

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 888

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 39c (MCL 208.39c), as added by 1998 PA 534.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 39c. (1) ~~For tax years that begin after December 31,~~
2 ~~1998 and before January 1, 2003, a~~ A qualified taxpayer WITH A
3 REHABILITATION PLAN CERTIFIED AFTER DECEMBER 31, 1998 AND BEFORE
4 JANUARY 1, 2003 may credit against the tax imposed by this act
5 the amount determined pursuant to subsection (2) for the quali-
6 fied expenditures for the rehabilitation of a historic resource
7 pursuant to ~~a~~ THE rehabilitation plan ~~for 1 of the following~~
8 ~~time periods:~~ IN THE YEAR IN WHICH THE CERTIFICATION OF COM-
9 PLETED REHABILITATION OF THE HISTORIC RESOURCE IS ISSUED PROVIDED
10 THAT THE CERTIFICATION OF COMPLETED REHABILITATION WAS ISSUED NOT

1 MORE THAN 5 YEARS AFTER THE REHABILITATION PLAN WAS CERTIFIED BY
2 THE MICHIGAN HISTORICAL CENTER.

3 ~~(a) The year in which the rehabilitated historic resource~~
4 ~~is placed in service.~~

5 ~~(b) The year in which a final payment of qualified expendi-~~
6 ~~tures is made if the project is a phased project and construction~~
7 ~~is planned for 2 to 5 years.~~

8 (2) The credit allowed under this section shall be 25% of
9 the qualified expenditures that are eligible for the credit under
10 section 47(a)(2) of the internal revenue code if the taxpayer is
11 eligible for the credit under section 47(a)(2) of the internal
12 revenue code or, IF THE TAXPAYER IS NOT ELIGIBLE FOR THE CREDIT
13 UNDER 47(a)(2) OF THE INTERNAL REVENUE CODE, 25% of the qualified
14 expenditures that ~~are eligible for the credit under this act if~~
15 ~~the taxpayer is not eligible for the credit under section~~
16 ~~47(a)(2) of the internal revenue code~~ WOULD QUALIFY UNDER SEC-
17 TION 47(a)(2) OF THE INTERNAL REVENUE CODE EXCEPT THAT THE EXPEN-
18 DITURES ARE MADE TO A HISTORIC RESOURCE THAT IS NOT ELIGIBLE FOR
19 THE CREDIT UNDER SECTION 47(a)(2) OF THE INTERNAL REVENUE CODE,
20 subject to both of the following:

21 (a) A taxpayer with qualified expenditures that are eligible
22 for the credit under section 47(a)(2) of the internal revenue
23 code may not claim a credit under this section for those quali-
24 fied expenditures unless the taxpayer has claimed and received a
25 credit for those qualified expenditures under section 47(a)(2) of
26 the internal revenue code.

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

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

11 (a) All of the following criteria:

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

14 (ii) Both the rehabilitation plan and completed rehabilita-
15 tion of the historic resource meet the federal secretary of the
16 interior's standards for rehabilitation and guidelines for reha-
17 bilitating historic buildings, 36 C.F.R. 67.

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

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

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

10 (5) The center may inspect a historic resource at any time
11 during the rehabilitation process and may revoke certification OF
12 COMPLETED REHABILITATION if the rehabilitation was not undertaken
13 as represented in the rehabilitation plan or if unapproved alter-
14 ations to the completed rehabilitation are made during the 5
15 years after the tax year in which the credit was claimed. The
16 center shall promptly notify the department of a revocation.

17 (6) Qualified expenditures for the rehabilitation of a his-
18 toric resource may be used to calculate the credit under this
19 section if the historic resource meets 1 of the criteria listed
20 in subdivision (a) and 1 of the criteria listed in subdivision
21 (b):

22 (a) The resource is 1 of the following during the tax year
23 in which a credit under this section is claimed for those quali-
24 fied expenditures:

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

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

4 (iii) A contributing resource located within a historic dis-
5 trict designated by a local unit pursuant to an ordinance adopted
6 under the local historic districts act, 1970 PA 169, MCL 399.201
7 to 399.215.

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

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

15 (ii) The historic resource is located in an incorporated
16 local unit of government that does not have an ordinance under
17 the local historic districts act, 1970 PA 169, MCL 399.201 to
18 399.215, and has a population of less than 5,000.

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

21 (7) IF A QUALIFIED TAXPAYER IS A PARTNERSHIP, LIMITED
22 LIABILITY COMPANY, OR SUBCHAPTER S CORPORATION, THE QUALIFIED
23 TAXPAYER MAY ASSIGN ALL OR ANY PORTION OF A CREDIT ALLOWED UNDER
24 THIS SECTION TO ITS PARTNERS, MEMBERS, OR SHAREHOLDERS, BASED ON
25 THE PARTNER'S, MEMBER'S, OR SHAREHOLDER'S PROPORTIONATE SHARE OF
26 OWNERSHIP OR BASED ON AN ALTERNATIVE METHOD APPROVED BY THE
27 DEPARTMENT. A CREDIT ASSIGNMENT UNDER THIS SUBSECTION IS

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1 IRREVOCABLE AND SHALL BE MADE IN THE TAX YEAR IN WHICH A
2 CERTIFICATE OF COMPLETED REHABILITATION IS ISSUED. A QUALIFIED
3 TAXPAYER MAY CLAIM A PORTION OF A CREDIT AND ASSIGN THE REMAINING
4 CREDIT AMOUNT. A PARTNER, MEMBER, OR SHAREHOLDER THAT IS AN
5 ASSIGNEE SHALL NOT SUBSEQUENTLY ASSIGN A CREDIT OR ANY PORTION OF
6 A CREDIT ASSIGNED TO THE PARTNER, MEMBER, OR SHAREHOLDER UNDER
7 THIS SUBSECTION. A CREDIT AMOUNT ASSIGNED UNDER THIS SUBSECTION
8 MAY BE CLAIMED AGAINST THE PARTNER'S, MEMBER'S, OR SHAREHOLDER'S
9 TAX LIABILITY UNDER THIS ACT OR UNDER THE INCOME TAX ACT OF 1967,
10 1967 PA 281, MCL 206.1 TO 206.532. A CREDIT ASSIGNMENT UNDER THIS
11 SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED BY THE DEPARTMENT.
12 THE QUALIFIED TAXPAYER AND ASSIGNEES SHALL SEND A COPY OF THE
13 COMPLETED ASSIGNMENT FORM TO THE DEPARTMENT IN THE TAX YEAR IN
14 WHICH THE ASSIGNMENT IS MADE AND ATTACH A COPY OF THE COMPLETED
15 ASSIGNMENT FORM TO THE ANNUAL RETURN REQUIRED TO BE FILED UNDER
16 THIS ACT FOR THAT TAX YEAR.

17 (8) ~~-(7)-~~ If the credit allowed under this section for the
18 tax year and any unused carryforward of the credit allowed by
19 this section exceed the taxpayer's tax liability for the tax
20 year, that portion that exceeds the tax liability for the tax
21 year shall not be refunded but may be carried forward to offset
22 tax liability in subsequent tax years for 10 years or until used
23 up, whichever occurs first. A CARRYFORWARD UNDER THIS SUBSECTION
24 MAY BE CLAIMED IN TAX YEARS THAT BEGAN AFTER DECEMBER 31, 2002
25 FOR A CREDIT BASED ON A REHABILITATION PLAN CERTIFIED BEFORE
26 JANUARY 1, 2003.

1 (9) ~~—(8)—~~ If the taxpayer sells a historic resource for
2 which a credit under this section was claimed less than 5 years
3 after the year in which the credit was claimed, the following
4 percentage of the credit amount previously claimed relative to
5 that HISTORIC resource shall be added back to the tax liability
6 of the taxpayer in the year of the sale:

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

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

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

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

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

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

20 (10) IF A CERTIFICATION OF COMPLETED REHABILITATION IS
21 REVOKED UNDER SUBSECTION (5) LESS THAN 5 YEARS AFTER THE YEAR IN
22 WHICH A CREDIT WAS CLAIMED, THE FOLLOWING PERCENTAGE OF THE
23 CREDIT AMOUNT PREVIOUSLY CLAIMED RELATIVE TO THAT HISTORIC
24 RESOURCE SHALL BE ADDED BACK TO THE TAX LIABILITY OF THE TAXPAYER
25 IN THE YEAR OF THE REVOCATION:

26 (A) IF THE REVOCATION IS LESS THAN 1 YEAR AFTER THE YEAR IN
27 WHICH THE CREDIT WAS CLAIMED, 100%.

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1 (B) IF THE REVOCATION IS AT LEAST 1 YEAR BUT LESS THAN 2
2 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 80%.

3 (C) IF THE REVOCATION IS AT LEAST 2 YEARS BUT LESS THAN 3
4 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 60%.

5 (D) IF THE REVOCATION IS AT LEAST 3 YEARS BUT LESS THAN 4
6 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 40%.

7 (E) IF THE REVOCATION IS AT LEAST 4 YEARS BUT LESS THAN 5
8 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 20%.

9 (F) IF THE REVOCATION IS 5 YEARS OR MORE AFTER THE YEAR IN
10 WHICH THE CREDIT WAS CLAIMED, AN ADDBACK TO THE TAXPAYER'S TAX
11 LIABILITY SHALL NOT BE MADE.

12 (11) ~~-(9)-~~ The department of state through the Michigan his-
13 torical center may impose a fee to cover the administrative cost
14 of implementing the program under this section.

15 (12) ~~-(10)- A person that claims a credit under this section~~
16 ~~shall not report the credit amount on the person's annual return~~
17 ~~filed under this act, but shall claim the credit on a separate~~
18 ~~form prescribed by the department.~~ The QUALIFIED taxpayer shall
19 attach ~~the certificate~~ ALL OF THE FOLLOWING TO THE QUALIFIED
20 TAXPAYER'S ANNUAL RETURN REQUIRED UNDER THIS ACT OR UNDER THE
21 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.1 TO 206.532, IF
22 APPLICABLE, ON WHICH THE CREDIT IS CLAIMED:

23 (A) CERTIFICATION of completed ~~work and certificate~~
24 REHABILITATION.

25 (B) CERTIFICATION of historic significance related to the
26 historic resource and the qualified expenditures used to claim a

1 credit under this section. ~~to the form on which the credit is~~
2 ~~claimed.~~

3 (C) A COMPLETED ASSIGNMENT FORM IF THE QUALIFIED TAXPAYER
4 HAS ASSIGNED ANY PORTION OF A CREDIT ALLOWED UNDER THIS SECTION
5 TO A PARTNER, MEMBER, OR SHAREHOLDER, OR IF THE TAXPAYER IS AN
6 ASSIGNEE OF ANY PORTION OF A CREDIT ALLOWED UNDER THIS SECTION.

7 (13) ~~(11) Within 6 months after the effective date of the~~
8 ~~amendatory act that added this section~~ NOT LATER THAN JULY 19,
9 1999, the department of state shall submit rules to implement
10 this section for public hearing pursuant to the administrative
11 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

12 (14) ~~(12)~~ The total of the credits claimed ~~by a taxpayer~~
13 under this section and section 266 of the income tax act of 1967,
14 1967 PA 281, MCL 206.266, FOR A REHABILITATION PROJECT shall not
15 exceed 25% OF the total qualified expenditures eligible for the
16 credit under this section ~~of the taxpayer~~ FOR THAT REHABILITA-
17 TION PROJECT.

18 (15) ~~(13)~~ The department of state through the Michigan
19 historical center shall report all of the following to the legis-
20 lature annually for the immediately preceding state fiscal year:

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

23 (b) A description of each REHABILITATION project certified.

24 (c) The location of each new and ongoing REHABILITATION
25 project.

26 (16) ~~(14)~~ As used in this section:

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

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

8 (c) "Historic resource" means a publicly or privately owned
9 historic building, structure, site, object, feature, or open
10 space located within a historic district designated by the
11 national register of historic places, the state register of his-
12 toric sites, or a local unit acting under the local historic dis-
13 tricts act, 1970 PA 169, MCL 399.201 to 399.215; or that is indi-
14 vidually listed on the state register of historic sites or
15 national register of historic places and includes all of the
16 following:

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

20 (ii) An income-producing commercial, industrial, or residen-
21 tial resource or a historic resource located within the property
22 boundaries of that resource.

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

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

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

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

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

12 (f) "Michigan historical center" or "center" means the state
13 historic preservation office of the Michigan historical center of
14 the department of state or its successor agency.

15 (g) "Open space" means undeveloped land, a naturally land-
16 scaped area, or a formal or man-made landscaped area that pro-
17 vides a connective link or a buffer between other resources.

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

20 (i) "Qualified expenditures" means capital expenditures that
21 qualify for a rehabilitation credit under section 47(a)(2) of the
22 internal revenue code if the taxpayer is eligible for the credit
23 under section 47(a)(2) of the internal revenue code or, IF THE
24 TAXPAYER IS NOT ELIGIBLE FOR THE CREDIT UNDER SECTION 47(a)(2) OF
25 THE INTERNAL REVENUE CODE, the qualified expenditures that ~~are~~
26 ~~eligible for the credit under this act if the taxpayer is not~~
27 ~~eligible for the credit under section 47(a)(2) of the internal~~

1 ~~revenue code,~~ WOULD QUALIFY UNDER SECTION 47(a)(2) OF THE
2 INTERNAL REVENUE CODE EXCEPT THAT THE EXPENDITURES ARE MADE TO A
3 HISTORIC RESOURCE THAT IS NOT ELIGIBLE FOR THE CREDIT UNDER SEC-
4 TION 47(a)(2) OF THE INTERNAL REVENUE CODE that were paid not
5 more than 5 years after the ~~initial~~ certification of the reha-
6 bilitation plan that included those expenditures was approved by
7 the center, and that were paid after December 31, 1998 for the
8 rehabilitation of a historic resource. Qualified expenditures do
9 not include capital expenditures for nonhistoric additions to a
10 HISTORIC resource except an addition that is required by state or
11 federal regulations that relate to historic preservation, safety,
12 or accessibility. EXPENDITURES MADE AFTER DECEMBER 31, 2002 AND
13 NOT MORE THAN 5 YEARS AFTER THE CERTIFICATION OF THE REHABILITA-
14 TION PLAN ARE QUALIFIED EXPENDITURES ONLY IF THE REHABILITATION
15 PLAN RECEIVED CERTIFICATION BY THE MICHIGAN HISTORICAL CENTER
16 BEFORE JANUARY 1, 2003.

17 (j) "Qualified taxpayer" means a person that IS AN ASSIGNEE
18 UNDER SUBSECTION (7) OR EITHER owns the resource to be rehabili-
19 tated or ~~that~~ has a long-term lease agreement with the owner of
20 the HISTORIC resource and that has qualified expenditures for the
21 rehabilitation of the HISTORIC resource equal to or greater than
22 10% of the state equalized valuation of the property. If the
23 historic resource to be rehabilitated is a portion of a historic
24 or nonhistoric resource, the state equalized valuation of only
25 that portion of the property shall be used for purposes of this
26 subdivision. If the assessor for the local tax collecting unit
27 in which the historic resource is located determines the state

1 equalized valuation of that portion, that assessor's
2 determination shall be used for purposes of this subdivision. If
3 the assessor does not determine that state equalized valuation of
4 that portion, qualified expenditures, for purposes of this subdi-
5 vision, shall be equal to or greater than 5% of the appraised
6 value as determined by a certified appraiser. IF THE HISTORIC
7 RESOURCE TO BE REHABILITATED DOES NOT HAVE A STATE EQUALIZED VAL-
8 UATION, QUALIFIED EXPENDITURES FOR PURPOSES OF THIS SUBDIVISION
9 SHALL BE EQUAL TO OR GREATER THAN 5% OF THE APPRAISED VALUE OF
10 THE RESOURCE AS DETERMINED BY A CERTIFIED APPRAISER.

11 (k) "Rehabilitation plan" means a plan for the rehabilita-
12 tion of a historic resource that meets the federal secretary of
13 the interior's standards for rehabilitation and guidelines for
14 rehabilitation of historic buildings under 36 C.F.R. 67.