

HOUSE BILL No. 5329

October 18, 2007, Introduced by Reps. Bieda, Angerer, Calley 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 403 (MCL 208.1403).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 403. (1) Notwithstanding any other provision in this act,
2 the credits provided in this section shall be taken before any
3 other credit under this act. The total combined credit allowed
4 under this section shall not exceed 65% of the total tax liability
5 imposed under this act.

6 (2) Subject to the limitation in subsection (1), a taxpayer
7 may claim a credit against the tax imposed by this act equal to
8 0.370% of the taxpayer's compensation in this state. For purposes
9 of this subsection, a taxpayer includes a person ~~described in~~
10 ~~section 239(2) and~~ subject to the tax imposed under chapter 2A. A

1 professional employer organization shall not include payments by
2 the professional employer organization to the officers and
3 employees of a client of the professional employer organization
4 whose employment operations are managed by the professional
5 employer organization. A client may include payments by the
6 professional employer organization to the officers and employees of
7 the client whose employment operations are managed by the
8 professional employer organization.

9 (3) Subject to the limitation in subsection (1), a taxpayer
10 may claim a credit against the tax imposed by this act equal to
11 2.9% multiplied by the result of subtracting the sum of the amounts
12 calculated under subdivisions (d), (e), and (f) from the sum of the
13 amounts calculated under subdivisions (a), (b), and (c):

14 (a) Calculate the cost, including fabrication and
15 installation, paid or accrued in the taxable year of tangible
16 assets of a type that are, or under the internal revenue code will
17 become, eligible for depreciation, amortization, or accelerated
18 capital cost recovery for federal income tax purposes, provided
19 that the assets are physically located in this state for use in a
20 business activity in this state and are not mobile tangible assets.

21 (b) Calculate the cost, including fabrication and
22 installation, paid or accrued in the taxable year of mobile
23 tangible assets of a type that are, or under the internal revenue
24 code will become, eligible for depreciation, amortization, or
25 accelerated capital cost recovery for federal income tax purposes.
26 This amount shall be multiplied by the apportionment factor for the
27 tax year as prescribed in chapter 3.

1 (c) For tangible assets, other than mobile tangible assets,
2 purchased or acquired for use outside of this state in a tax year
3 beginning after December 31, 2007 and subsequently transferred into
4 this state and purchased or acquired for use in a business
5 activity, calculate the federal basis used for determining gain or
6 loss as of the date the tangible assets were physically located in
7 this state for use in a business activity plus the cost of
8 fabrication and installation of the tangible assets in this state.

9 (d) If the cost of tangible assets described in subdivision
10 (a) was paid or accrued in a tax year beginning after December 31,
11 2007, or before December 31, 2007 to the extent the credit is used
12 and at the rate at which the credit was used under former 1975 PA
13 228 or this act, calculate the gross proceeds or benefit derived
14 from the sale or other disposition of the tangible assets minus the
15 gain, multiplied by the apportionment factor for the taxable year
16 as prescribed in chapter 3, and plus the loss, multiplied by the
17 apportionment factor for the taxable year as prescribed in chapter
18 3 from the sale or other disposition reflected in federal taxable
19 income and minus the gain from the sale or other disposition added
20 to the business income tax base in section 201.

21 (e) If the cost of tangible assets described in subdivision
22 (b) was paid or accrued in a tax year beginning after December 31,
23 2007, or before December 31, 2007 to the extent the credit is used
24 and at the rate at which the credit was used under former 1975 PA
25 228 or this act, calculate the gross proceeds or benefit derived
26 from the sale or other disposition of the tangible assets minus the
27 gain and plus the loss from the sale or other disposition reflected

1 in federal taxable income and minus the gain from the sale or other
2 disposition added to the business income tax base in section 201.
3 This amount shall be multiplied by the apportionment factor for the
4 tax year as prescribed in chapter 3.

5 (f) For assets purchased or acquired in a tax year beginning
6 after December 31, 2007, or before December 31, 2007 to the extent
7 the credit is used and at the rate at which the credit was used
8 under former 1975 PA 228 or this act, that were eligible for a
9 credit under subdivision (a) or (c) and that were transferred out
10 of this state, calculate the federal basis used for determining
11 gain or loss as of the date of the transfer.

12 (4) For a tax year in which the amount of the credit
13 calculated under subsection (3) is negative, the absolute value of
14 that amount is added to the taxpayer's tax liability for the tax
15 year.

16 (5) A taxpayer that claims a credit under this section is not
17 prohibited from claiming a credit under section 405. However, the
18 taxpayer shall not claim a credit under this section and section
19 405 based on the same costs and expenses.

20 Enacting section 1. This amendatory act takes effect January
21 1, 2008.