitation is revoked under subsection (5) less than 5 years after the year in which a credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the revocation:

(a) If the revocation is less than 1 year after the year in which the credit was claimed, 100%.

(b) If the revocation is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.

(c) If the revocation is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.

(d) If the revocation is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.

(e) If the revocation is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.

(f) If the revocation is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(11) The department of history, arts, and libraries through the Michigan historical center may impose a fee to cover the administrative cost of implementing the program under this section.

(12) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return required under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, if applicable, on which the credit is claimed:

(a) Certification of completed rehabilitation.

(b) Certification of historic significance related to the historic resource and the qualified expenditures used to claim a credit under this section.

(c) A completed assignment form if the qualified taxpayer has assigned any portion of a credit allowed under this section to a partner, member, or shareholder, or if the taxpayer is an assignee of any portion of a credit allowed under this section.

(13) The department of history, arts, and libraries shall promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(14) The total of the credits claimed under this section and section 266 of the income tax act of 1967, 1967 PA 281, MCL 206.266, for a rehabilitation project shall not exceed 25% of the total qualified expenditures eligible for the credit under this section for that rehabilitation project.

(15) The department of history, arts, and libraries through the Michigan historical center shall report all of the following to the legislature annually for the immediately preceding state fiscal year:

(a) The fee schedule used by the center and the total amount of fees collected.

(b) A description of each rehabilitation project certified.

(c) The location of each new and ongoing rehabilitation project.

(16) If this act is repealed for tax years beginning after December 31, 2007, all of the following apply:

(a) Except as otherwise provided in this subsection, a qualified taxpayer that has a rehabilitation plan certified before January 1, 2007 for the rehabilitation of a historic resource for which a certification of completed rehabilitation has been issued after the end of the taxpayer's last tax year but before January 1, 2010 or an assignee may claim the historic preservation credit amount for the year in which the certification of completed rehabilitation is issued against the taxpayer's or assignee's tax liability under this act on the taxpayer's or assignee's timely filed original or amended annual return filed under this act, for the taxpayer's or assignee's last tax year.

(b) A credit under this subsection shall be taken after all other credits the taxpayer claims for the tax year under this act and all of the following apply:

(i) The historic preservation credit amount that the taxpayer or assignee would have been allowed to claim for historic rehabilitation completed in 2008 after the end of the taxpayer's or assignee's last tax year or for the rehabilitation of a historic resource completed in 2009 is in addition to the historic preservation credit amount that the taxpayer or assignee is allowed to claim for the rehabilitation of a historic resource completed before the end of the taxpayer's or assignee's last tax year.

(ii) The historic preservation credit amount that the taxpayer or assignee is allowed to claim for the rehabilitation of a historic resource completed in 2008 after the end of the taxpayer's or assignee's last tax year or for the rehabilitation of a historic resource completed in 2009 on the taxpayer's or assignee's annual return for the taxpayer's or assignee's last tax year or the sum of both historic preservation credit amounts shall not exceed the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year after all other credits for that tax year except the taxpayer's or assignee's historic preservation credit for the taxpayer's or assignee's last tax year have been taken.

(iii) The historic preservation credit amount that the taxpayer or assignee is allowed to claim for its last tax year under this subsection shall not exceed the sum of the amount that the taxpayer or assignee would have been allowed to claim for the rehabilitation of a historic resource completed in 2008 after the end of the taxpayer's or assignee's last tax year plus the amount that the taxpayer or assignee would have been allowed to claim for the rehabilitation of a historic resource completed in 2009.

(c) If the amount of the total of all historic preservation credit amounts that may be claimed by the taxpayer or assignee under this subsection exceeds the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year, the amount by which the total of all historic preservation credit amounts exceeds the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year shall be refunded.

(d) A historic preservation credit under this subsection shall not be claimed before a certification of completed rehabilitation is issued for the rehabilitation of a historic resource on which the historic

preservation credit is based.

(e) This subsection does not apply to any amount the taxpayer or assignee may claim for the same rehabilitation plan for a tax year that begins after December 31, 2007 under any other tax act.

(f) As used in this subsection:

(i) "Assignee" means an assignee under subsection (7).

(ii) "Historic preservation credit" means the credit allowed under this section.

(iii) "Last tax year" means the taxpayer's tax year under this act that begins after December 31, 2006 and before January 1, 2008.

(17) As used in this section:

(a) "Contributing resource" means a historic resource that contributes to the significance of the historic district in which it is located.

(b) "Historic district" means an area, or group of areas not necessarily having contiguous boundaries, that contains 1 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

(c) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within a historic district designated by the national register of historic places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215; or that is individually listed on the state register of historic sites or national register of historic places and includes all of the following:

(i) An owner-occupied personal residence or a historic resource located within the property boundaries of that personal residence.

(ii) An income-producing commercial, industrial, or residential resource or a historic resource located within the property boundaries of that resource.

(iii) A resource owned by a governmental body, nonprofit organization, or tax-exempt entity that is used primarily by a taxpayer lessee in a trade or business unrelated to the governmental body, nonprofit organization, or tax-exempt entity and that is subject to tax under this act.

(iv) A resource that is occupied or utilized by a governmental body, nonprofit organization, or tax-exempt entity pursuant to a long-term lease or lease with option to buy agreement.

(v) Any other resource that could benefit from rehabilitation.

(d) "Local unit" means a county, city, village, or township.

(e) "Long-term lease" means a lease term of at least 27.5 years for a residential resource or at least 31.5 years for a nonresidential resource.

(f) "Michigan historical center" or "center" means the state historic preservation office of the Michigan historical center of the department of history, arts, and libraries or its successor agency.

(g) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

(h) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(i) "Qualified expenditures" means capital expenditures that qualify for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code that were paid not more than 5 years after the certification of the rehabilitation plan that included those expenditures was approved by the center, and that were paid after December 31, 1998 for the rehabilitation of a historic resource. Qualified expenditures do not include capital expenditures for nonhistoric additions to a historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.

(j) "Qualified taxpayer" means a person that is an assignee under subsection (7) or either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource equal to or greater than 10% of the state equalized valuation of the property. If the historic resource to be rehabilitated is a portion of a historic or nonhistoric resource, the state equalized valuation of only that portion of the property shall be used for purposes of this subdivision. If the assessor for the local tax collecting unit in which the historic resource is located determines the state equalized valuation of that portion, that assessor's determination shall be used for purposes of this subdivision. If the assessor does not determine that state equalized valuation of that portion, qualified expenditures, for purposes of this subdivision, shall be equal to or greater than 5% of the appraised value as determined by a certified appraiser. If the historic resource to be rehabilitated does not have a state

equalized valuation, qualified expenditures for purposes of this subdivision shall be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.

(k) "Rehabilitation plan" means a plan for the rehabilitation of a historic resource that meets the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitation of historic buildings under 36 CFR part 67.

History: Add. 1998, Act 534, Imd. Eff. Jan. 19, 1999;—Am. 1999, Act 213, Imd. Eff. Dec. 28, 1999;—Am. 2001, Act 69, Imd. Eff. July 24, 2001;—Am. 2006, Act 53, Imd. Eff. Mar. 9, 2006;—Am. 2006, Act 240, Imd. Eff. June 27, 2006.

Compiler's note: Enacting section 1 of Act 53 of 2006 provides:

"Enacting section 1. This amendatory act takes effect for tax years that begin after December 31, 2004."

Administrative rules: R 206.151 et seq. of the Michigan Administrative Code.

***** 208.39d THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.39d Low-grade hematite consumed in industrial or manufacturing process; tax credit.

Sec. 39d. (1) For tax years that begin after December 31, 2000, a taxpayer may claim a credit against the tax imposed by this act equal to \$1.00 per long ton of qualified low-grade hematite consumed in an industrial or manufacturing process that is the business activity of the taxpayer.

(2) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 5 tax years or until the excess credit is used up, whichever occurs first.

(3) The credit under this section shall be based on low-grade hematite consumed on and after January 1, 2000.

(4) As used in this section:

(a) "Consumed in an industrial or manufacturing process" means a process in which low-grade hematite is used as a raw material in the production of pig iron or steel.

(b) "Low-grade hematite" means any hematitic iron formation that is not of sufficient quality in its original mineral state to be mined and shipped for the production of pig iron or steel without first being drilled, blasted, crushed, and ground very fine to liberate the iron minerals and for which additional beneficiation and agglomeration are required to produce a product of sufficient quality to be used in the production of pig iron or steel.

(c) "Qualified low-grade hematite" means pellets produced from low-grade hematitic iron ore mined in the United States.

History: Add. 2001, Act 249, Imd. Eff. Jan. 8, 2002.

***** 208.39e THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.39e Tax credit; certification as eligible taxpayer under Michigan next energy authority act; definitions.

Sec. 39e. (1) A taxpayer may claim a credit against the tax imposed by this act for 1 or more of the following as applicable:

(a) The credit allowed under subsection (2).

(b) The credit allowed under subsection (6).

(2) For tax years that begin after December 31, 2002, a taxpayer that is certified under the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an eligible taxpayer may claim a nonrefundable credit for the tax year equal to the amount determined under subdivision (a) or (b), whichever is less:

(a) The amount by which the taxpayer's tax liability attributable to qualified business activity for the tax year exceeds the taxpayer's baseline tax liability attributable to qualified business activity.

(b) For tax years that begin after December 31, 2002, 10% of the amount by which the taxpayer's adjusted qualified business activity performed in this state outside of a renaissance zone for the tax year exceeds the taxpayer's adjusted qualified business activity performed in this state outside of a renaissance zone for the 2001 tax year.

(3) For any tax year in which the eligible taxpayer's tax liability attributable to qualified business activity for the tax year does not exceed the taxpayer's baseline tax liability attributable to qualified business activity, the eligible taxpayer shall not claim the credit allowed under subsection (2).

(4) An affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall not take the credit allowed under subsection (2) unless the qualified business activity of the group or entities is consolidated.

(5) A taxpayer that claims a credit under subsection (2) shall attach a copy of each of the following as issued pursuant to the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827, to the annual return required under this act for each tax year in which the taxpayer claims the credit allowed under subsection (2):

(a) The proof of certification that the taxpayer is an eligible taxpayer for the tax year.

(b) The proof of certification of the taxpayer's tax liability attributable to qualified business activity for the tax year.

(c) The proof of certification of the taxpayer's baseline tax liability attributable to qualified business activity.

(6) For tax years that begin after December 31, 2002, a taxpayer that is a qualified alternative energy entity may claim a credit for the taxpayer's qualified payroll amount. A taxpayer shall claim the credit under this subsection after all allowable nonrefundable credits under this act.

(7) If the credit allowed under subsection (6) exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

(8) Notwithstanding any other provision of this act and for tax years that begin after December 31, 2002, a person whose apportioned or allocated gross receipts are less than \$350,000.00 for the tax year need not file a return or pay the tax as provided under this act.

(9) As used in this section:

(a) "Adjusted qualified business activity performed in this state outside of a renaissance zone" means either of the following:

(i) Except as provided in subparagraph (ii), the taxpayer's payroll for qualified business activity performed in this state outside of a renaissance zone.

(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:

(A) Business income.

(B) The apportionment factor as determined under chapter 3.

(C) The alternative energy business activity factor.

(b) "Alternative energy business activity factor" means a fraction the numerator of which is the ratio of the value of the taxpayer's property used for qualified business activity and located in this state outside of a renaissance zone for the year for which the factor is being calculated to the value of all of the taxpayer's property located in this state for that year plus the ratio of the taxpayer's payroll for qualified business activity performed in this state outside of a renaissance zone for that year to all of the taxpayer's payroll in this state for that year and the denominator of which is 2.

(c) "Alternative energy marine propulsion system", "alternative energy system", "alternative energy vehicle", and "alternative energy technology" mean those terms as defined in the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

(d) "Alternative energy zone" means a renaissance zone designated as an alternative energy zone by the board of the Michigan strategic fund under section 8a of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2688a.

(e) "Baseline tax liability attributable to qualified business activity" means the taxpayer's tax liability for the 2001 tax year multiplied by the taxpayer's alternative energy business activity factor for the 2001 tax year. A taxpayer with a 2001 tax year of less than 12 months shall annualize the amount calculated under this subdivision as necessary to determine baseline tax liability attributable to qualified business activity that reflects a 12-month period.

(f) "Eligible taxpayer" means a taxpayer that has proof of certification of qualified business activity under the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

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

(h) "Qualified alternative energy entity" means a taxpayer located in an alternative energy zone.

(i) "Qualified business activity" means research, development, or manufacturing of an alternative energy marine propulsion system, an alternative energy system, an alternative energy vehicle, alternative energy technology, or renewable fuel.

(j) "Qualified employee" means an individual who is employed by a qualified alternative energy entity, whose job responsibilities are related to the research, development, or manufacturing activities of the qualified alternative energy entity, and whose regular place of employment is within an alternative energy

zone.

(k) "Qualified payroll amount" means an amount equal to payroll of the qualified alternative energy entity attributable to all qualified employees in the tax year of the qualified alternative energy entity for which the credit under subsection (6) is being claimed, multiplied by the tax rate for that tax year.

(l) "Renaissance zone" means a renaissance zone designated under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(m) "Renewable fuel" means 1 or more of the following:

(i) Biodiesel or biodiesel blends containing at least 20% biodiesel. As used in this subparagraph, "biodiesel" means a diesel fuel substitute consisting of methyl or ethyl esters produced from the transesterification of animal or vegetable fats with methanol or ethanol.

(ii) Biomass. As used in this subparagraph, "biomass" means residues from the wood and paper products industries, residues from food production and processing, trees and grasses grown specifically to be used as energy crops, and gaseous fuels produced from solid biomass, animal wastes, municipal waste, or landfills.

(n) "Tax liability attributable to qualified business activity" means the taxpayer's tax liability multiplied by the taxpayer's alternative energy business activity factor for the tax year.

(o) "Tax rate" means the rate imposed under sections 51, 51d, and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51, 206.51d, and 206.51e, annualized as necessary, for the tax year in which the qualified alternative energy entity claims a credit under subsection (6).

History: Add. 2002, Act 531, Imd. Eff. July 25, 2002;—Am. 2002, Act 622, Imd. Eff. Dec. 23, 2002.

***** 208.39f THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.39f Tax credit; taxpayer pharmaceutical based business activity.

Sec. 39f. (1) For tax years that begin after December 31, 2002, an eligible taxpayer may claim a credit against the tax imposed by this act equal to 6-1/2% of the excess of qualified research expenses paid in the tax year that relate to the eligible taxpayer's pharmaceutical based business activity in this state over the average qualified research expenses that relate to the eligible taxpayer's pharmaceutical based business activity in this state paid during the 3 immediately preceding tax years.

(2) The amount of a credit for any tax year under subsection (1) shall not exceed 200% of the eligible taxpayer's average qualified research expenses that relate to the taxpayer's pharmaceutical based business activity in this state for the 3 immediately preceding tax years.

(3) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded but may be carried forward as an offset to the tax liability in subsequent tax years for 7 tax years or until the excess credit is used up, whichever occurs first.

(4) A member of an affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall determine the credit allowed under this section on a consolidated basis.

(5) An eligible taxpayer may assign all or a portion of a credit allowed under this section. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which qualified research expenses are paid. An eligible taxpayer may claim a portion of the credit and assign a portion of the remaining credit amount. However, the eligible taxpayer shall not assign in any tax year more than 40% of the total amount of the credit allowed for that year. If the eligible taxpayer both claims and assigns portions of the credit, the eligible taxpayer shall claim the portion it claims in the tax year in which the qualified research expenses are paid. An assignee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. The credit assignment under this subsection shall be made on a form prescribed by the department. The eligible taxpayer shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made. The assignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year.

(6) The total of all credits allowed under this section shall not exceed \$10,000,000.00 for any 1 tax year.

(7) As used in this section:

(a) "Eligible taxpayer" means a company that meets all of the following criteria within 18 months after the effective date of the amendatory act that added this section:

(i) Is engaged primarily in manufacturing, research and development, and sale of pharmaceuticals.

(ii) Has not less than 8,500 employees located in this state. The primary places of employment for all the employees required under this subparagraph shall be located within a 100-mile radius of each other.

(iii) Of the total number of employees located in this state, has not less than 5,000 engaged primarily in research and development of pharmaceuticals.

(b) “Qualified research expenses” means that term as defined in section 41 of the internal revenue code.

History: Add. 2002, Act 588, Imd. Eff. Oct. 16, 2002.