

MICHIGAN BUSINESS TAX ACT (EXCERPT)
Act 36 of 2007

***** 208.1407.new THIS NEW SECTION IS EFFECTIVE JANUARY 1, 2008 *****

208.1407.new Eligible contribution made by qualified taxpayer; tax credit; application; criteria for review of application; certificate; issuance; contents; limitation on credits granted; agreement requiring compliance with application provisions; refund of excess credit; definitions.

Sec. 407. (1) For the 2008, 2009, and 2010 tax years, a qualified taxpayer that makes an eligible contribution in an eligible business may claim a credit against the tax imposed by the act equal to 30% of the taxpayer's eligible contribution, not to exceed \$300,000.00.

(2) Prior to making an eligible contribution, a qualified taxpayer shall submit an application to the authority for approval of the credit. The application shall include all of the following:

(a) An economic impact analysis, including all of the following:

(i) The impact on both the qualified taxpayer and eligible business.

(ii) The number of jobs created.

(b) A project and collaboration structure that includes:

(i) The structure of investment between the qualified taxpayer and eligible business.

(ii) Technology development roles and responsibilities.

(iii) A commercialization plan, including intellectual property structure.

(c) A technology summary, including a due diligence review by the qualified taxpayer.

(d) A financial summary.

(3) The authority shall develop criteria to competitively review applications, including criteria related to both of the following:

(a) Total cash investment by the qualified taxpayer.

(b) Total in-kind services provided by the qualified taxpayer.

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

(5) The certificate required by subsection (4) shall state all of the following:

(a) The taxpayer is an eligible business.

(b) The amount of the credit under this section for the eligible business for the designated tax year, which shall be the year in which contribution is made.

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

(6) The authority shall not grant more than 20 credits under this section for any 1 year, based on an application and a competitive review criteria.

(7) A qualified taxpayer that receives a credit under this section and the eligible business to which a contribution is made shall enter into an agreement with the authority that requires the qualified taxpayer and the eligible business to comply with the relevant provisions of the application as determined by the authority for a period of 5 years. If the authority determines that there has not been compliance with the requirements of the terms of the agreement, the qualified taxpayer shall be liable for an amount equal to 125% of the total of all credits received under this section for all tax years.

(8) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that excess shall be refunded.

(9) As used in this section:

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

(b) "Eligible contribution" means the transfer of pecuniary interest in the form of cash of not less than \$350,000.00, for the purposes of research and development and technology innovation. An eligible contribution does not include contract research.

(c) "Eligible business" means a taxpayer engaged in research and development that together with any affiliates employs fewer than 50 full-time employees or has gross receipts of less than \$10,000,000.00 and has no prior financial interest in the qualified taxpayer and in which the qualified taxpayer has no prior financial interest.

(d) "Qualified taxpayer" means a taxpayer that meets all of the following criteria:

(i) Proposes to fund, support, and collaborate in the research and development and technology innovation with an eligible business located in this state.

(ii) Has not received a credit under this section in the past calendar year.

(e) "Research and development" means 1 of the following:

(i) Translational research conducted with the objective of attaining a specific benefit or to solve a practical problem.

(ii) Activity that seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specified problem, question, or issue, with high potential for commercial application to create jobs in this state.

History: 2007, Act 36, Eff. Jan. 1, 2008.

Compiler's note: Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

Popular name: MBT