

# HOUSE BILL No. 4401

February 24, 2005, Introduced by Reps. Hunter, Tobocman, Kolb, Leland and Condino and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
(MCL 208.1 to 208.145) by adding section 35d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 35D. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,  
2           2005, A TAXPAYER THAT IS AN ELIGIBLE FILM PRODUCTION COMPANY MAY  
3           CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT FOR THE  
4           PRODUCTION OF A MOTION PICTURE OR TELEVISION FILM EQUAL TO THE SUM  
5           OF BOTH OF THE FOLLOWING AMOUNTS:

6           (A) NOT MORE THAN 4%, AS DETERMINED BY THE DEPARTMENT, OF THE  
7           TAXPAYER'S ELIGIBLE PRODUCTION EXPENSES PAID IN THE TAX YEAR.

8           (B) NOT MORE THAN 7.25% OF THE TAXPAYER'S COSTS PAID IN THE  
9           TAX YEAR FOR TRANSIENT ACCOMMODATIONS.

1           (2) A TAXPAYER THAT IS AN ELIGIBLE FILM PRODUCTION COMPANY  
2 SHALL APPLY TO THE DEPARTMENT TO DETERMINE THE PERCENTAGE OF  
3 ELIGIBLE PRODUCTION EXPENSES UNDER SUBSECTION (1) THAT THE TAXPAYER  
4 MAY USE TO CALCULATE THE CREDIT UNDER THIS SECTION. THE DEPARTMENT  
5 SHALL USE THE FOLLOWING CRITERIA TO DETERMINE THE APPLICABLE  
6 PERCENTAGE:

7           (A) A TAXPAYER IS ALLOWED AT LEAST 75% BUT NOT MORE THAN THE  
8 MAXIMUM PERCENTAGE UNDER SUBSECTION (1) IF ALL OF THE FOLLOWING  
9 CRITERIA ARE MET:

10           (i) THE PRODUCTION UTILIZES MICHIGAN SCENERY, CULTURE, OR  
11 PRODUCTS.

12           (ii) IF THE PRODUCT IS A MOTION PICTURE, THE TAXPAYER SPENDS A  
13 MINIMUM OF \$2,000,000.00 TO PRODUCE THE MOTION PICTURE, AND IF THE  
14 PRODUCT IS A TELEVISION FILM, THE TAXPAYER SPENDS A MINIMUM OF  
15 \$750,000.00 TO PRODUCE THE TELEVISION FILM.

16           (iii) THE TAXPAYER PROVIDES DOCUMENTATION OF 66% NATIONAL  
17 DISTRIBUTION OR COVERAGE.

18           (B) A TAXPAYER IS ALLOWED UP TO 75% OF THE MAXIMUM PERCENTAGE  
19 UNDER SUBSECTION (1) IF ALL THE FOLLOWING CRITERIA ARE MET:

20           (i) IF THE PRODUCT IS A MOTION PICTURE, THE TAXPAYER SPENDS A  
21 MINIMUM OF \$3,000,000.00 TO PRODUCE THE MOTION PICTURE, AND IF THE  
22 PRODUCT IS A TELEVISION FILM, THE TAXPAYER SPENDS A MINIMUM OF  
23 \$1,000,000.00 TO PRODUCE THE TELEVISION FILM.

24           (ii) AT LEAST 50% OF ALL PERSONNEL EMPLOYED IN TECHNICAL AND  
25 CRAFT POSITIONS IN THE PRODUCTION OF THE MOTION PICTURE OR  
26 TELEVISION FILM ARE RESIDENTS OF THIS STATE. EXECUTIVE, CREATIVE,  
27 WRITING, DIRECTING, PRODUCING, AND ACTING POSITIONS ARE NOT

1 INCLUDED IN DETERMINING THE MINIMUM PERCENTAGE UNDER THIS  
2 SUBPARAGRAPH.

3 (iii) THE TAXPAYER PROVIDES DOCUMENTATION OF 66% NATIONAL  
4 DISTRIBUTION OR COVERAGE.

5 (3) THE DEPARTMENT SHALL DETERMINE THE PERCENTAGE AMOUNT FOR  
6 EACH APPLICANT NOT MORE THAN 60 DAYS AFTER THE DEPARTMENT RECEIVES  
7 THE APPLICATION.

8 (4) AN AFFILIATED GROUP AS DEFINED IN THIS ACT, A CONTROLLED  
9 GROUP OF CORPORATIONS AS DEFINED IN SECTION 1563 OF THE INTERNAL  
10 REVENUE CODE AND FURTHER DESCRIBED IN 26 CFR 1.414(B)-1 AND  
11 1.414(C)-1 TO 1.414(C)-5, OR AN ENTITY UNDER COMMON CONTROL AS  
12 DEFINED BY THE INTERNAL REVENUE CODE SHALL CONSOLIDATE ALL ELIGIBLE  
13 PRODUCTION EXPENSES TO CALCULATE THE CREDIT ALLOWED BY THIS  
14 SECTION.

15 (5) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION  
16 EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT  
17 PORTION OF THE CREDIT THAT EXCEEDS THE TAX LIABILITY SHALL BE  
18 REFUNDED.

19 (6) AS USED IN THIS SECTION:

20 (A) "ELIGIBLE FILM PRODUCTION COMPANY" MEANS A FILM PRODUCTION  
21 COMPANY REGISTERED WITH THE DEPARTMENT THAT MEETS THE FOLLOWING  
22 CRITERIA:

23 (i) IS ENGAGED IN THE MOTION PICTURE OR TELEVISION FILM  
24 PRODUCTION BUSINESS.

25 (ii) INCURS COSTS IN THIS STATE WHILE PRODUCING A MOTION  
26 PICTURE OR TELEVISION FILM.

27 (iii) CAN DEMONSTRATE TO THE DEPARTMENT THAT THE MOTION PICTURE

1 OR TELEVISION FILM BENEFITS THIS STATE BY PROMOTING THIS STATE,  
2 PROMOTING TOURISM TO THIS STATE, OR CREATING JOBS AND BUSINESS  
3 OPPORTUNITIES IN THIS STATE IN THE MOTION PICTURE AND TELEVISION  
4 FILM INDUSTRY.

5 (B) "ELIGIBLE PRODUCTION EXPENSES" MEANS ALL OF THE FOLLOWING:

6 (i) WAGES AND SALARIES PAID FOR TALENT, MANAGEMENT, AND LABOR  
7 INCLUDING PAYMENTS TO PERSONAL SERVICES CORPORATIONS FOR THE  
8 SERVICES OF QUALIFIED PERFORMING ARTISTS AS DETERMINED UNDER  
9 SECTION 62(B)(1) OF THE INTERNAL REVENUE CODE THAT RELATE TO THE  
10 PRODUCTION OF FILM IN THIS STATE.

11 (ii) STORY AND OTHER RIGHTS TO MATERIALS OR INFORMATION.

12 (iii) SUPPLIES AND COST OF COPYING.

13 (iv) COST FOR THE RENTAL OF FACILITIES, INCLUDING LOCATION  
14 FEES, CAMERA AND PRODUCTION EQUIPMENT, SOUND SYNCHRONIZATION,  
15 WARDROBE, PROPS, VEHICLES, AND OTHER RELATED EQUIPMENT OR  
16 MATERIALS.

17 (v) FILM AND FILM EDITING COSTS.

18 (vi) COSTS FOR LIGHTING, PERMITS, ARTWORK, ANIMAL HANDLERS,  
19 ANIMALS, LODGING, CATERING, TRAVEL, INSURANCE, AND ANY OTHER DIRECT  
20 COSTS.

21 (C) "MOTION PICTURE OR TELEVISION FILM" MEANS A FEATURE-LENGTH  
22 MOTION PICTURE INTENDED FOR THEATRICAL RELEASE OR FOR EXHIBITION ON  
23 NATIONAL TELEVISION BY A NETWORK OR THROUGH NATIONAL SYNDICATION OR  
24 A TELEVISION PROGRAM THAT WILL SERVE AS A PILOT FOR OR BE A SEGMENT  
25 OF AN ONGOING DRAMATIC OR SITUATION COMEDY SERVICES TELEVISED ON A  
26 NETWORK OR THROUGH NATIONAL SYNDICATION THAT HAS BEEN CERTIFIED BY  
27 THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION. MOTION PICTURE OR

1 TELEVISION FILM DOES NOT INCLUDE NEWS PROGRAMS, SPORTS PROGRAMS,  
2 AND COMMERCIALS.

3 (D) "TRANSIENT ACCOMMODATION COSTS" MEANS THE ACTUAL  
4 EXPENDITURES PAID TO AN OPERATOR OF TRANSIENT ACCOMMODATIONS IN  
5 THIS STATE DURING THE PRODUCTION OF A MOTION PICTURE OR TELEVISION  
6 FILM.

7 (E) "TRANSIENT ACCOMMODATIONS" MEANS THE FURNISHING OF A ROOM,  
8 APARTMENT, SUITE, OR SIMILAR ACCOMMODATION THAT IS CUSTOMARILY  
9 OCCUPIED BY A PERSON FOR LESS THAN 180 CONSECUTIVE DAYS FOR EACH  
10 LETTING BY A HOTEL, APARTMENT HOTEL, MOTEL, CONDOMINIUM,  
11 COOPERATIVE APARTMENT, OR ROOMING HOUSE THAT PROVIDES LIVING  
12 QUARTERS, SLEEPING, OR HOUSEKEEPING ACCOMMODATIONS, OR OTHER PLACE  
13 IN WHICH LODGINGS ARE REGULARLY FURNISHED TO TRANSIENTS FOR  
14 CONSIDERATION.