

# HOUSE BILL No. 4947

September 13, 2011, Introduced by Rep. Gilbert and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending sections 107, 117, 431, 500, and 503 (MCL 208.1107, 208.1117, 208.1431, 208.1500, and 208.1503), sections 107 and 117 as amended and section 500 as added by 2011 PA 39, section 431 as amended by 2009 PA 126, and section 503 as amended by 2009 PA 185, and by adding section 512.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 107. (1) "Certificated credit" means any of the  
2 following:

3       (a) A tax voucher certificate that has been issued to a  
4 taxpayer under an agreement entered into before January 1, 2012  
5 under section 419 or section 23 of the Michigan early stage venture  
6 investment act of 2003, 2003 PA 296, MCL 125.2253.

7       (b) A credit for which a preapproval letter has been issued to

1 a qualified taxpayer under section 437 before January 1, 2012 to  
2 the extent the credit has not been fully claimed or paid prior to  
3 January 1, 2012.

4 (c) A credit for which a taxpayer or a qualified taxpayer has  
5 entered into an agreement with the Michigan economic growth  
6 authority under sections 430, 431, 431a, 431b, 431c, 432, 434, or  
7 450 before January 1, 2012 to the extent the credit has not been  
8 fully claimed or paid prior to January 1, 2012.

9 (d) A credit for which a taxpayer or eligible production  
10 company has entered into an agreement with the Michigan film office  
11 with the concurrence of the state treasurer under section 455 or  
12 457 before January 1, 2012 to the extent the credit has not been  
13 fully claimed or paid before January 1, 2012.

14 (e) A credit for which a qualified taxpayer has received a  
15 part 2 approval, approved rehabilitation plan, approved high  
16 community impact rehabilitation plan, or preapproval letter from  
17 the state historic preservation office under section 435 before  
18 January 1, 2012 to the extent the credit has not been fully claimed  
19 or paid before January 1, 2012.

20 (f) A credit under section 433 but only for a taxpayer that  
21 has a development agreement executed between a taxpayer and the  
22 Michigan strategic fund before January 1, 2012 or for a taxpayer  
23 that has entered into a qualified collaborative agreement under the  
24 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
25 125.2696, before January 1, 2012. As used in this subsection,  
26 "qualified collaborative agreement" means that term as defined in  
27 section ~~3~~**8D** of the Michigan renaissance zone act, 1996 PA 376, MCL

1 ~~125.2683~~**125.2688D.**

2 (g) A credit applicable to this act granted under section  
3 36109 of the natural resources and environmental protection act,  
4 1994 PA 451, MCL 324.36109.

5 (h) A credit allowed a taxpayer under section 409 if the  
6 taxpayer has met the capital expenditure requirements under section  
7 ~~409(3)~~**409(4)**.

8 (2) "Client" means an entity whose employment operations are  
9 managed by a professional employer organization.

10 (3) "Compensation" means all wages, salaries, fees, bonuses,  
11 commissions, other payments made in the tax year on behalf of or  
12 for the benefit of employees, officers, or directors of the  
13 taxpayers, and any earnings that are net earnings from self-  
14 employment as defined under section 1402 of the internal revenue  
15 code of the taxpayer or a partner or limited liability company  
16 member of the taxpayer. Compensation includes, but is not limited  
17 to, payments that are subject to or specifically exempt or excepted  
18 from withholding under sections 3401 to 3406 of the internal  
19 revenue code. Compensation also includes, on a cash or accrual  
20 basis consistent with the taxpayer's method of accounting for  
21 federal income tax purposes, payments to a pension, retirement, or  
22 profit sharing plan other than those payments attributable to  
23 unfunded accrued actuarial liabilities, and payments for insurance  
24 for which employees are the beneficiaries, including payments under  
25 health and welfare and noninsured benefit plans and payment of fees  
26 for the administration of health and welfare and noninsured benefit  
27 plans. Compensation for a taxpayer licensed under article 25 or 26

1 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and  
2 339.2601 to 339.2637, includes payments to an independent  
3 contractor licensed under article 25 or 26 of the occupational  
4 code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to  
5 339.2637. Compensation does not include any of the following:

6 (a) Discounts on the price of the taxpayer's merchandise or  
7 services sold to the taxpayer's employees, officers, or directors  
8 that are not available to other customers.

9 (b) Except as otherwise provided in this subsection, payments  
10 to an independent contractor.

11 (c) Payments to state and federal unemployment compensation  
12 funds.

13 (d) The employer's portion of payments under the federal  
14 insurance contributions act, chapter 21 of subtitle C of the  
15 internal revenue code, 26 USC 3101 to 3128, the railroad retirement  
16 tax act, chapter 22 of subtitle C of the internal revenue code, 26  
17 USC 3201 to 3233, and similar social insurance programs.

18 (e) Payments, including self-insurance payments, for worker's  
19 compensation insurance or federal employers' liability act  
20 insurance pursuant to 45 USC 51 to 60.

21 (4) "Corporation" means a taxpayer that is required or has  
22 elected to file as a corporation under the internal revenue code.

23 (5) "Department" means the department of treasury.

24 Sec. 117. (1) "Tangible personal property" means that term as  
25 defined in section 2 of the use tax act, 1937 PA 94, MCL 205.92.

26 (2) "Tax" means the tax imposed under this act, including  
27 interest and penalties under this act, unless the term is given a

1 more limited meaning in the context of this act or a provision of  
2 this act.

3 (3) "Tax-exempt person" means an organization that is exempt  
4 from federal income tax under section 501(a) of the internal  
5 revenue code, and a partnership, limited liability company, joint  
6 venture, unincorporated association, or other group or combination  
7 of organizations acting as a unit if all such organizations are  
8 exempt from federal income tax under section 501(a) of the internal  
9 revenue code and if all activities of the unit are exclusively  
10 related to the charitable, educational, or other purposes or  
11 functions that are the basis for the exemption of such  
12 organizations from federal income tax, except the following:

13 (a) An organization exempt under section 501(c)(12) or (16) of  
14 the internal revenue code.

15 (b) An organization exempt under section 501(c)(4) of the  
16 internal revenue code that would be exempt under section 501(c)(12)  
17 of the internal revenue code but for its failure to meet the  
18 requirement in section 501(c)(12) that 85% or more of its income  
19 must consist of amounts collected from members.

20 (4) "Tax year" means the calendar year, or the fiscal year  
21 ending during the calendar year, upon the basis of which the tax  
22 base of a taxpayer is computed under this act. If a return is made  
23 for a fractional part of a year, tax year means the period for  
24 which the return is made. Except for the first return required by  
25 this act **AND EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION**, a  
26 taxpayer's tax year is for the same period as is covered by its  
27 federal income tax return. A taxpayer that has a 52- or 53-week tax

1 year beginning not more than 7 days before December 31 of any year  
2 is considered to have a tax year beginning after December of that  
3 tax year. If the term tax year in this act is used in reference to  
4 1 or more previous or preceding tax years and those referenced tax  
5 years are before January 1, 2008, then those referenced tax years  
6 are deemed those same tax years during which former 1975 PA 228 was  
7 in effect. **A TAXPAYER THAT HAS A FISCAL TAX YEAR ENDING AFTER  
8 DECEMBER 31, 2011 IS CONSIDERED TO HAVE 2 SEPARATE TAX YEARS AS  
9 FOLLOWS: THE FIRST TAX YEAR IS FOR THE FRACTIONAL PART OF THE  
10 FISCAL TAX YEAR BEFORE JANUARY 1, 2012, AND THE SECOND TAX YEAR IS  
11 FOR THE FRACTIONAL PART OF THE FISCAL TAX YEAR AFTER DECEMBER 31,  
12 2011. EACH SHORT PERIOD TAX RETURN FILED FOR EACH FRACTIONAL PART  
13 OF THE FISCAL YEAR PURSUANT TO THIS SUBSECTION IS CONSIDERED AN  
14 ANNUAL RETURN UNDER SECTION 505.**

15 (5) "Taxpayer" means, through December 31, 2011, a person or a  
16 unitary business group liable for a tax, interest, or penalty under  
17 this act. Beginning January 1, 2012, taxpayer means either of the  
18 following:

19 (a) A person or unitary business group that has been approved  
20 to receive, has received, or has been assigned a certificated  
21 credit but is not subject to the tax imposed under part 2 of the  
22 income tax act of 1967, 1967 PA 281, MCL 206.601 to 206.713, and  
23 that elects under section 500 to file a return and pay the tax  
24 imposed under this act, if any.

25 (b) A person or unitary business group that has been approved  
26 to receive, has received, or has been assigned a certificated  
27 credit and that elected under section 680 of the income tax act of

1 1967, 1967 PA 281, MCL 206.680, to file a return and pay the tax  
2 imposed under this act, if any. If a person or unitary business  
3 group that elects under section 680 of the income tax act of 1967,  
4 1967 PA 281, MCL 206.680, to file a return and pay the tax imposed  
5 under this act is part of a unitary business group as defined under  
6 this act, the unitary business group as defined under this act  
7 shall file the return and pay the tax, if any, under this act.

8 (6) "Unitary business group" means a group of United States  
9 persons, other than a foreign operating entity, 1 of which owns or  
10 controls, directly or indirectly, more than 50% of the ownership  
11 interest with voting rights or ownership interests that confer  
12 comparable rights to voting rights of the other United States  
13 persons, and that has business activities or operations which  
14 result in a flow of value between or among persons included in the  
15 unitary business group or has business activities or operations  
16 that are integrated with, are dependent upon, or contribute to each  
17 other. For purposes of this subsection, flow of value is determined  
18 by reviewing the totality of facts and circumstances of business  
19 activities and operations.

20 (7) "United States person" means that term as defined in  
21 section 7701(a)(30) of the internal revenue code.

22 (8) "Unrelated business activity" means, for a tax-exempt  
23 person, business activity directly connected with an unrelated  
24 trade or business as defined in section 513 of the internal revenue  
25 code.

26 Sec. 431. (1) Except as otherwise provided under this  
27 subsection, for a period of time not to exceed 20 years as

1 determined by the Michigan economic growth authority, a taxpayer  
2 that is an authorized business may claim a credit against the tax  
3 imposed by this act equal to the amount certified each year by the  
4 Michigan economic growth authority as follows:

5 (a) Except as otherwise provided under this subdivision, for  
6 an authorized business for the tax year, an amount not to exceed  
7 the payroll of the authorized business attributable to employees  
8 who perform qualified new jobs as determined under the Michigan  
9 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810,  
10 multiplied by the tax rate; beginning after April 28, 2008, for an  
11 authorized business for the tax year, an amount not to exceed the  
12 sum of the payroll and health care benefits of the authorized  
13 business attributable to employees who perform qualified new jobs  
14 as determined under the Michigan economic growth authority act,  
15 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

16 (b) For an eligible business as determined under section  
17 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24,  
18 MCL 207.808, an amount not to exceed 50% of the payroll of the  
19 authorized business attributable to employees who perform retained  
20 jobs as determined under the Michigan economic growth authority  
21 act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate  
22 for the tax year.

23 (c) For an eligible business as determined under section  
24 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24,  
25 MCL 207.808, an amount not to exceed the payroll of the authorized  
26 business attributable to employees who perform retained jobs as  
27 determined under the Michigan economic growth authority act, 1995



1 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the  
2 tax year.

3 (d) For an authorized business that is a qualified high-  
4 technology business, for a period of time not to exceed 7 years as  
5 determined by the Michigan economic growth authority, an amount not  
6 to exceed 200% of the sum of the payroll and health care benefits  
7 of the qualified high-technology business attributable to employees  
8 who perform qualified new jobs as determined under the Michigan  
9 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810,  
10 for the first 3 tax years of the credit, multiplied by the tax rate  
11 and, for each of the remaining tax years of the credit, an amount  
12 not to exceed 100% of the sum of the payroll and health care  
13 benefits of the qualified high-technology business attributable to  
14 employees who perform qualified new jobs as determined under the  
15 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
16 207.810, multiplied by the tax rate.

17 (e) For an authorized business as determined under section  
18 8(9) of the Michigan economic growth authority act, 1995 PA 24, MCL  
19 207.808, an amount up to, but not to exceed 100% of, the sum of the  
20 payroll and health care benefits of the authorized business  
21 attributable to employees who perform retained jobs multiplied by a  
22 fraction, the numerator of which is the amount of new capital  
23 investment made at the facility and the denominator of which is the  
24 product of the number of retained jobs multiplied by \$100,000.00,  
25 and then multiplied by the tax rate for the tax year.

26 (f) For an authorized business as determined under section  
27 8(11) of the Michigan economic growth authority act, 1995 PA 24,

1 MCL 207.808, an amount not to exceed 100% of the sum of the payroll  
2 and health care benefits of the authorized business attributable to  
3 employees who perform new full-time jobs and retained jobs as  
4 determined under the Michigan economic growth authority act, 1995  
5 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the  
6 tax year.

7 (2) A taxpayer shall not claim a credit under this section  
8 unless the Michigan economic growth authority has issued a  
9 certificate to the taxpayer. The taxpayer shall attach the  
10 certificate to the annual return filed under this act on which a  
11 credit under this section is claimed.

12 (3) The certificate required by subsection (2) shall state all  
13 of the following:

14 (a) The taxpayer is an authorized business.

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

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

20 (4) The Michigan economic growth authority may certify a  
21 credit under this section based on an agreement entered into prior  
22 to January 1, 2008 pursuant to section 37c of former 1975 PA 228.  
23 The number of years for which the credit may be claimed under this  
24 section shall equal the maximum number of years designated in the  
25 resolution reduced by the number of years for which a credit has  
26 been claimed or could have been claimed under section 37c of former  
27 1975 PA 228.

1           (5) If the credit allowed under this section exceeds the tax  
2 liability of the taxpayer for the tax year, that portion of the  
3 credit that exceeds the tax liability of the taxpayer shall be  
4 refunded.

5           (6) Except as otherwise provided under this subsection, a  
6 taxpayer that claims a credit under subsection (1) or section 37c  
7 or 37d of former 1975 PA 228, that has an agreement with the  
8 Michigan economic growth authority based on qualified new jobs as  
9 defined in section 3(q)(ii) of the Michigan economic growth  
10 authority act, 1995 PA 24, MCL 207.803, and that removes from this  
11 state 51% or more of those qualified new jobs within 3 years after  
12 the first year in which the taxpayer claims a credit described in  
13 this subsection shall pay to the department no later than 12 months  
14 after those qualified new jobs are removed from the state an amount  
15 equal to the total of all credits described in this subsection that  
16 were claimed by the taxpayer. Beginning after April 28, 2008, a  
17 taxpayer that claims a credit under subsection (1) and subsequently  
18 fails to meet the requirements of this section or any other  
19 conditions included in an agreement entered into with the Michigan  
20 economic growth authority in order to obtain a certificate for the  
21 credit claimed under this section or removes any of the qualified  
22 new jobs from this state during the term of the written agreement  
23 and for a period of years after the term of the written agreement,  
24 as determined by the Michigan economic growth authority, may have  
25 its credit reduced or terminated or have a percentage of the credit  
26 amount previously claimed under this section added back to the tax  
27 liability of the taxpayer in the tax year that the taxpayer fails

1 to comply with this section or the agreement.

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

10 **COMPLIANCE REPORTING PURPOSES, A TAXPAYER THAT CLAIMS THE CREDIT**  
11 **UNDER THIS SECTION FOR HEALTH CARE BENEFITS MAY REPORT TO THE**  
12 **MICHIGAN ECONOMIC GROWTH AUTHORITY THE AGGREGATE COST OF APPLICABLE**  
13 **EMPLOYER-SPONSORED COVERAGE APPLICABLE TO EMPLOYEES WHO PERFORM**  
14 **QUALIFIED NEW JOBS AND EMPLOYEES WHO PERFORM RETAINED JOBS, AS**  
15 **DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY.**

16 (8) A credit shall not be claimed by a taxpayer under this  
17 section if the taxpayer's initial certification as required in  
18 subsection (3) is issued after December 31, 2013.

19 (9) For the 2010 calendar year and each calendar year after  
20 2010, the total amount of all credits allowed to be claimed in the  
21 first year of all new written agreements approved in that calendar  
22 year under this section shall not exceed \$95,000,000.00.

23 (10) For purposes of this section, taxpayer includes a person  
24 subject to the tax imposed under chapter 2A and a person subject to  
25 the tax imposed under chapter 2B.

26 (11) As used in this section:

27 (a) "Authorized business", "facility", "full-time job",

1 "qualified high-technology business", "retained jobs", and "written  
2 agreement" mean those terms as defined in the Michigan economic  
3 growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

4 (b) "Health care benefits" means, **AS DETERMINED BY THE**  
5 **MICHIGAN ECONOMIC GROWTH AUTHORITY**, all costs paid for a self-  
6 funded health care benefit plan or for an expense-incurred  
7 hospital, medical, or surgical policy or certificate, nonprofit  
8 health care corporation certificate, or health maintenance  
9 organization contract. Health care benefit does not include  
10 accident-only, credit, dental, or disability income insurance;  
11 long-term care insurance; coverage issued as a supplement to  
12 liability insurance; coverage only for a specified disease or  
13 illness; worker's compensation or similar insurance; or automobile  
14 medical payment insurance.

15 (c) "Michigan economic growth authority" means the Michigan  
16 economic growth authority created in the Michigan economic growth  
17 authority act, 1995 PA 24, MCL 207.801 to 207.810.

18 (d) "Payroll" means the total salaries and wages before  
19 deducting any personal or dependency exemptions.

20 (e) "Qualified new jobs" means 1 or more of the following:

21 (i) The average number of full-time jobs at a facility of an  
22 authorized business for a tax year in excess of the average number  
23 of full-time jobs the authorized business maintained in this state  
24 prior to the expansion or location as that is determined under the  
25 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
26 207.810.

27 (ii) The average number of full-time jobs at a facility created

1 by an eligible business up to 90 days before becoming an authorized  
2 business that is in excess of the average number of full-time jobs  
3 that the business maintained in this state up to 90 days before  
4 becoming an authorized business, as determined under the Michigan  
5 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

6 (f) "Tax rate" means the rate imposed under section 51 of the  
7 income tax act of 1967, 1967 PA 281, MCL 206.51, for the tax year  
8 in which the tax year of the taxpayer for which the credit is being  
9 computed begins.

10 Sec. 500. (1) Except as otherwise provided in subsection (2),  
11 a taxpayer described under section 117(5)(a) or under section 680  
12 of the income tax act of 1967, 1967 PA 281, MCL 206.680, that  
13 voluntarily elects for the taxpayer's first tax year ending after  
14 December 31, 2011 to file a return and pay the tax imposed by this  
15 act in order to claim a certificated credit or any unused  
16 carryforward for that tax year shall continue to file a return and  
17 pay the tax imposed under this act for each tax year thereafter  
18 until that certificated credit and any carryforward from that  
19 credit is used up. If a person awarded a certificated credit is a  
20 member of a unitary business group, the unitary business group, and  
21 not the member, shall file a return and pay the tax, if any, under  
22 this act and claim the certificated credit. **IF THE TAXPAYER THAT**  
23 **ELECTS TO FILE A RETURN AND PAY THE TAX IMPOSED BY THIS ACT IN**  
24 **ORDER TO CLAIM A CERTIFICATED CREDIT OR ANY UNUSED CARRYFORWARD OF**  
25 **THAT CREDIT FOR THAT TAX YEAR IS A UNITARY BUSINESS GROUP, THE**  
26 **RETURN FILED BY THE UNITARY BUSINESS GROUP SHALL INCLUDE ALL**  
27 **PERSONS INCLUDED IN THE UNITARY BUSINESS GROUP REGARDLESS OF**

1 **WHETHER THAT PERSON IS INCORPORATED.**

2 (2) A taxpayer with a certificated credit under section 435 or  
3 437, which certificated credit or any unused carryforward may be  
4 claimed in a tax year ending after December 31, 2011 may elect to  
5 pay the tax imposed by this act in the tax year in which that  
6 certificated credit may be claimed in lieu of the tax imposed under  
7 part 2 of the income tax act of 1967, 1967 PA 281, MCL 206.601 to  
8 206.713. If a person with a certificated credit under section 435  
9 or 437 that elects under this subsection to pay the tax imposed by  
10 this act is a member of a unitary business group, the unitary  
11 business group, and not the member, shall file a return and pay the  
12 tax, if any, under this act and claim that certificated credit.

13 (3) A taxpayer with a certificated credit under section 435 or  
14 437 that elects under subsection (2) after the taxpayer's first tax  
15 year ending after December 31, 2011 to pay the tax imposed by this  
16 act may claim any other certificated credit that taxpayer would be  
17 eligible for in the year in which the taxpayer claims a  
18 certificated credit under section 435 or 437, but not any  
19 certificated credit that would have accrued in any year before the  
20 election under subsection (2). **A TAXPAYER WITH A CERTIFICATED**  
21 **CREDIT UNDER SECTION 437(10) THAT ELECTS UNDER SUBSECTION (2) AFTER**  
22 **THE TAXPAYER'S FIRST TAX YEAR AFTER DECEMBER 31, 2011 TO PAY THE**  
23 **TAX IMPOSED BY THIS ACT SHALL CONTINUE TO FILE A RETURN AND PAY THE**  
24 **TAX IMPOSED UNDER THIS ACT FOR EACH TAX YEAR THEREAFTER UNTIL THE**  
25 **CERTIFICATED CREDIT UNDER SECTION 437(10) IS COMPLETE AND THAT**  
26 **CREDIT IS USED UP.** When the taxpayer's certificated credit under  
27 section 435 or 437 that was the basis for the taxpayer's election

1 under subsection (2) is extinguished, the taxpayer is no longer  
2 eligible to pay the tax under this act and may no longer claim any  
3 other remaining certificated credits.

4 (4) For tax years that begin after December 31, 2011, a  
5 taxpayer's tax liability under this act, after application of all  
6 credits, deductions, and exemptions, shall be the greater of the  
7 following:

8 (a) The amount of the taxpayer's tax liability under this act,  
9 notwithstanding the calculation required under this section, after  
10 application of all credits, deductions, and exemptions and any  
11 carryforward of any unused credit as prescribed in this act.

12 (b) An amount equal to the taxpayer's tax liability as  
13 computed pursuant to part 2 of the income tax act of 1967, 1967 PA  
14 281, MCL 206.601 to 206.713, after application of all credits,  
15 deductions, and exemptions under part 2 of the income tax act of  
16 1967, 1967 PA 281, MCL 206.601 to 206.713, as if the taxpayer were  
17 subject to the tax imposed under part 2 of the income tax act of  
18 1967, 1967 PA 281, MCL 206.601 to 206.713, less the amount of the  
19 taxpayer's certificated credits, including any unused carryforward  
20 of a certificated credit, that the taxpayer was allowed to claim  
21 for the tax year under this act. However, in calculating the amount  
22 under this subdivision, the following apply:

23 (i) A taxpayer described under section 117(5)(a) shall not  
24 include **A DEDUCTION FOR** any business loss **THAT WAS TAKEN UNDER**  
25 **SECTION 623(4) OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL**  
26 **206.623**, for any prior year in which the taxpayer was not subject  
27 to the tax levied under this act.



1           (ii) A taxpayer shall not include any nonrefundable  
2     certificated credit to the extent that credit exceeds the  
3     taxpayer's tax liability. Any nonrefundable credit remaining after  
4     application of the limitation in this subparagraph may be carried  
5     forward.

6           **(iii) FOR A TAXPAYER THAT IS A PARTNERSHIP OR S CORPORATION,**  
7     **BUSINESS INCOME INCLUDES PAYMENTS AND ITEMS OF INCOME AND EXPENSE**  
8     **THAT ARE ATTRIBUTABLE TO BUSINESS ACTIVITY OF THE PARTNERSHIP OR S**  
9     **CORPORATION AND SEPARATELY REPORTED TO THE MEMBERS.**

10          (5) If the result of the calculation under subsection (4) is  
11     negative, the taxpayer shall be refunded that amount.

12          (6) A taxpayer with a certificated credit under section 435 or  
13     437 that elects to pay the tax under this act may elect to claim a  
14     refundable credit as provided under section 510. If a refundable  
15     credit is claimed under section 510, that credit shall not be used  
16     to calculate a taxpayer's tax liability under subsection (4).

17          Sec. 503. **(1)** If a taxpayer's tax year to which this act  
18     applies ends before December 31, 2008 or if a taxpayer's first tax  
19     year is less than 12 months then a taxpayer subject to this act may  
20     elect to compute the tax imposed by this act for the portion of  
21     that tax year to which this act applies or that first tax year in  
22     accordance with 1 of the following methods:

23          (a) The tax may be computed as if this act were effective on  
24     the first day of the taxpayer's annual accounting period and the  
25     amount computed shall be multiplied by a fraction, the numerator of  
26     which is the number of months in the taxpayer's first tax year and  
27     the denominator of which is the number of months in the taxpayer's

1 annual accounting period.

2 (b) The tax may be computed by determining the business income  
3 tax base and modified gross receipts tax base in the first tax year  
4 in accordance with an accounting method satisfactory to the  
5 department that reflects the actual business income tax base and  
6 modified gross receipts tax base attributable to the period.

7 (2) THE METHOD CHOSEN BY A TAXPAYER UNDER THIS SECTION THAT IS  
8 SUBJECT TO THE TAX IMPOSED UNDER THIS ACT AND THE TAX IMPOSED UNDER  
9 PART 2 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.601 TO  
10 206.713, FOR A PORTION OF THE SAME TAX YEAR SHALL BE THE SAME AS  
11 THE METHOD USED BY THAT SAME TAXPAYER WHEN COMPUTING THE TAX  
12 IMPOSED UNDER PART 2 OF THE INCOME TAX ACT OF 1967, 1967 PA 281,  
13 MCL 206.601 TO 206.713, FOR THE OTHER PORTION OF THAT SAME TAX  
14 YEAR.

15 (3) A TAXPAYER THAT IS SUBJECT TO THE TAX IMPOSED UNDER THIS  
16 ACT AND REQUIRED TO FILE 2 SEPARATE SHORT PERIOD ANNUAL RETURNS  
17 ENCOMPASSING A FRACTIONAL PART OF THE TAXPAYER'S SAME FISCAL TAX  
18 YEAR SHALL ELECT TO COMPUTE THE TAX IMPOSED BY THIS ACT FOR EACH  
19 SHORT PERIOD RETURN FOR EACH RESPECTIVE PORTION OF THE SAME FISCAL  
20 TAX YEAR USING THE SAME METHOD AS PROVIDED UNDER THIS SECTION. A  
21 TAXPAYER THAT FILES 2 SEPARATE SHORT PERIOD ANNUAL RETURNS FOR A  
22 FRACTIONAL PART OF THE SAME YEAR AS PROVIDED UNDER THIS SUBSECTION  
23 AND SECTION 117(4) SHALL CALCULATE AND CLAIM ITS CREDITS BASED ON  
24 ACTIONS TAKEN OR PAYMENTS MADE DURING THE PERIOD REPRESENTED ON  
25 EACH SHORT PERIOD RETURN OF THOSE RESPECTIVE PARTS OF THE SAME TAX  
26 YEAR.

27 SEC. 512. A UNITED STATES PERSON THAT IS A DISREGARDED ENTITY

1 FOR FEDERAL INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE  
2 SHALL BE TREATED AS A DISREGARDED ENTITY FOR INCOME TAX PURPOSES  
3 UNDER THIS ACT. A PERSON OTHER THAN A UNITED STATES PERSON THAT IS  
4 A DISREGARDED ENTITY FOR FEDERAL INCOME TAX PURPOSES UNDER THE  
5 INTERNAL REVENUE CODE SHALL NOT BE TREATED AS A DISREGARDED ENTITY  
6 FOR INCOME TAX PURPOSES UNDER THIS ACT.

7 Enacting section 1. This amendatory act takes effect January  
8 1, 2012.