

# HOUSE BILL No. 5938

April 8, 2008, Introduced by Reps. Sheltroun, Bieda and Condino and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 429 (MCL 208.1429).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 429. (1) A taxpayer may claim a credit against the tax  
2 imposed by this act for 1 or more of the following as applicable:

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

4           (b) The credit allowed under subsection (5).

5           (2) A taxpayer that is certified under the Michigan next  
6 energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an  
7 eligible taxpayer may claim a nonrefundable credit for the tax year  
8 equal to the amount determined under subdivision (a) or (b),  
9 whichever is less:

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

5 (b) Ten percent of the amount by which the taxpayer's adjusted  
6 qualified business activity performed in this state outside of a  
7 renaissance zone for the tax year exceeds the taxpayer's adjusted  
8 qualified business activity performed in this state outside of a  
9 renaissance zone for the 2001 tax year under section 39e of former  
10 1975 PA 228.

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

16 (4) A taxpayer that claims a credit under subsection (2) shall  
17 attach a copy of each of the following as issued pursuant to the  
18 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to  
19 207.827, to the annual return required under this act for each tax  
20 year in which the taxpayer claims the credit allowed under  
21 subsection (2):

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

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

26 (c) The proof of certification of the taxpayer's baseline tax  
27 liability attributable to qualified business activity.

1           (5) A taxpayer that is a qualified alternative energy entity  
2 may claim a credit for the taxpayer's qualified payroll amount. A  
3 taxpayer shall claim the credit under this subsection after all  
4 allowable nonrefundable credits under this act.

5           (6) If the credit allowed under subsection (5) exceeds the tax  
6 liability of the taxpayer for the tax year, that portion of the  
7 credit that exceeds the tax liability shall be refunded.

8           (7) As used in this section:

9           (a) "Adjusted qualified business activity performed in this  
10 state outside of a renaissance zone" means either of the following:

11           (i) Except as provided in subparagraph (ii), the taxpayer's  
12 payroll for qualified business activity performed in this state  
13 outside of a renaissance zone.

14           (ii) For a partnership, limited liability company, S  
15 corporation, or individual, the amount determined under  
16 subparagraph (i) plus the product of the following as related to the  
17 taxpayer:

18           (A) Business income.

19           (B) The apportionment factor as determined under chapter 3.

20           (C) The alternative energy business activity factor.

21           (b) "Alternative energy business activity factor" means a  
22 fraction, the numerator of which is the ratio of the value of the  
23 taxpayer's property used for qualified business activity and  
24 located in this state outside of a renaissance zone for the year  
25 for which the factor is being calculated to the value of all of the  
26 taxpayer's property located in this state for that year plus the  
27 ratio of the taxpayer's payroll for qualified business activity

1 performed in this state outside of a renaissance zone for that year  
2 to all of the taxpayer's payroll in this state for that year and  
3 the denominator of which is 2.

4 (c) "Alternative energy marine propulsion system",  
5 "alternative energy system", "alternative energy vehicle", and  
6 "alternative energy technology" mean those terms as defined in the  
7 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to  
8 207.827.

9 (d) "Alternative energy zone" means a renaissance zone  
10 designated as an alternative energy zone by the board of the  
11 Michigan strategic fund under section 8a of the Michigan  
12 renaissance zone act, 1996 PA 376, MCL 125.2688a.

13 (e) "Baseline tax liability attributable to qualified business  
14 activity" means the taxpayer's tax liability for the 2001 tax year  
15 under former 1975 PA 228 multiplied by the taxpayer's alternative  
16 energy business activity factor for the 2001 tax year under former  
17 1975 PA 228. A taxpayer with a 2001 tax year of less than 12 months  
18 under former 1975 PA 228 shall annualize the amount calculated  
19 under this subdivision as necessary to determine baseline tax  
20 liability attributable to qualified business activity that reflects  
21 a 12-month period.

22 (f) "Eligible taxpayer" means a taxpayer that has proof of  
23 certification of qualified business activity under the Michigan  
24 next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

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

27 (h) "Qualified alternative energy entity" means a taxpayer

1 located in an alternative energy zone.

2 (i) "Qualified business activity" means research, development,  
3 or manufacturing of an alternative energy marine propulsion system,  
4 an alternative energy system, an alternative energy vehicle,  
5 alternative energy technology, or renewable fuel.

6 (j) "Qualified employee" means an individual who is employed  
7 by a qualified alternative energy entity, whose job  
8 responsibilities are related to the research, development, or  
9 manufacturing activities of the qualified alternative energy  
10 entity, and whose regular place of employment is within an  
11 alternative energy zone.

12 (k) "Qualified payroll amount" means an amount equal to  
13 payroll of the qualified alternative energy entity attributable to  
14 all qualified employees in the tax year of the qualified  
15 alternative energy entity for which the credit under subsection (6)  
16 is being claimed, multiplied by the tax rate for that tax year.

17 (l) "Renaissance zone" means a renaissance zone designated  
18 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681  
19 to 125.2696.

20 (m) "Renewable fuel" means 1 or more of the following:

21 (i) Biodiesel or biodiesel blends containing at least 20%  
22 biodiesel. As used in this subparagraph, "biodiesel" means a diesel  
23 fuel substitute consisting of methyl or ethyl esters produced from  
24 the transesterification of animal or vegetable fats with methanol  
25 or ethanol.

26 (ii) Biomass. As used in this subparagraph, "biomass" means  
27 residues from the wood and paper products industries, residues from

1 food production and processing, trees and grasses grown  
2 specifically to be used as energy crops, and gaseous fuels produced  
3 from solid biomass, animal wastes, municipal waste, or landfills.

4 (n) "Tax liability attributable to qualified business  
5 activity" means the taxpayer's tax liability multiplied by the  
6 taxpayer's alternative energy business activity factor for the tax  
7 year.

8 (o) "Tax rate" means the rate imposed under section ~~51e-51~~ of  
9 the income tax act of 1967, 1967 PA 281, MCL ~~206.51e-206.51~~,  
10 annualized as necessary, for the tax year in which the qualified  
11 alternative energy entity claims a credit under subsection ~~(6)~~-(5).