

SINGLE BUSINESS TAX ACT (EXCERPT)
Act 228 of 1975

***** 208.35i THIS SECTION IS REPEALED BY ACT 325 OF 2006 EFFECTIVE DECEMBER 31, 2007

208.35i Transfer of jobs to state; tax credit.

Sec. 35i. (1) A taxpayer that provides transferred jobs to this state may claim a credit against the tax imposed by this act equal to 100% of the property taxes paid on tangible personal property used in the performance of the transferred jobs. The credit allowed under this section shall only be available for taxes paid the first year that the taxpayer pays property taxes on that property which shall be the same tax year in which the credit under this section based on those property taxes is claimed.

(2) The credit under subsection (1) can be claimed only for taxes paid in the 2007 or 2008 tax year.

(3) The Michigan economic growth authority shall determine if the taxpayer provides transferred jobs. If the Michigan economic growth authority determines that the taxpayer provides transferred jobs, the Michigan economic growth authority shall issue a certificate to the taxpayer that includes all of the following:

(a) The taxpayer's federal identification number.

(b) The number of transferred jobs, as determined by the Michigan economic growth authority.

(c) The taxable value of the property used in the performance of the transferred jobs as reported by the taxpayer on the property tax statement required by and filed under section 19 of the general property tax act, 1893 PA 206, MCL 211.19.

(4) The taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer pursuant to subsection (3). The taxpayer shall attach the certificate to the annual return required under this act on which the credit under this section is claimed.

(5) If the taxpayer does not maintain the total number of jobs located in this state or, if the jobs qualify under subsection (9)(e)(iii)(B), at the facility, in the tax year immediately preceding the tax year in which the transferred jobs were moved to this state, for 3 years after the year in which a credit under this section was claimed, the following percentage of the credit amount previously claimed under this section shall be added back to the tax liability of the taxpayer in that year:

(a) If the total number of jobs is less during the first year after the year in which the credit was claimed, 100%.

(b) If the total number of jobs is less during the second year after the year in which the credit was claimed and subdivision (a) did not apply, 67%.

(c) If the total number of jobs is less during the third year after the year in which the credit was claimed and neither subdivision (a) nor (b) applied, 33%.

(6) Personal property taxes used to calculate a credit under this section shall not be used to calculate a credit under section 35d, 35f, 35g, or 35h.

(7) The credit allowed under this section shall be calculated after application of all other credits allowed under this act.

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

(9) As used in this section and section 35j:

(a) "Facility" means, as determined by the Michigan economic growth authority, a site or combination of sites in this state at which transferred jobs are located.

(b) "High-technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(c) "Manufacturing jobs" are jobs for a company that has a classification under sector 33, subsector 321, or subsector 322 of the North American industrial classification system (NAICS).

(d) "Property taxes" means any of the following:

(i) Taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(ii) Taxes levied under 1974 PA 198, MCL 207.551 to 207.572.

(iii) Taxes levied under the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(iv) Any payments made by the taxpayer pursuant to a contract with the Michigan strategic fund in connection with the creation of a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, to the extent that those payments are made by the taxpayer to reimburse all taxing units for property taxes that would otherwise be exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff.

(e) "Transferred jobs" means jobs that meet all of the following criteria:

- (i) Are jobs that perform high-technology activity or manufacturing jobs.
- (ii) Were located in a different state or different country before being moved to this state in the tax year in which the taxpayer claims a credit under this section or in the immediately preceding tax year.
- (iii) Meet either of the following criteria:
 - (A) Represent an overall increase in full-time equivalent jobs of the taxpayer in this state for the tax year in which the taxpayer claims a credit under this section or the immediately preceding tax year above the total number of full-time equivalent jobs of the taxpayer in the tax year immediately preceding that year.
 - (B) If approved by the Michigan economic growth authority and upon a showing by the taxpayer, meet both of the following criteria:
 - (I) The jobs represent an increase in the number of full-time equivalent jobs of the taxpayer for the tax year in which the taxpayer claims a credit under this section or the immediately preceding tax year at the facility to which the jobs are transferred above the number of full-time equivalent jobs of the taxpayer at the facility for the tax year immediately preceding that year.
 - (II) The transfer of jobs to the facility is substantially more likely to occur if the taxpayer receives the credit provided by this section.
- (iv) Is not a job into which an employee transfers if the employee worked in this state for the taxpayer, a related entity of the taxpayer, or an entity with which the taxpayer files a consolidated return under section 77 in another job prior to beginning the transferred job.
- (v) The benefits for the employee in the transferred job include coverage under health and welfare and noninsured benefit plans, including, but not limited to, prescription coverage, primary health care coverage, and hospitalization that is not limited to emergency room services or subject to dollar limits, deductibles, and coinsurance provisions that are not less favorable than those for physical illness generally.

History: Add. 2005, Act 293, Imd. Eff. Dec. 20, 2005.

Compiler's note: Enacting section 2 of Act 293 of 2005 provides:

"Enacting section 2. If a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired determines that any provision of the credit allowed under the section added by this amendatory act or any other provision of this act that provides a deduction, credit, or exemption with respect to employment, persons, services, taxes, investment, or any other activity that is limited only to this state is unconstitutional or applies to employment, persons, services, taxes, investment, or any other activity outside of this state, then that deduction, credit, or exemption shall be severed from this act in its entirety and shall not be effective for any tax year for which the final ruling applies and the remaining provisions of this act shall remain in effect."