

SENATE BILL No. 378

March 12, 2009, Introduced by Senators ALLEN, KAHN, STAMAS and BARCIA and referred to the Committee on Finance.

A bill to amend 2007 PA 36, entitled
 "Michigan business tax act,"
 by amending section 431a (MCL 208.1431a), as added by 2008 PA 92.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 431a. (1) A qualified taxpayer may claim a credit against
 2 the tax imposed by this act ~~in an amount~~ **EQUAL TO THE SUM OF** up to
 3 100% of ~~the~~ **EACH** qualified supplier's ~~or~~ **AND QUALIFIED** customer's
 4 payroll attributable to employees who perform qualified new jobs as
 5 determined by the Michigan economic growth authority, multiplied by
 6 the tax rate for the tax year **AND THAT CREDIT MAY INCLUDE EACH OF**
 7 **THE QUALIFIED SUPPLIER'S AND QUALIFIED CUSTOMER'S PAYROLL DESCRIBED**
 8 **ABOVE** for a period of up to 5 years as determined by the Michigan
 9 economic growth authority. If the credit allowed under this
 10 subsection exceeds the liability of the taxpayer for the tax year,

1 the taxpayer may elect to have that portion that exceeds the tax
2 liability of the taxpayer refunded or to have the excess carried
3 forward to offset tax liability in subsequent years for 10 years or
4 until it is used up, whichever occurs first. The Michigan economic
5 growth authority shall not designate more than 5 ~~taxpayers as an~~
6 ~~anchor company~~ **NEW ANCHOR COMPANIES** in each calendar year and shall
7 not approve more than 5 new credits in each calendar year under
8 this subsection. A ~~taxpayer~~ **AN ANCHOR COMPANY** has 5 years from the
9 date on which the ~~taxpayer~~ **ANCHOR COMPANY** is designated as an
10 anchor company to seek certification from the Michigan economic
11 growth authority as a qualified taxpayer for each qualified
12 supplier ~~or~~ **AND QUALIFIED** customer ~~for which a credit is sought~~
13 **THAT IS INCLUDED IN THE CREDIT WHICH THAT ANCHOR COMPANY IS SEEKING**
14 under this section. However, a credit shall not be provided for a
15 tax year prior to the tax year during which the ~~certification~~
16 **DESIGNATION AS AN ANCHOR COMPANY** is made. ~~If a qualified taxpayer~~
17 ~~is awarded a credit under this subsection, any subsequent credits~~
18 ~~awarded to that qualified taxpayer shall not be included in~~
19 ~~determining the yearly limit of 5 new credits under this~~
20 ~~subsection.~~

21 (2) The Michigan economic growth authority may also provide
22 that qualified sales to a qualified ~~supplier or customer are not~~
23 ~~sales in this state for purposes of~~ **SHALL NOT BE CONSIDERED IN**
24 calculating the sales factor under this act for the tax year for
25 which a credit is provided under this section. ~~Qualified sales to a~~
26 ~~qualified supplier or customer are the total sales in this state to~~
27 ~~a qualified supplier or customer multiplied by a fraction, the~~

1 ~~numerator of which is the compensation on which the credit in this~~
2 ~~section is calculated and the denominator of which is the total~~
3 ~~compensation of the qualified supplier or customer in this state.~~

4 (3) A taxpayer shall not claim a credit under this section
5 unless the Michigan economic growth authority has issued a
6 certificate to the taxpayer. The taxpayer shall attach the
7 certificate to the annual return filed under this act on which the
8 credit under this section is claimed. The certificate required by
9 this subsection shall state all of the following:

10 (a) The taxpayer is a qualified taxpayer and the date on which
11 the taxpayer was designated as an anchor company.

12 (b) The amount of the credit under this section for the
13 qualified taxpayer for the designated tax year.

14 (c) The amount of the qualified sales ~~calculated in accordance~~
15 ~~with the fraction described under subsection (2)~~ **TO A QUALIFIED**
16 **CUSTOMER.**

17 (d) The taxpayer's federal employer identification number or
18 the Michigan department of treasury number assigned to the
19 taxpayer.

20 (4) A **QUALIFIED** taxpayer that claims a credit under this
21 section and subsequently fails to meet the requirements of this
22 section or any other conditions included in an agreement entered
23 into with the Michigan economic growth authority in order to obtain
24 a certificate for which the credit was under this section may, as
25 to be determined by the Michigan economic growth authority, have
26 its credit reduced or terminated or have a percentage of the credit
27 amount previously claimed under this section added back to the tax

1 liability of the taxpayer in the year that the taxpayer fails to
2 comply with this section or the agreement.

3 (5) A CREDIT UNDER THIS SECTION MAY BE TAKEN AFTER ALL OTHER
4 ALLOWABLE NONREFUNDABLE CREDITS UNDER THIS ACT.

5 (6) ~~(5)~~—As used in this section:

6 (a) "Anchor company" means a qualified high-technology
7 business that is an integral part of a high-technology activity and
8 that has the ability or potential ability to influence business
9 decisions and site location of qualified suppliers and customers.

10 (b) "Business", "qualified high-technology activity", and
11 "qualified high-technology business" mean those terms as defined in
12 the Michigan economic growth authority act, 1995 PA 24, MCL 207.801
13 to 207.810.

14 (c) "Full-time job" means a job performed by an individual for
15 35 hours or more each week and whose income and social security
16 taxes are withheld by 1 or more of the following:

17 (i) A qualified supplier or **QUALIFIED** customer.

18 (ii) An employee leasing company on behalf of a qualified
19 supplier or **QUALIFIED** customer.

20 (iii) A professional employer organization on behalf of a
21 qualified supplier or **QUALIFIED** customer.

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

25 (e) "Qualified new job" means a full-time job created by a
26 qualified supplier or **QUALIFIED** customer at a facility or
27 facilities that is in excess of the number of full-time jobs a

1 qualified supplier or **QUALIFIED** customer maintained in this state
 2 or at a facility prior to the expansion or location, as determined
 3 by the authority.

4 (F) **"QUALIFIED SALES TO A QUALIFIED CUSTOMER" MEANS SALES TO A**
 5 **QUALIFIED CUSTOMER THAT ARE IN EXCESS OF THE MICHIGAN SALES TO THE**
 6 **CUSTOMER PRIOR TO THE YEAR OF EXPANSION OR LOCATION WITHIN THIS**
 7 **STATE AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY AND**
 8 **THAT WOULD OTHERWISE BE INCLUDED IN THE CALCULATION OF THE SALES**
 9 **FACTOR UNDER THIS ACT.**

10 (G) ~~(f)~~-"Qualified supplier" ~~or~~ **AND "QUALIFIED** customer" means
 11 a business that opens a new location in this state, a business that
 12 locates in this state, or an existing business located in this
 13 state that expands its business ~~within the last year~~ as a result of
 14 an anchor company and satisfies **PRIOR TO THE ISSUANCE OF A**
 15 **CERTIFICATE AND AT THE TIME SPECIFIED IN THE AGREEMENT WITH THE**
 16 **QUALIFIED TAXPAYER**, as certified by the Michigan economic growth
 17 authority, each of the following:

18 (i) Has financial transactions with the anchor company.

19 (ii) Sells a critical or unique component or technology
 20 necessary for the anchor company to market a finished product **AS**
 21 **THE RESULT OF A COMMERCIAL RELATIONSHIP WITH THE ANCHOR COMPANY** or
 22 buys a critical or unique component from the anchor company.

23 (iii) Has created more than 10 qualified new jobs.

24 (iv) Has made an investment of at least \$1,000,000.00 as
 25 certified by the Michigan economic growth authority.

26 (H) ~~(g)~~-"Qualified taxpayer" means a taxpayer that was
 27 designated by the Michigan economic growth authority as an anchor

1 company within the last 5 years and that has influenced a ~~new~~
2 qualified supplier or **QUALIFIED** customer to open, locate, or expand
3 in this state.

4 (I) "TAX RATE" MEANS THE RATE IMPOSED UNDER SECTION 51 OF THE
5 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.51, FOR THE TAX YEAR
6 IN WHICH THE TAX YEAR OF THE TAXPAYER FOR WHICH THE CREDIT IS BEING
7 COMPUTED BEGINS.

8 Enacting section 1. This amendatory act is retroactive and is
9 effective for tax years that begin after December 31, 2008.