

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 821

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 37c (MCL 208.37c), as amended by 2000 PA
429.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 37c. (1) For tax years beginning after December 31,
2 1994 and for a period of time not to exceed 20 years as
3 determined by the Michigan economic growth authority, a taxpayer
4 that is an authorized business may credit against the tax imposed
5 by section 31 the amount certified each year by the Michigan
6 economic growth authority.
7 (2) The credit **allowed** under ~~this section~~ **subsection (1)**
8 for an authorized business for the tax year as determined under
9 the Michigan economic growth authority act, 1995 PA 24, MCL
10 207.801 to 207.810, shall not exceed the payroll of the

1 authorized business attributable to employees who perform
2 qualified new jobs multiplied by the tax rate.

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

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

10 (a) The taxpayer is an authorized business.

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

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

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

17 (5) If the credit allowed under ~~this section~~ **subsection (1)**
18 exceeds the tax liability of the taxpayer for the tax year, the
19 excess shall be refunded to the taxpayer.

20 (6) A taxpayer that claims a credit under ~~this section~~
21 **subsection (1)** or section 37d that has an agreement with the
22 Michigan economic growth authority based on qualified new jobs as
23 defined in section 3(j)(ii) of the Michigan economic growth
24 authority act, 1995 PA 24, MCL 207.803, that removes from this
25 state 51% or more of those qualified new jobs within 3 years
26 after the first year in which the taxpayer claims a credit
27 described in this subsection shall pay to the department no later

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1 than 12 months after those qualified new jobs are removed from
2 the state an amount equal to the total of all credits described
3 in this subsection that were claimed by the taxpayer.

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

12 (8) ~~—(7)—~~ An For a credit allowed under subsection (1), an
13 affiliated group as defined in this act, a controlled group of
14 corporations as defined in section 1563 of the internal revenue
15 code and further described in 26 ~~C.F.R.~~ CFR 1.414(b)-1 and
16 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
17 defined by the internal revenue code shall claim only 1 credit
18 ~~under this section~~ for each tax year for each expansion or
19 location evidenced by a written agreement whether or not a
20 combined or consolidated return is filed.

21 (9) ~~—(8)—~~ A credit shall not be claimed by a taxpayer under
22 ~~this section~~ subsection (1) if the taxpayer's initial
23 certification as required in subsection (3) is issued after
24 December 31, ~~2003~~ 2009.

25 (10) In addition to the credit allowed under subsection (1),
26 for tax years that begin after December 31, 2003 and before
27 January 1, 2007, a taxpayer that is an authorized business and is

1 a distressed business, with an initial certification under
2 section 9 of the Michigan economic growth authority act, 1995 PA
3 24, MCL 207.809, issued after December 31, 2003 and before
4 January 1, 2005 may claim a credit equal to the sum of the
5 following:

6 (a) Up to 50% of the tax paid in the tax year under the
7 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1
8 to 421.75, based on qualified new jobs as defined in section
9 3(k) (iii) of the Michigan economic growth authority act, 1995 PA
10 24, MCL 207.803.

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

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

24 (12) If the credit allowed under subsection (10) for the tax
25 year and any unused carryforward of the credit allowed under this
26 section exceed the tax liability of the taxpayer for the tax
27 year, the excess shall not be refunded, but may be carried

1 forward as an offset to the tax liability in subsequent tax years
2 for 10 tax years or until the excess credit is used up, whichever
3 occurs first.

4 (13) ~~—(9)—~~ As used in this section:

5 (a) "Authority" or "Michigan economic growth authority" means
6 the Michigan economic growth authority created in the Michigan
7 economic growth authority act, 1995 PA 24, MCL 207.801 to
8 207.810.

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

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

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

16 (i) ~~The~~ **For a credit allowed under subsection (1), the**
17 average number of full-time jobs at a facility of an authorized
18 business for a tax year in excess of the average number of
19 full-time jobs the authorized business maintained in this state
20 prior to the expansion or location as that is determined under
21 the Michigan economic growth authority act, 1995 PA 24, MCL
22 207.801 to 207.810.

23 (ii) After July 1, 2000 **for a credit allowed under subsection**
24 **(1),** the average number of full-time jobs at a facility created
25 by an eligible business within 120 days before becoming an
26 authorized business, that is in excess of the average number of
27 full-time jobs that the business maintained in this state 120

1 days before becoming an authorized business, as determined under
2 the Michigan economic growth authority act, 1995 PA 24, MCL
3 207.801 to 207.810.

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

7 (e) "Tax rate" means the rate imposed under sections 51, ~~and~~
8 ~~51b to 51e~~ **51d, and 51e** of the income tax act of 1967, 1967 PA
9 281, MCL 206.51, ~~and 206.51b to 206.51e~~ **206.51d, and 206.51e,**
10 for the tax year in which the tax year of the taxpayer for which
11 the credit is being computed begins.

12 Enacting section 1. This act does not take effect unless
13 House Bill No. 5255 of the 92nd Legislature is enacted into law.