

MICHIGAN BUSINESS TAX ACT (EXCERPT)
Act 36 of 2007

CHAPTER 4

***** 208.1400 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1400 Taxpayer; scope.

Sec. 400. For purposes of this chapter, taxpayer does not include a person subject to the tax imposed under chapter 2A or 2B unless specifically included in the section.

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

***** 208.1401 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1401 Application of unused carryforward.

Sec. 401. Except as otherwise provided under this act, any unused carryforward for any credit under former 1975 PA 228 may be applied for the 2008 and 2009 tax years and any unused carryforward after 2009 shall be extinguished.

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

***** 208.1403 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1403 Allowable total combined credit; limitation; tax credit; payments by professional employer organization; calculation; tax year in which negative credit is calculated; credit claimed under MCL 208.1405; taxpayer engaged in furnishing electric and gas utility service.

Sec. 403. (1) Notwithstanding any other provision in this act, the credits provided in this section shall be taken before any other credit under this act. Except as otherwise provided in subsection (6), for the 2008 tax year, the total combined credit allowed under this section shall not exceed 50% of the tax liability imposed under this act before the imposition and levy of the surcharge under section 281. For the 2009 tax year and each tax year after 2009, the total combined credit allowed under this section shall not exceed 52% of the tax liability imposed under this act before the imposition and levy of the surcharge under section 281.

(2) Subject to the limitation in subsection (1), for the 2008 tax year a taxpayer may claim a credit against the tax imposed by this act equal to 0.296% of the taxpayer's compensation in this state. For the 2009 tax year and each tax year after 2009, subject to the limitation in subsection (1), a taxpayer may claim a credit against the tax imposed by this act equal to 0.370% of the taxpayer's compensation in this state. For purposes of this subsection, a taxpayer includes a person subject to the tax imposed under chapter 2A and a person subject to the tax imposed under chapter 2B. A professional employer organization shall not include payments by the professional employer organization to the officers and employees of a client of the professional employer organization whose employment operations are managed by the professional employer organization. A client may include payments by the professional employer organization to the officers and employees of the client whose employment operations are managed by the professional employer organization.

(3) Subject to the limitation in subsection (1), for the 2008 tax year a taxpayer may claim a credit against the tax imposed by this act equal to 2.32% multiplied by the result of subtracting the sum of the amounts calculated under subdivisions (d), (e), and (f) from the sum of the amounts calculated under subdivisions (a), (b), and (c). Subject to the limitation in subsection (1), for the 2009 tax year and each tax year after 2009, a taxpayer may claim a credit against the tax imposed by this act equal to 2.9% multiplied by the result of subtracting the sum of the amounts calculated under subdivisions (d), (e), and (f) from the sum of the amounts calculated under subdivisions (a), (b), and (c):

(a) Calculate the cost, including fabrication and installation, paid or accrued in the taxable year of tangible

assets of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes, provided that the assets are physically located in this state for use in a business activity in this state and are not mobile tangible assets.

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

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

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

(e) If the cost of mobile tangible assets described in subdivision (b) was paid or accrued in a tax year beginning after December 31, 2007, or before December 31, 2007 to the extent the credit is used and at the rate at which the credit was used under former 1975 PA 228 or to the extent the credit was used, and at the rate at which the credit was used under this act, calculate the gross proceeds or benefit derived from the sale or other disposition of the mobile tangible assets minus the gain and plus the loss from the sale or other disposition reflected in federal taxable income. This amount shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 3.

(f) For assets purchased or acquired in a tax year beginning after December 31, 2007, or before December 31, 2007 to the extent the credit is used and at the rate at which the credit was used under former 1975 PA 228 or to the extent the credit was used, and at the rate at which the credit was used under this act, that were eligible for a credit under subdivision (a) or (c) and that were transferred out of this state, calculate the federal basis used for determining gain or loss as of the date of the transfer. For purposes of this subdivision, "transferred out of this state" means removal from this state of tangible assets, other than mobile tangible assets, by means other than sale or other disposition.

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

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

(6) For a taxpayer primarily engaged in furnishing electric and gas utility service that makes capital investments in electric and gas distribution assets for which a portion of the credit provided under subsection (3) would be denied for the 2008 tax year by reason of the 50% limitation of subsection (1), the 50% limitation on the total combined credit for the 2008 tax year provided in subsection (1) shall be increased by an amount not to exceed the lesser of the amount of the denied credit or 50% of the tax increase under this act accrued for financial reporting purposes due to the elimination of the deduction under section 168(k) of the internal revenue code by 2008 PA 434. Provided, however, that the total combined credit allowed under this section for the 2008 tax year shall not exceed 80% of the tax liability imposed under this act after the imposition and levy of the surcharge under section 281.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 145, Eff. Jan. 1, 2008;—Am. 2008, Act 434, Eff. Jan. 1, 2008;—Am. 2014, Act 282, Imd. Eff. Sept. 12, 2014.

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."

Enacting section 3 of Act 145 of 2007 provides:

"Enacting section 3. Sections 281 and 451 of the Michigan business tax act, 2007 PA 36, MCL 208.1281 and 208.1451, as added by this amendatory act, and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1445, 208.1447, 208.1515, and 208.1601, as amended by this amendatory act, take effect January 1, 2008 and apply to all business activity occurring after December 31, 2007."

Enacting section 1 of Act 434 of 2008 provides:

"Enacting section 1. This amendatory act is retroactive and is effective January 1, 2008."

Enacting section 1 of Act 282 of 2014 provides:

"Enacting section 1. 1969 PA 343, MCL 205.581 to 205.589, is repealed retroactively and effective beginning January 1, 2008. It is the intent of the legislature that the repeal of 1969 PA 343, MCL 205.581 to 205.589, is to express the original intent of the legislature regarding the application of section 301 of the Michigan business tax act, 2007 PA 36, MCL 208.1301, and the intended effect of that section to eliminate the election provision included within section 1 of 1969 PA 343, MCL 205.581, and that the 2011 amendatory act that amended section 1 of 1969 PA 343, MCL 205.581, was to further express the original intent of the legislature regarding the application of section 301 of the Michigan business tax act, 2007 PA 36, MCL 208.1301, and to clarify that the election provision included within section 1 of 1969 PA 343, MCL 205.581, is not available under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713."

Enacting section 2 of Act 282 of 2014 provides:

"Enacting section 2. This amendatory act is retroactive and is effective for tax years beginning on and after January 1, 2010."

Popular name: MBT

***** 208.1405 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1405 Taxpayer's research and development expenses; tax credit; limitation; definition.

Sec. 405. For the 2008 tax year, a taxpayer may claim a credit against the tax imposed by this act equal to 1.52% of the taxpayer's research and development expenses in this state in the tax year. For the 2009 tax year and each tax year after 2009, a taxpayer may claim a credit against the tax imposed by this act equal to 1.90% of the taxpayer's research and development expenses in this state in the tax year. The credit under this section combined with the total combined credit allowed under section 403 shall not exceed 65% of the tax liability imposed under this act before the imposition and levy of the surcharge under section 281. As used in this section, "research and development expenses" means qualified research expenses as that term is defined in section 41(b) of the internal revenue code.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 145, Eff. Jan. 1, 2008;—Am. 2011, Act 305, Imd. Eff. Dec. 27, 2011.

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."

Enacting section 3 of Act 145 of 2007 provides:

"Enacting section 3. Sections 281 and 451 of the Michigan business tax act, 2007 PA 36, MCL 208.1281 and 208.1451, as added by this amendatory act, and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1445, 208.1447, 208.1515, and 208.1601, as amended by this amendatory act, take effect January 1, 2008 and apply to all business activity occurring after December 31, 2007."

Enacting section 1 of Act 39 of 2011 provides:

"Enacting section 1. The Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, is repealed effective on the date that the secretary of state receives a written notice from the department of treasury that the last certificated credit or any carryforward from that certificated credit has been claimed."

Enacting section 1 of Act 305 of 2011 provides:

"Enacting section 1. This amendatory act is curative and intended to clarify the original intent of 2007 PA 36. This amendatory act is retroactive and effective for taxes levied on and after January 1, 2008."

Popular name: MBT

***** 208.1407 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1407 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

***** 208.1409 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1409 Infield renovation, grandstand and infrastructure upgrades, and other construction upgrades; tax credit; limitations; additional credit; capital expenditures; definitions.

Sec. 409. (1) For tax years that begin on or after January 1, 2008 and end before January 1, 2013, an eligible taxpayer may claim a credit against the tax imposed by this act equal to the amount of capital expenditures in this state on infield renovation, grandstand and infrastructure upgrades, and any other construction and upgrades, subject to the following:

(a) For the 2008 through 2010 tax years, the credit shall not exceed \$2,100,000.00 or the taxpayer's tax liability under this act, whichever is less.

(b) For the 2011 through the 2012 tax years, the credit shall not exceed \$1,580,000.00 or the taxpayer's tax liability under this act, whichever is less.

(2) Subject to the limitation provided under this subsection, for tax years that begin on or after December 1, 2012 and end before January 1, 2017, an eligible taxpayer may claim a credit against the tax imposed by this act equal to the amount of capital expenditures in this state on infield renovation, grandstand and infrastructure upgrades, and any other construction and upgrades. The credit allowed under this subsection shall not exceed \$1,580,000.00 or the taxpayer's tax liability under this act, whichever is less.

(3) In addition to the credit allowed under subsection (1), for the 2009 tax year an eligible taxpayer may claim a credit against the tax imposed by this act equal to 50% of the amount of necessary expenditures in this state incurred including any professional fees, additional police officers, and any traffic management devices, to ensure traffic and pedestrian safety while hosting the requisite motorsports events each calendar year. For the 2010 and 2011 tax years, an eligible taxpayer may claim a credit against the tax imposed by this act equal to all of the necessary expenditures in this state incurred including any professional fees, additional police officers, and any traffic management devices, to ensure traffic and pedestrian safety while hosting the requisite motorsports events each calendar year. If the amount of the credit allowed under this subsection exceeds the tax liability of the taxpayer for the tax year that excess shall be refunded.

(4) To be eligible to claim the credit allowed under subsection (1), an eligible taxpayer shall expend at least \$30,000,000.00 on capital expenditures before January 1, 2011. To be eligible to claim the credit allowed under subsection (2), an eligible taxpayer shall, in addition to the expenditures required to claim the credit under subsection (1), expend, at a minimum, an additional \$32,000,000.00 on capital expenditures as follows:

(a) At least \$10,000,000.00 after December 31, 2010 and before January 1, 2013.

(b) Including the amount expended under subdivision (a), a cumulative total of at least \$32,000,000.00 after December 31, 2010 and before January 1, 2016.

(5) As used in this section:

(a) "Eligible taxpayer" means any of the following:

(i) A person who owns and operates a motorsports entertainment complex and has at least 2 days of motorsports events each calendar year which shall be comparable to NASCAR Nextel cup events held in 2007 or their successor events.

(ii) A person who is the lessee and operator of a motorsports entertainment complex or the lessee of the land on which a motorsports entertainment complex is located and operates that motorsports entertainment complex.

(iii) A person who operates and maintains a motorsports entertainment complex under an operation and management agreement.

(b) "Motorsports entertainment complex" means a closed-course motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

(i) Has at least 70,000 fixed seats for race patrons.

(ii) Has at least 6 scheduled days of motorsports events each calendar year.

(iii) Serves food and beverages at the motorsports entertainment complex during motorsports events each calendar year through concession outlets, which are staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly benefit from the concession outlets' sales.

(iv) Engages in tourism promotion.

(v) Has permanent exhibitions of motorsports history, events, or vehicles within the motorsports entertainment complex.

(c) "Motorsports event" means a motorsports race and its ancillary activities that have been sanctioned by a sanctioning body.

(d) "Sanctioning body" means the American motorcycle association (AMA); auto racing club of America (ARCA); championship auto racing teams (CART); grand American road racing association (GRAND AM); Indy racing league (IRL); national association for stock car auto racing (NASCAR); national hot rod association (NHRA); professional sports car racing (PSR); sports car club of America (SCCA); United States auto club (USAC); Michigan state promoters association; or any successor organization or any other nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events and grants rights to conduct the events, that has established and administers rules and regulations governing all participants involved in the events and all persons conducting the events, and that requires certain liability assurances, including insurance.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 145, Eff. Jan. 1, 2008;—Am. 2008, Act 572, Imd. Eff. Jan. 16, 2009;—Am. 2010, Act 103, Imd. Eff. June 29, 2010;—Am. 2011, Act 39, Imd. Eff. May 25, 2011;—Am. 2011, Act 77, Eff. May 26, 2011.

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."

Enacting section 3 of Act 145 of 2007 provides:

"Enacting section 3. Sections 281 and 451 of the Michigan business tax act, 2007 PA 36, MCL 208.1281 and 208.1451, as added by this amendatory act, and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1445, 208.1447, 208.1515, and 208.1601, as amended by this amendatory act, take effect January 1, 2008 and apply to all business activity occurring after December 31, 2007."

Enacting section 1 of Act 77 of 2011 provides:

"Enacting section 1. Sections 409, 455, and 510 of the Michigan business tax act, 2007 PA 36, MCL 208.1409, 208.1455, and 208.1510, as amended by this amendatory act, are retroactive and effective May 26, 2011. This provision is curative and is intended to express the original intent of the legislature concerning the application of 2011 PA 39."

Popular name: MBT

***** 208.1410 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1410 Tax credit; "eligible taxpayer" defined.

Sec. 410. (1) For tax years that begin on or after January 1, 2008 and end before January 1, 2013, an eligible taxpayer may claim a credit against the tax imposed by this act equal to the following:

(a) For the 2008 through 2010 tax years, 65% of the eligible taxpayer's total tax liability imposed under this act not to exceed \$1,700,000.00.

(b) For the 2011 tax year, 45% of the eligible taxpayer's total tax liability imposed under this act not to exceed \$1,180,000.00.

(c) For the 2012 tax year, 25% of the eligible taxpayer's total tax liability imposed under this act not to exceed \$650,000.00.

(2) As used in this section, "eligible taxpayer" means a taxpayer that satisfies each of the following:

(a) Is, collectively or individually, including through affiliated companies, an owner, operator, manager, licensee, lessee, or tenant of more than 1 facility or stadium in this state, including grounds and ancillary facilities, that has a capacity of at least 14,000 patrons per facility and is primarily used for professional sporting events or other entertainment.

(b) The owner, operator, manager, licensee, lessee, or tenant as described in subdivision (a) has made a capital investment of not less than \$125,000,000.00, collectively or individually, including through affiliated companies, into the construction cost of a facility or stadium for which the taxpayer qualifies for this credit.

(c) The owner, operator, manager, licensee, lessee, or tenant as described in subdivision (a) has not received proceeds from a state appropriation or a public bond issue from a local unit of government or public authority to assist in the construction or debt retirement of the facility, excluding a tax abatement, other waiver of a state or local tax or fee, or a state or local tax or fee from a public entity for road or infrastructure assistance.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2008, Act 114, Imd. Eff. Apr. 29, 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

***** 208.1410a THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1410a Tax credit; "eligible taxpayer" defined.

Sec. 410a. (1) For tax years that begin on or after January 1, 2008 and end before January 1, 2013, an eligible taxpayer may claim a credit against the tax imposed by this act equal to the following:

(a) For the 2008 through 2010 tax years, 65% of the eligible taxpayer's total tax liability imposed under this act not to exceed \$1,700,000.00.

(b) For the 2011 tax year, 45% of the eligible taxpayer's total tax liability imposed under this act not to exceed \$1,180,000.00.

(c) For the 2012 tax year, 25% of the eligible taxpayer's total tax liability imposed under this act not to exceed \$650,000.00.

(2) As used in this section, "eligible taxpayer" means a taxpayer that is, collectively or individually, including through affiliated companies, an owner, operator, manager, licensee, lessee, or tenant of more than 1 facility or stadium in this state, including grounds and ancillary facilities, that has a capacity of at least

14,000 patrons per facility and is primarily used for professional sporting events or other entertainment, and that has made a capital investment of not less than \$250,000,000.00, collectively or individually, including through affiliated companies, into the construction cost of a facility or stadium for which the taxpayer qualifies for this credit.

History: Add. 2008, Act 115, Imd. Eff. Apr. 29, 2008.

Popular name: MBT

***** 208.1411 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1411 Tax credit; gross receipts greater than \$350,000.00 but less than \$700,000.00.

Sec. 411. A taxpayer whose gross receipts allocated or apportioned to this state are greater than \$350,000.00 but less than \$700,000.00, may claim a credit against the tax imposed under this act equal to the tax liability after the credit under section 417 multiplied by a fraction the numerator of which is the difference between the person's allocated or apportioned gross receipts and \$700,000.00 and the denominator of which is \$350,000.00.

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

***** 208.1413 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1413 Tax credit; certain eligible personal property, eligible telephone personal property, and eligible natural gas pipeline property; filing; refund; definitions.

Sec. 413. (1) Subject to subsection (2), a taxpayer may claim a credit against the tax imposed by this act equal to the following:

(a) For property taxes levied after December 31, 2007, 35% of the amount paid for property taxes on eligible personal property in the tax year.

(b) Twenty-three percent of the amount paid for property taxes levied on eligible telephone personal property in the 2008 tax year and 13.5% of the amount paid for property taxes levied on eligible telephone personal property in subsequent tax years.

(c) For property taxes levied after December 31, 2007, 10% of the amount paid for property taxes on eligible natural gas pipeline property in the tax year.

(2) To qualify for the credit under subsection (1), the taxpayer shall file, if applicable, within the time prescribed each of the following:

(a) The statement of assessable personal property prepared pursuant to section 19 of the general property tax act, 1893 PA 206, MCL 211.19, identifying the eligible personal property or eligible natural gas pipeline property, or both, for which the credit under subsection (1) is claimed.

(b) The annual report filed under section 6 of 1905 PA 282, MCL 207.6, identifying the eligible telephone personal property for which the credit under subsection (1) is claimed.

(c) The assessment or bill issued to and paid by the taxpayer for the eligible personal property, eligible natural gas pipeline property, or eligible telephone property for which the credit under subsection (1) is claimed.

(3) 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.

(4) As used in this section:

(a) "Eligible natural gas pipeline property" means natural gas pipelines that are classified as utility personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, and are subject to regulation under the natural gas act, 15 USC 717 to 717z.

(b) "Eligible personal property" means the following:

(i) Except as otherwise provided in subparagraph (ii), personal property that is classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, or in the case of personal property that is subject to 1974 PA 198, MCL 207.551 to 207.572, is situated on land classified as industrial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(ii) Beginning December 31, 2011, eligible personal property does not include a turbine powered by gas,

steam, nuclear energy, coal, or oil the primary purpose of which is the generation of electricity for sale.

(c) "Eligible telephone personal property" means personal property of a telephone company subject to the tax levied under 1905 PA 282, MCL 207.1 to 207.21.

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

(i) Taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(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) Taxes levied under 1905 PA 282, MCL 207.1 to 207.21.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 145, Eff. Jan. 1, 2008;—Am. 2011, Act 316, Eff. Dec. 31, 2011.

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."

Enacting section 3 of Act 145 of 2007 provides:

"Enacting section 3. Sections 281 and 451 of the Michigan business tax act, 2007 PA 36, MCL 208.1281 and 208.1451, as added by this amendatory act, and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1445, 208.1447, 208.1515, and 208.1601, as amended by this amendatory act, take effect January 1, 2008 and apply to all business activity occurring after December 31, 2007."

Popular name: MBT

***** 208.1415 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1415 Qualified start-up business without business income for 2 consecutive years; tax credit; total number of years tax credit allowed; taxpayer without business activity in this state; compensation, directors' fees, or distributive shares; limitation; definitions.

Sec. 415. (1) A taxpayer that meets the criteria under subsection (4) and that is a qualified start-up business that does not have business income for 2 consecutive tax years may claim a credit against the tax imposed under this act for the second of those 2 consecutive tax years and each immediately following consecutive tax year in which the taxpayer does not have business income equal to the taxpayer's tax liability for the tax year in which the taxpayer has no business income. If the taxpayer has business income in any tax year after the credit under this section is claimed, the taxpayer shall claim the credit under this section for any following tax year only if the taxpayer subsequently has no business income for 2 consecutive tax years. The taxpayer may claim the credit for the second of those 2 consecutive tax years and each immediately following consecutive tax year in which the taxpayer does not have business income.

(2) A credit under this section shall not be claimed for more than a total of 5 tax years.

(3) A taxpayer that qualified to claim the credit under section 31a of former 1975 PA 228 may claim the credit under this section for a total of 5 years, reduced by the number of years the taxpayer was eligible to claim the credit under section 31a of former 1975 PA 228.

(4) If a taxpayer that took the credit under this section or under former 1975 PA 228 has no business activity in this state and has any business activity outside of this state for any of the first 3 tax years after the last tax year for which it took the credit under this section, the taxpayer shall add to its tax liability the following amounts:

(a) If the taxpayer has no business activity in this state for the first tax year after the last tax year for which a credit under this section is claimed, 100% of the total of all credits claimed under this section.

(b) If the taxpayer has no business activity in this state for the second tax year after the last tax year for which a credit under this section is claimed, 67% of the total of all credits claimed under this section.

(c) If the taxpayer has no business activity for the third tax year after the last tax year for which a credit under this section is claimed, 33% of the total of all credits claimed under this section.

(5) For the tax year for which a credit under this section is claimed, compensation, directors' fees, or distributive shares paid by the taxpayer to any 1 of the following shall not exceed \$135,000.00:

(a) A shareholder or officer of a corporation other than an S corporation.

(b) A partner of a partnership or limited liability partnership.

(c) A shareholder of an S corporation.

(d) A member of a limited liability corporation.

(e) An individual who is an owner.

(6) As used in this section:

(a) "Business income" means business income as defined in section 105 excluding funds received from small business innovation research grants and small business technology transfer programs established under the small business innovation development act of 1982, Public Law 97-219, reauthorized under the small

business research and development enhancement act, Public Law 102-564, and subsequently reauthorized under the small business reauthorization act of 2000, Public Law 106-554.

(b) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, as amended, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

(c) "Qualified start-up business" means a business that meets all of the following criteria as certified annually by the Michigan economic development corporation:

(i) Has fewer than 25 full-time equivalent employees.

(ii) Has sales of less than \$1,000,000.00 in the tax year for which the credit under this section is claimed.

(iii) Research and development expenses make up at least 15% of its expenses in the tax year for which the credit under this section is claimed.

(iv) Is not publicly traded.

(v) Met 1 of the following criteria during 1 of the initial 2 consecutive tax years in which the qualified start-up business had no business income:

(A) During the immediately preceding 7 years was in 1 of the first 2 years of contribution liability under section 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19.

(B) During the immediately preceding 7 years would have been in 1 of the first 2 years of contribution liability under section 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19, if the qualified start-up business had employees and was liable under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(C) During the immediately preceding 7 years would have been in 1 of the first 2 years of contribution liability under section 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19, if the qualified start-up business had not assumed successor liability under section 15(g) of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.15.

(d) "Research and development" means qualified research as that term is defined in section 41(d) of the internal revenue code.

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

***** 208.1417 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1417 Taxpayer with gross receipts not exceeding \$20,000,000.00 and certain adjusted business income; disqualification; determination of reduction percentage; tax credit; reduced credit; fraction; filing and payment of tax; inclusion of compensation paid by professional employer organization to officers of client and employees; definitions.

Sec. 417. (1) The credit provided in this section shall be taken after the credits under sections 403 and 405 and before any other credit under this act and is available to any taxpayer with gross receipts that do not exceed \$20,000,000.00 and with adjusted business income minus the loss adjustment that does not exceed \$1,300,000.00 as adjusted annually for inflation using the Detroit consumer price index and subject to the following:

(a) An individual, a partnership, a limited liability company, or a subchapter S corporation is disqualified if the individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives more than \$180,000.00 as a distributive share of the adjusted business income minus the loss adjustment of the individual, the partnership, the limited liability company, or the subchapter S corporation.

(b) A corporation other than a subchapter S corporation is disqualified if either of the following occur for the respective tax year:

(i) Compensation and directors' fees of a shareholder or officer exceed \$180,000.00.

(ii) The sum of the following amounts exceeds \$180,000.00:

(A) Compensation and directors' fees of a shareholder.

(B) The product of the percentage of outstanding ownership or of outstanding stock owned by that shareholder multiplied by the difference between the sum of business income and, to the extent deducted in determining federal taxable income, a carryback or a carryover of a net operating loss or capital loss, minus

the loss adjustment.

(c) Subject to the reduction percentage determined under subsection (3), the credit determined under this subsection shall be reduced by the following percentages in the following circumstances:

(i) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is more than \$160,000.00 but less than \$165,000.00, the credit is reduced by 20%.

(ii) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$165,000.00 or more but less than \$170,000.00, the credit is reduced by 40%.

(iii) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$170,000.00 or more but less than \$175,000.00, the credit is reduced by 60%.

(iv) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$175,000.00 or more but not in excess of \$180,000.00, the credit is reduced by 80%.

(2) For the purposes of determining disqualification under subsection (1), an active shareholder's share of business income shall not be attributed to another active shareholder.

(3) To determine the reduction percentage under subsection (1)(c), the following apply:

(a) The reduction percentage for a partnership, limited liability company, or subchapter S corporation is based on the distributive share of adjusted business income minus loss adjustment of the partner, member, or shareholder with the greatest distributive share of adjusted business income minus loss adjustment.

(b) The reduction percentage for a corporation other than a subchapter S corporation is the greater of the following:

(i) The reduction percentage based on the compensation and directors' fees of the shareholder or officer with the greatest amount of compensation and directors' fees.

(ii) The reduction percentage based on the sum of the amounts in subsection (1)(b)(ii)(A) and (B) for the shareholder or officer with the greatest sum of the amounts in subsection (1)(b)(ii)(A) and (B).

(4) A taxpayer that qualifies under subsection (1) is allowed a credit against the tax imposed under this act. The credit under this subsection is the amount by which the tax imposed under this act exceeds 1.8% of adjusted business income.

(5) If gross receipts exceed \$19,000,000.00, the credit shall be reduced by a fraction, the numerator of which is the amount of gross receipts over \$19,000,000.00 and the denominator of which is \$1,000,000.00. The credit shall not exceed 100% of the tax liability imposed under this act.

(6) For a taxpayer that reports for a tax year less than 12 months, the amounts specified in this section for gross receipts, adjusted business income, and share of business income shall be multiplied by a fraction, the numerator of which is the number of months in the tax year and the denominator of which is 12.

(7) The department shall permit a taxpayer that elects to claim the credit allowed under this section based on the amount by which the tax imposed under this act exceeds the percentage of adjusted business income for the tax year as determined under subsection (4), and that is not required to reduce the credit pursuant to subsection (1) or (5), to file and pay the tax imposed by this act without computing the tax imposed under sections 201 and 203.

(8) Compensation paid by the professional employer organization to the officers of the client and to employees of the professional employer organization who are assigned or leased to and perform services for the client shall be included in determining eligibility of the client under this section.

(9) As used in this section:

(a) "Active shareholder" means a shareholder who receives at least \$10,000.00 in compensation, directors'

fees, or dividends from the business, and who owns at least 5% of the outstanding stock or other ownership interest.

(b) "Adjusted business income" means business income as defined in section 105 with all of the following adjustments:

(i) Add compensation and directors' fees of active shareholders of a corporation.

(ii) Add, to the extent deducted in determining federal taxable income, a carryback or a carryover of a net operating loss.

(iii) Add, to the extent deducted in determining federal taxable income, a capital loss.

(iv) Add compensation and directors' fees of officers of a corporation.

(c) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.

(d) "Loss adjustment" means the amount by which adjusted business income was less than zero in any of the 5 tax years immediately preceding the tax year for which eligibility for the credit under this section is being determined. In determining the loss adjustment for a tax year, a taxpayer is not required to use more of the taxpayer's total negative adjusted business income than the amount needed to qualify the taxpayer for the credit under this section. A taxpayer shall not be considered to have used any portion of the taxpayer's negative adjusted business income amount unless the portion used is necessary to qualify for the credit under this section. A taxpayer shall not reuse a negative adjusted business income amount used as a loss adjustment in a previous tax year or use a negative adjusted business income amount from a year in which the taxpayer did not receive the credit under this section.

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

***** 208.1419 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1419 Tax voucher certificate; use; total amount; limitation; approval; application to Michigan early stage venture investment corporation; determination of eligibility; attachment of certificate and forms to annual return; payment of tax liability; transfer; use of excess amount; issuance of separate replacement tax voucher certificate; definitions.

Sec. 419. (1) For tax years that begin after December 31, 2008, a taxpayer that has been issued a tax voucher certificate under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, or any taxpayer to which all or a portion of a tax voucher is transferred pursuant to the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, may use the tax voucher to pay a liability of the taxpayer due under this act.

(2) The total amount of all tax voucher certificates that shall be approved under this section, section 37e of former 1975 PA 228, and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, shall not exceed an amount sufficient to allow the Michigan early stage venture investment corporation to raise \$450,000,000.00 for the purposes authorized under the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263. The total amount of all tax voucher certificates under this section and section 37e of former 1975 PA 228 shall not exceed \$450,000,000.00.

(3) The department shall not approve a tax voucher certificate under section 23(2) of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, after December 31, 2015.

(4) For tax voucher certificates approved under subsection (2), the amount of tax voucher certificates approved by the department for use in any tax year shall not exceed 25% of the total amount of all tax voucher certificates approved by the department.

(5) Investors shall apply to the Michigan early stage venture investment corporation for approval of tax voucher certificates at the time and in the manner required under the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(6) The Michigan early stage venture investment corporation shall determine which investors are eligible for tax vouchers and the amount of the tax vouchers allowed to each investor as provided in the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(7) The tax voucher certificate, and any completed transfer form that was issued pursuant to the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, shall be attached to the taxpayer's annual return under this act. The department may prescribe and implement alternative methods of

reporting and recording ownership, transfer, and utilization of tax voucher certificates that are not inconsistent with this act.

(8) A tax voucher shall be used to pay a liability of the taxpayer due under this act only in a tax year that begins after December 31, 2008. The amount of the tax voucher that may be used to pay a liability of the taxpayer due under this act in any tax year shall not exceed the lesser of the following:

- (a) The amount of the tax voucher stated on the tax voucher certificate held by the taxpayer.
- (b) The amount authorized to be used in the tax year under the terms of the tax voucher certificate.
- (c) The taxpayer's liability due under this act for the tax year for which the tax voucher is to be applied.

(9) The department shall administer transfers of tax voucher certificates or the transfer of the right to be issued and receive a tax voucher certificate as provided in the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, and shall take any action necessary to enforce and effectuate the permissible issuance and use of tax voucher certificates in a manner authorized under this section and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(10) If the amount of a tax voucher certificate held by a taxpayer or transferee exceeds the amount the taxpayer or transferee may use under subsection (8)(b) or (c) in a tax year, that excess may be used by the taxpayer or transferee to pay, subject to the limitations of subsection (8), any future liability of the taxpayer or transferee under this act.

(11) If a taxpayer requests, the department shall issue separate replacement tax voucher certificates, or replacement approval letters, evidencing the right of the holder to be issued and receive a tax voucher certificate in an aggregate amount equal to the amount of a tax voucher certificate or an approval letter presented by a taxpayer. Replacement tax voucher certificates may be used, and replacement approval letters may be issued, to evidence the right to be issued and receive a tax voucher certificate that will be used for 1 or more of the following purposes:

- (a) To pay any liability of the taxpayer under this act to the extent permitted in any tax year by subsection (8).
- (b) To pay any liability of the taxpayer under and to the extent allowed under section 270 of the income tax act of 1967, 1967 PA 281, MCL 206.270.
- (c) To be transferred to a taxpayer that may use the replacement tax voucher certificate to pay any liability under this act to the extent allowed under subsection (8).
- (d) To be transferred to a taxpayer that may use the tax voucher certificate to pay any liability under and to the extent allowed under section 270 of the income tax act of 1967, 1967 PA 281, MCL 206.270.

(12) As used in this section:

- (a) "Investor" means that term as defined in the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.
- (b) "Certificate" means the certificate issued under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253.
- (c) "Transferee" means a taxpayer to whom a tax voucher certificate has been transferred under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, and this section.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2015, Act 194, Imd. Eff. Nov. 16, 2015.

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."

Enacting section 1 of Act 39 of 2011 provides:

"Enacting section 1. The Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, is repealed effective on the date that the secretary of state receives a written notice from the department of treasury that the last certificated credit or any carryforward from that certificated credit has been claimed."

Popular name: MBT

***** 208.1421 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1421 Taxpayer not subject to MCL 206.1 to 206.532; tax credit; charitable contributions; limitation; refund; definitions.

Sec. 421. (1) A taxpayer that is not subject to the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, may claim a credit against the tax imposed by this act, subject to the applicable limitations under this section, equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during the tax year to all of the following:

- (a) A public broadcast station as defined by 47 USC 397 that is not affiliated with an institution of higher education.
- (b) A public library.

(c) An institution of higher learning located in this state or a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of an institution of higher learning.

(d) The Michigan colleges foundation.

(e) The Michigan housing and community development fund created in section 3 of the Michigan housing and community development fund act, 2004 PA 479, MCL 125.2823.

(2) The tax credit allowed under this section for a donation under subsection (1)(c) is allowed only if the donee corporation, fund, foundation, trust, or association is controlled or approved and reviewed by the governing board of the institution of higher learning that benefits from the charitable contributions. The nonprofit corporation, fund, foundation, trust, or association shall provide copies of its annual independently audited financial statements to the auditor general of this state and chairpersons of the appropriations committees of the senate and house of representatives.

(3) The credit allowed under this section for any tax year shall not exceed 5% of the tax liability of the taxpayer for that tax year as determined without regard to this section or \$5,000.00, whichever is less.

(4) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(5) As used in this section:

(a) "Institution of higher learning" means an educational institution located within this state meeting all of the following requirements:

(i) Maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(ii) Regularly offers education above the twelfth grade.

(iii) Awards associate, bachelor's, master's, or doctoral degrees or any combination of those degrees or higher education credits acceptable for those degrees granted by other institutions of higher learning.

(iv) Is recognized by the state board of education as an institution of higher learning and appears as an institution of higher learning in the annual publication of the department of education entitled "the directory of institutions of higher education".

(b) "Public library" means a public library as defined in section 2 of 1977 PA 89, MCL 397.552.

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

***** 208.1422 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1422 Taxpayer making charitable contributions; tax credit; limitation; refund.

Sec. 422. (1) Subject to subsection (2), a taxpayer that makes charitable contributions of \$50,000.00 or more during the tax year to either of the following may claim a credit against the tax imposed by this act equal to 50% of the amount by which the aggregate amount of the charitable contributions to either of the following exceeds \$50,000.00:

(a) A municipality or a nonprofit corporation affiliated with a municipality and an art, historical, or zoological institute for the purpose of benefiting the art, historical, or zoological institute.

(b) An institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

(2) The credit allowed under this section for any tax year shall not exceed \$100,000.00.

(3) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

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

***** 208.1423 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1423 Taxpayer subject to worker's disability compensation act of 1969; tax credit; additional credit; refund.

Sec. 423. (1) A taxpayer that is an employer that is subject to the worker's disability compensation act of

1969, 1969 PA 317, MCL 418.101 to 418.941, may claim a credit against the tax imposed by this act an amount equal to the amount paid during that tax year by the taxpayer pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, as certified by the director of the bureau of worker's disability compensation pursuant to section 391(6) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.391.

(2) A taxpayer that claims a credit under this section shall claim a portion of the credit allowed by this section equal to the payments made during a calendar quarter pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, against the estimated tax payments made under section 501. Any subsequent increase or decrease in the amount claimed for payments made by the insurer or self-insurer shall be reflected in the amount of the credit taken for the calendar quarter in which the amount of the adjustment is finalized.

(3) The credit under this section is in addition to any other credits the taxpayer is eligible for under this act.

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

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

***** 208.1425 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1425 Contribution to endowment fund of community foundation or education foundation; tax credit.

Sec. 425. (1) Subject to the applicable limitations in this section, a taxpayer that does not claim a credit under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, may claim a credit against the tax imposed by this act equal to 50% of the amount the taxpayer contributed during the tax year to an endowment fund of a community foundation or an education foundation.

(2) The credit allowed by this section shall not exceed 5% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less.

(3) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(4) A taxpayer may claim a credit under this section for contributions to a community foundation made before the expiration of the 18-month period after a community foundation was incorporated or established during which the community foundation must build an endowment value of \$100,000.00 as provided in subsection (6)(a)(vii). If the community foundation does not reach the required \$100,000.00 endowment value during that 18-month period, contributions to the community foundation made after the date on which the 18-month period expires shall not be used to calculate a credit under this section. At any time after the expiration of the 18-month period under subsection (6)(a)(vii) that the community foundation has an endowment value of \$100,000.00, the community foundation may apply to the department for certification under this section.

(5) On or before July 1 of each year, the department shall report to the house of representatives committee on tax policy and the senate finance committee the total amount of tax credits claimed under this section and under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, for the immediately preceding tax year.

(6) As used in this section:

(a) "Community foundation" means an organization that applies for certification under subsection (4) on or before May 15 of the tax year for which the taxpayer is claiming the credit and that the department certifies for that tax year as meeting all of the following requirements:

(i) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.

(ii) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality or county.

(iii) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.

(iv) Is publicly supported as defined by the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(10). To maintain certification, the community foundation shall submit documentation to the department annually that demonstrates compliance with this subparagraph.

(v) Is not a supporting organization as an organization is described in section 509(a)(3) of the internal revenue code and in 26 CFR 1.509(a)-4 and 1.509(a)-5.

(vi) Meets the requirements for treatment as a single entity contained in 26 CFR 1.170A-9(e)(11).

(vii) Except as provided in subsection (4), is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit under this section is claimed and that has an endowment value of at least \$100,000.00 before the expiration of 18 months after the community foundation is incorporated or established.

(viii) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(ix) Provides evidence to the department that the community foundation has, before the expiration of 6 months after the community foundation is incorporated or established, and maintains continually during the tax year for which the credit under this section is claimed, at least 1 part-time or full-time employee.

(x) For community foundations that have an endowment value of \$1,000,000.00 or more only, the community foundation is subject to an annual independent financial audit and provides copies of that audit to the department not more than 3 months after the completion of the audit. For community foundations that have an endowment value of less than \$1,000,000.00, the community foundation is subject to an annual review and an audit every third year.

(xi) In addition to all other criteria listed in this subsection for a community foundation that is incorporated or established after January 9, 2001, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing certified community foundation.

(b) "Education foundation" means an organization that applies for certification on or before April 1 of the tax year for which the taxpayer is claiming the credit that annually submits documentation to the department that demonstrates continued compliance with this subdivision, and that the department certifies for that tax year as meeting all of the following requirements:

(i) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.

(ii) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.

(iii) All funds, gifts, and bequests are exclusively dedicated to a school district or public school academy.

(iv) Is publicly supported as defined by the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(10).

(v) Meets the requirements for treatment as a single entity contained in the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(11).

(vi) Is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit is claimed.

(vii) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(viii) Is subject to a program review each year and an independent financial audit every 3 years and provides copies of the reviews and audits to the department not more than 3 months after the review or audit is completed.

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

***** 208.1426 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1426 Contributions to reserve fund of fiduciary organization under the individual or family development account program act; tax credit; carrying forward excess credit; limitation; definitions.

Sec. 426. (1) For the 2009 tax year and each tax year after 2009, a qualified financial institution or taxpayer may claim a credit against the tax imposed by this act equal to 75% of the contributions made by the qualified financial institution or by the taxpayer in the tax year to the reserve fund of a fiduciary organization pursuant to the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.

(2) If the credit allowed under this section for the tax year and any unused carryforward of the credit

allowed under this section exceed the tax liability of the qualified financial institution or taxpayer for the tax year, the excess shall not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 10 tax years or until the excess credit is used up, whichever occurs first.

(3) The credits under this section and section 276 of the income tax act of 1967, 1967 PA 281, MCL 206.276, shall not exceed an annual cumulative maximum amount of \$1,000,000.00. The determination of the maximum allowed under this subsection shall be made as provided in the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.

(4) As used in this section:

(a) "Individual or family development account" means an account established pursuant to the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.

(b) "Fiduciary organization" and "reserve fund" mean those terms as defined in the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.

(c) "Qualified financial institution" means a financial institution as defined in the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.

History: Add. 2008, Act 451, Imd. Eff. Jan. 9, 2009.

Popular name: MBT

***** 208.1427 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1427 Contribution to shelter for homeless persons, food kitchen, food bank, or other entity; tax credit.

Sec. 427. (1) A taxpayer that does not claim a credit under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, for a contribution to a shelter for homeless persons, food kitchen, food bank, or other entity, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent, may claim a credit against the tax imposed by this act equal to 50% of the cash amount the taxpayer contributed during the tax year to a shelter for homeless persons, food kitchen, food bank, or other entity, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent, if a contribution to that entity is tax deductible for the donor under the internal revenue code.

(2) The credit allowed by this section shall not exceed 5% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less.

(3) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(4) An entity described in subsection (1) may request that the department determine whether a contribution to that entity qualifies for the credit under this section. The department shall make a determination and respond to a request no later than 30 days after the department receives the request.

(5) On or before July 1 of each year, the department shall report to the house of representatives committee on tax policy and the senate committee on finance the total amount of tax credits claimed under this section, section 425, and section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, for the immediately preceding tax year.

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

***** 208.1429 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1429 Taxpayer certified under Michigan next energy authority act; tax credit; definitions.

Sec. 429. (1) A taxpayer may claim a credit against the tax imposed by this act for 1 or more of the following as applicable:

(a) The credit allowed under subsection (2).

(b) The credit allowed under subsection (5).

(2) A taxpayer that is certified under the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an eligible taxpayer may claim a nonrefundable credit for the tax year equal to the amount determined under subdivision (a) or (b), whichever is less:

(a) The amount by which the taxpayer's tax liability attributable to qualified business activity for the tax year exceeds the taxpayer's baseline tax liability attributable to qualified business activity.

(b) Ten percent of the amount by which the taxpayer's adjusted qualified business activity performed in this state outside of a renaissance zone for the tax year exceeds the taxpayer's adjusted qualified business activity performed in this state outside of a renaissance zone for the 2001 tax year under section 39e of former 1975 PA 228.

(3) For any tax year in which the eligible taxpayer's tax liability attributable to qualified business activity for the tax year does not exceed the taxpayer's baseline tax liability attributable to qualified business activity, the eligible taxpayer shall not claim the credit allowed under subsection (2).

(4) A taxpayer that claims a credit under subsection (2) shall attach a copy of each of the following as issued pursuant to the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827, to the annual return required under this act for each tax year in which the taxpayer claims the credit allowed under subsection (2):

(a) The proof of certification that the taxpayer is an eligible taxpayer for the tax year.

(b) The proof of certification of the taxpayer's tax liability attributable to qualified business activity for the tax year.

(c) The proof of certification of the taxpayer's baseline tax liability attributable to qualified business activity.

(5) A taxpayer that is a qualified alternative energy entity may claim a credit for the taxpayer's qualified payroll amount. A taxpayer shall claim the credit under this subsection after all allowable nonrefundable credits under this act.

(6) If the credit allowed under subsection (5) exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

(7) As used in this section:

(a) "Adjusted qualified business activity performed in this state outside of a renaissance zone" means either of the following:

(i) Except as provided in subparagraph (ii), the taxpayer's payroll for qualified business activity performed in this state outside of a renaissance zone.

(ii) For a partnership, limited liability company, S corporation, or individual, the amount determined under subparagraph (i) plus the product of the following as related to the taxpayer:

(A) Business income.

(B) The apportionment factor as determined under chapter 3.

(C) The alternative energy business activity factor.

(b) "Alternative energy business activity factor" means a fraction, the numerator of which is the ratio of the value of the taxpayer's property used for qualified business activity and located in this state outside of a renaissance zone for the year for which the factor is being calculated to the value of all of the taxpayer's property located in this state for that year plus the ratio of the taxpayer's payroll for qualified business activity performed in this state outside of a renaissance zone for that year to all of the taxpayer's payroll in this state for that year and the denominator of which is 2.

(c) "Alternative energy marine propulsion system", "alternative energy system", "alternative energy vehicle", and "alternative energy technology" mean those terms as defined in the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

(d) "Alternative energy zone" means a renaissance zone designated as an alternative energy zone by the board of the Michigan strategic fund under section 8a of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2688a.

(e) "Baseline tax liability attributable to qualified business activity" means the taxpayer's tax liability for the 2001 tax year under former 1975 PA 228 multiplied by the taxpayer's alternative energy business activity factor for the 2001 tax year under former 1975 PA 228. A taxpayer with a 2001 tax year of less than 12 months under former 1975 PA 228 shall annualize the amount calculated under this subdivision as necessary to determine baseline tax liability attributable to qualified business activity that reflects a 12-month period.

(f) "Eligible taxpayer" means a taxpayer that has proof of certification of qualified business activity under the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

(g) "Payroll" means total salaries and wages before deducting any personal or dependency exemptions.

(h) "Qualified alternative energy entity" means a taxpayer located in an alternative energy zone.

(i) "Qualified business activity" means research, development, or manufacturing of an alternative energy marine propulsion system, an alternative energy system, an alternative energy vehicle, alternative energy technology, or renewable fuel.

(j) "Qualified employee" means an individual who is employed by a qualified alternative energy entity, whose job responsibilities are related to the research, development, or manufacturing activities of the qualified alternative energy entity, and whose regular place of employment is within an alternative energy

zone.

(k) "Qualified payroll amount" means an amount equal to payroll of the qualified alternative energy entity attributable to all qualified employees in the tax year of the qualified alternative energy entity for which the credit under subsection (6) is being claimed, multiplied by the tax rate for that tax year.

(l) "Renaissance zone" means a renaissance zone designated under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(m) "Renewable fuel" means 1 or more of the following:

(i) Biodiesel or biodiesel blends containing at least 20% biodiesel. As used in this subparagraph, "biodiesel" means a diesel fuel substitute consisting of methyl or ethyl esters produced from the transesterification of animal or vegetable fats with methanol or ethanol.

(ii) Biomass. As used in this subparagraph, "biomass" means residues from the wood and paper products industries, residues from food production and processing, trees and grasses grown specifically to be used as energy crops, and gaseous fuels produced from solid biomass, animal wastes, municipal waste, or landfills.

(n) "Tax liability attributable to qualified business activity" means the taxpayer's tax liability multiplied by the taxpayer's alternative energy business activity factor for the tax year.

(o) "Tax rate" means the rate imposed under section 51 of the income tax act of 1967, 1967 PA 281, MCL 206.51, annualized as necessary, for the tax year in which the qualified alternative energy entity claims a credit under subsection (5).

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2009, Act 184, 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."

Enacting section 1 of Act 184 of 2009 PA provides:

"Enacting section 1. This amendatory act is retroactive and is effective for tax years beginning after December 31, 2007."

In subsection (7)(a)(ii), the reference to "S corporation" evidently should read "subchapter S corporation".

Popular name: MBT

***** 208.1430 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1430 Facility developing and manufacturing photovoltaic technology; tax credit.

Sec. 430. (1) Except as otherwise provided under subsection (3) and subject to the limitations under subsection (2), for tax years that begin on or after January 1, 2009, a qualified taxpayer and an eligible taxpayer that has entered into an agreement with the Michigan economic growth authority that provides that the taxpayer will construct and operate in this state a new facility for development and manufacturing of photovoltaic energy, photovoltaic systems, or other photovoltaic technology may claim a credit against the tax imposed by this act equal to 25% of the capital investments made by the taxpayer in that new facility during the tax year but not to exceed \$15,000,000.00.

(2) The Michigan economic growth authority shall not enter into an agreement under this section after December 31, 2011. The total amount of credits allowed under this section for all tax years shall not exceed \$75,000,000.00. An agreement shall specify all of the following:

(a) The amount of capital investment that will be made in a new facility engaged in the development and manufacturing of photovoltaic energy, photovoltaic systems, and other photovoltaic technology.

(b) The number of qualified new jobs at the facility at which the investment will be made.

(c) The total credit that may be claimed under this section.

(3) The Michigan economic growth authority may enter into 1 agreement with an eligible taxpayer for a credit under this section of more than \$15,000,000.00 but not more than \$25,000,000.00.

(4) Except as otherwise provided under this subsection, the credit allowed under this section shall be taken by a taxpayer in equal installments over 2 years beginning with the tax year in which the certification was issued. The Michigan economic growth authority may allow only 1 taxpayer with whom it has entered into an agreement for a credit under this section of \$15,000,000.00 or less to claim the total amount of the credit allowed in the same tax year in which the certification was issued. If in any of those years the credit allowed under this section for the tax year exceeds the taxpayer's or assignee's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall be refunded.

(5) A 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. The certificate required under this subsection shall state all of the following:

(a) The taxpayer is located in this state and engaged in the development and manufacturing of photovoltaic

energy, photovoltaic systems, or other photovoltaic technology and qualifies for the credit under this section.

(b) The taxpayer's federal employer identification number or the Michigan department of treasury number assigned to the taxpayer and, for a taxpayer that is a unitary business group, the federal employer identification number or Michigan department of treasury number assigned to the member of the group engaged in this state in the development and manufacturing of photovoltaic energy, photovoltaic systems, or other photovoltaic technology.

(c) The total amount of capital investments made during the tax year and the amount of the credit under this section for which the taxpayer is allowed to claim for the designated tax year.

(6) A taxpayer or assignee that claims a credit under this section and subsequently fails to meet the requirements of this section or any other conditions established by the Michigan economic growth authority in the agreement provided for in this section in order to obtain a certificate for which the credit was claimed under this section may, as to be determined by the Michigan economic growth authority, have its credit reduced or terminated or have a percentage of the credit amount previously claimed under this section added back to the tax liability of the taxpayer in the tax year that the taxpayer or assignee fails to comply with this section.

(7) A taxpayer may assign all or a portion of a credit allowed under this section. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which a certificate is issued. However, a taxpayer may also convey the right to obtain an assignment of the credit under this section after an agreement has been approved by the Michigan economic growth authority and before a certificate has been issued. A taxpayer may claim a portion of a credit and assign the remaining credit amount. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The Michigan economic growth authority or its designee shall review and issue a completed assignment certificate to the assignee. An assignee shall attach a copy of the completed assignment certificate to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other procedures and requirements under this section, the following apply:

(a) The credit shall be assigned based on the schedule contained in the certificate.

(b) If the taxpayer assigns all or a portion of the credit amount, the taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee, and the taxpayer may assign all or a portion of each annual credit amount to any assignee.

(8) A taxpayer that has entered into an agreement with the Michigan economic growth authority for a credit under sections 432 through 432d is not eligible for the credit under this section.

(9) As used in this section:

(a) "Capital investment" means the cost, including fabrication and installation, paid or accrued in the tax year of property of a type that is, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes, provided that the property is physically located in this state for use in a business activity in this state.

(b) "Eligible taxpayer" means a taxpayer that has entered an agreement to create at least 250 qualified new jobs and to make at least \$100,000,000.00 in a qualified capital investment of which \$25,000,000.00 shall be made prior to the issuance of a certificate under this section.

(c) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(i) A qualified taxpayer or an eligible taxpayer.

(ii) An employee leasing company on behalf of a qualified taxpayer or an eligible taxpayer.

(iii) A professional employer organization on behalf of a qualified taxpayer or an eligible taxpayer.

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

(e) "Qualified new job" means a full-time job created by a qualified taxpayer or an eligible taxpayer at a facility or facilities that is in excess of the number of full-time jobs a qualified taxpayer or an eligible taxpayer maintained in this state or at a facility prior to the expansion or location, as determined by the authority.

(f) "Qualified taxpayer" means a taxpayer that has entered an agreement to create at least 500 qualified new jobs and to make at least \$50,000,000.00 in a qualified capital investment of which \$25,000,000.00 shall be made prior to the issuance of a certificate under this section.

(g) "Photovoltaic cells" means an integrated device consisting of layers of semiconductor materials and electric constructs capable of converting incident light directly into electricity.

(h) "Photovoltaic energy" means solar energy.

(i) "Photovoltaic modules" means an assembly of interconnected photovoltaic cells.

(j) "Photovoltaic systems" means solar energy devices composed of 1 or more photovoltaic cells or photovoltaic modules, and inverter or other power conditioning unit or photovoltaic technology designed to deliver power of a selected current and voltage, wires, and other electrical connectors in order to generate electricity, heat or cool a residential structure, provide hot water for use in a residential structure, or provide solar process heat. Batteries for power storage may also be included in photovoltaic systems.

(k) "Photovoltaic technology" means solar power technology that uses photovoltaic cells and modules to convert light from the sun directly into electricity. Photovoltaic technology includes equipment, component parts, materials, electronic devices, testing equipment, and other related systems that are specifically designed or fabricated and used primarily for 1 or more of the following:

(i) The storage, generation, reformation, or distribution of clean fuels integrated within a photovoltaic system.

(ii) The process of utilizing photovoltaic energy to generate electricity for use by consumers.

(l) "Property" means section 1245 property and section 1250 property as those terms are defined in sections 1245 and 1250 of the internal revenue code.

History: Add. 2008, Act 270, Imd. Eff. Sept. 11, 2008;—Am. 2009, Act 90, Imd. Eff. Sept. 11, 2009.

Popular name: MBT

***** 208.1431 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1431 Business authorized under Michigan economic growth authority; tax credit; amount; certificate; attachment to annual return; statement; number of years; refund; effect of failure to meet requirements or removal of new jobs from state; statement as to number of new jobs created in state; limitation on total number of credits claimed in the first year; definitions.

Sec. 431. (1) Except as otherwise provided under this subsection, for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, a taxpayer that is an authorized business may claim a credit against the tax imposed by this act equal to the amount certified each year by the Michigan economic growth authority as follows:

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

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

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

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

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

then multiplied by the tax rate for the tax year.

(f) For an authorized business as determined under section 8(11) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount not to exceed 100% of the sum of the payroll and health care benefits of the authorized business attributable to employees who perform new full-time jobs and retained jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the tax year.

(2) A 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.

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

(a) The taxpayer is an authorized business.

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

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

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

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

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

(7) If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer that claims the credit under this section get a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same number of new jobs used to calculate the credit under this section, the taxpayer shall get the statement and attach that statement to its annual return under this act on which the credit under this section is claimed. For compliance reporting purposes, a taxpayer that claims the credit under this section for health care benefits may report to the Michigan economic growth authority the aggregate cost of applicable employer-sponsored coverage applicable to employees who perform qualified new jobs and employees who perform retained jobs, as determined by the Michigan economic growth authority.

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

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

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

(11) As used in this section:

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

(b) "Health care benefits" means, as determined by the Michigan economic growth authority, all costs paid for a self-funded health care benefit plan or for an expense-incurred hospital, medical, or surgical policy or

certificate, nonprofit health care corporation certificate, or health maintenance organization contract. Health care benefit does not include accident-only, credit, dental, or disability income insurance; long-term care insurance; coverage issued as a supplement to liability insurance; coverage only for a specified disease or illness; worker's compensation or similar insurance; or automobile medical payment insurance.

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

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

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

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

(ii) The average number of full-time jobs at a facility created by an eligible business up to 90 days before becoming an authorized business that is in excess of the average number of full-time jobs that the business maintained in this state up to 90 days before becoming an authorized business, as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

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

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2008, Act 111, Imd. Eff. Apr. 28, 2008;—Am. 2009, Act 126, Imd. Eff. Oct. 27, 2009;—Am. 2011, Act 209, Eff. Jan. 1, 2012.

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

***** 208.1431a THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1431a Tax credit; amount; percentage of qualified supplier's or customer's payroll attributable to employees performing qualified new jobs; determination by Michigan economic growth authority; certificate; issuance; contents; failure to meet requirements or conditions; when credit may be taken; definitions.

Sec. 431a. (1) A qualified taxpayer may claim a credit against the tax imposed by this act equal to the sum of up to 100% of each qualified supplier's and qualified customer's payroll attributable to employees who perform qualified new jobs as determined by the Michigan economic growth authority, multiplied by the tax rate for the tax year and that credit may include each of the qualified supplier's and qualified customer's payroll described above for a period of up to 5 years as determined by the Michigan economic growth authority. If the credit allowed under this subsection exceeds the liability of the taxpayer for the tax year, the taxpayer may elect to have that portion that exceeds the tax liability of the taxpayer refunded or to have the excess carried forward to offset tax liability in subsequent years for 10 years or until it is used up, whichever occurs first. The Michigan economic growth authority shall not designate more than 5 new anchor companies in each calendar year and shall not approve more than 5 new credits in each calendar year under this subsection. An anchor company has 5 years from the date on which the anchor company is designated as an anchor company to seek certification from the Michigan economic growth authority as a qualified taxpayer for each qualified supplier and qualified customer that is included in the credit which that anchor company is seeking under this section. However, a credit shall not be provided for a tax year prior to the tax year during which the designation as an anchor company is made.

(2) The Michigan economic growth authority may also provide that qualified sales to a qualified customer shall not be considered in calculating the sales factor under this act for the tax year for which a credit is provided under this section. Not later than July 1 of each year, the Michigan economic growth authority shall disclose to the senate majority leader or his or her designee, the speaker of the house of representatives or his or her designee, and the chairperson of each standing committee of the house of representatives and the senate that primarily addresses and has jurisdiction over issues pertaining to taxation, finance, and economic development the name and address of each qualified customer whose sales are not considered in the sales factor pursuant to this subsection.

(3) A 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 the credit under this section is claimed. The certificate required by this subsection shall state all of the following:

(a) The taxpayer is a qualified taxpayer and the date on which the taxpayer was designated as an anchor company.

(b) The amount of the credit under this section for the qualified taxpayer for the designated tax year.

(c) The amount of the qualified sales to a qualified customer.

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

(4) A qualified taxpayer that claims a credit under this section and subsequently fails to meet the requirements of this section or any other conditions included in an agreement entered into with the Michigan economic growth authority in order to obtain a certificate for which the credit was under this section may, as to be determined by the Michigan economic growth authority, have its credit reduced or terminated or have a percentage of the credit amount previously claimed under this section added back to the tax liability of the taxpayer in the year that the taxpayer fails to comply with this section or the agreement.

(5) A credit under this section may be taken after all other allowable nonrefundable credits under this act.

(6) As used in this section:

(a) "Anchor company" means a qualified high-technology business that is an integral part of a high-technology activity and that has the ability or potential ability to influence business decisions and site location of qualified suppliers and customers.

(b) "Business", "qualified high-technology activity", and "qualified high-technology business" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(i) A qualified supplier or qualified customer.

(ii) An employee leasing company on behalf of a qualified supplier or qualified customer.

(iii) A professional employer organization on behalf of a qualified supplier or qualified customer.

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

(e) "Qualified new job" means a full-time job created by a qualified supplier or qualified customer at a facility or facilities that is in excess of the number of full-time jobs a qualified supplier or qualified customer maintained in this state or at a facility prior to the expansion or location, as determined by the authority.

(f) "Qualified sales to a qualified customer" means sales to a qualified customer that are in excess of the Michigan sales to the customer prior to the year of expansion or location within this state as determined by the Michigan economic growth authority and that would otherwise be included in the calculation of the sales factor under this act.

(g) "Qualified supplier" and "qualified customer" means a business that opens a new location in this state, a business that locates in this state, or an existing business located in this state that expands its business as a result of an anchor company and satisfies prior to the issuance of a certificate and at the time specified in the agreement with the qualified taxpayer, as certified by the Michigan economic growth authority, each of the following:

(i) Has financial transactions with the anchor company.

(ii) Sells a critical or unique component or technology necessary for the anchor company to market a finished product as the result of a commercial relationship with the anchor company or buys a critical or unique component from the anchor company.

(iii) Has created more than 10 qualified new jobs.

(iv) Has made an investment of at least \$1,000,000.00 as certified by the Michigan economic growth authority.

(h) "Qualified taxpayer" means a taxpayer that was designated by the Michigan economic growth authority as an anchor company within the last 5 years and that has influenced a qualified supplier or qualified customer to open, locate, or expand in this state.

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

History: Add. 2008, Act 92, Imd. Eff. Apr. 8, 2008;—Am. 2009, Act 159, Eff. Dec. 31, 2008.

Compiler's note: Enacting section 1 of Act 159 of 2009 provides:

"Enacting section 1. This amendatory act is retroactive and is effective for tax years that begin after December 31, 2008."

Popular name: MBT

***** 208.1431b THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1431b Agreement with person or group of persons; tax credit; factors to be considered by Michigan economic growth authority; contents of agreement; amount of credit; issuance of certificate of designation; statement; definitions.

Sec. 431b. (1) Upon application, a person or group of persons acting collectively may enter into an agreement with the Michigan economic growth authority for a credit under this section. In determining whether to enter into an agreement with a person or group of persons, the authority shall consider the following factors:

(a) The number of qualified new jobs or products, or both, to be created or maintained as a result of winning a federal procurement contract offered by the United States department of defense, department of energy, or department of homeland security.

(b) The potential impact of the expansion, retention, or location on the economy of Michigan if the person or group of persons acting collectively is awarded the federal contract described under subdivision (a).

(c) The number of out-of-state persons bidding against the person or group of persons acting collectively for the federal contract described under subdivision (a).

(d) The total capital investment or new capital investment the person or group of persons acting collectively will make to win and maintain the federal contract described under subdivision (a).

(2) The agreement required under subsection (1) shall include, but is not limited to, all of the following:

(a) A description of the federal contract for which the person or group of persons acting collectively intends to bid.

(b) A description of the person's or group's expansion, retention, or location that is necessary if awarded the federal contract that is the subject of the agreement.

(c) Conditions upon which the person or group of persons acting collectively is designated a qualified taxpayer under this section.

(d) A statement by the person or group of persons acting collectively that a violation of the written agreement may result in the revocation of the designation as a qualified taxpayer and the loss or reduction of future credits under this section.

(e) A statement by the person or group of persons acting collectively that a misrepresentation in the application may result in the revocation of the designation as a qualified taxpayer and the refund of credits received under this section.

(f) A method for measuring qualified new jobs before and after the award of a federal contract and the expansion, retention, or location of the person or group of persons acting collectively in this state as a result of winning the federal contract.

(3) A qualified taxpayer may claim a credit against the tax imposed by this act in an amount up to 100% of the qualified taxpayer's payroll attributable to employees who perform qualified new jobs created as a result of the person or group of persons acting collectively being awarded a federal procurement contract by the United States department of defense, department of energy, or department of homeland security as determined by the Michigan economic growth authority, multiplied by the tax rate for the tax year for a period of up to 7 years or the term of the contract, whichever is less, as determined by the Michigan economic growth authority. If the qualified taxpayer is a group of persons acting collectively, the Michigan economic growth authority shall determine the amount of the credit which each person included in the group is allowed to claim by multiplying the amount of the credit allowed collectively by the qualified taxpayer by a fraction, the numerator of which is the person's payroll attributable to employees who perform qualified new jobs and the denominator of which is 100% of the qualified taxpayer's payroll attributable to employees who perform qualified new jobs, and then certifying the amount of the credit that each person is allowed to claim respectively. If the credit allowed under this subsection exceeds the liability of the taxpayer for the tax year, the taxpayer may elect to have that portion that exceeds the tax liability of the taxpayer refunded or to have the excess carried forward to offset tax liability in subsequent years for 10 years or until it is used up, whichever occurs first. The Michigan economic growth authority shall not execute more than 10 new written agreements each year. If a qualified taxpayer is awarded a credit under this section, any subsequent credits awarded to that qualified taxpayer shall not be included in determining the yearly limit of 10 new agreements under this subsection.

(4) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued the taxpayer a certificate of designation as a qualified taxpayer. However, a credit shall not be provided for a tax year prior to the tax year during which the certification is made. The taxpayer shall attach the certificate to the annual return filed under this act on which the credit under this section is claimed. The certificate required by this subsection shall state all of the following:

(a) The taxpayer is a qualified taxpayer.

(b) The amount of the credit under this section for the qualified taxpayer for the designated tax year or, if the qualified taxpayer is a group of persons, the percentage of the amount of the credit that the taxpayer is allowed to claim for the designated tax year.

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

(5) As used in this section:

(a) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(i) A taxpayer.

(ii) An employee leasing company on behalf of a taxpayer.

(iii) A professional employer organization on behalf of a taxpayer.

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

(c) "Qualified new job" means a full-time job created by a qualified taxpayer at a facility or facilities that is in excess of the number of full-time jobs the qualified taxpayer maintained in this state or at a facility prior to being awarded the federal procurement contract and the expansion or location, as determined by the authority.

(d) "Qualified taxpayer" means a person that individually satisfies each of the following or a group of 1 or more persons that enter into a cooperative or informal agreement to act collectively and satisfy each of the following:

(i) Has entered into an agreement with the authority as described under this section.

(ii) Has submitted a competitive bid for a federal procurement contract offered by the United States department of defense, department of energy, or department of homeland security.

(iii) Has been awarded the federal contract for which the person or group of persons acting collectively submitted a bid under subparagraph (ii).

(iv) Has created a minimum of 25 qualified new jobs.

History: Add. 2008, Act 109, Imd. Eff. Apr. 28, 2008.

Popular name: MBT

***** 208.1431c THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1431c Designation as anchor companies; tax credit; certification by Michigan economic growth authority; disclosure to legislature; contents of certificate; failure to meet requirements or conditions; disposition of excess credit; definitions.

Sec. 431c. (1) Except as otherwise provided under this section, a qualified taxpayer may claim a credit against the tax imposed by this act equal to the sum of up to 5.0% of the taxable value of each qualified supplier's or qualified customer's taxable property that is located within the 10-mile radius of the qualified taxpayer or is located in the same county or a county adjacent to the qualified taxpayer and within an existing industrial site that is approved by the Michigan economic growth authority and that is subject to collection of general ad valorem taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, and that credit may be based upon each of the qualified supplier's and qualified customer's taxable value described above in this subsection for a period of up to 5 years, as determined by the Michigan economic growth authority. If a qualified supplier's or qualified customer's taxable property that is located within the 10-mile radius of the qualified taxpayer or is located in the same county or a county adjacent to the qualified taxpayer and within an existing industrial site that is approved by the Michigan economic growth authority is subject to the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572, the qualified taxpayer may only include up to 2.5% of the taxable value of that property in the calculation of the amount of the credit allowed under this section.

(2) The Michigan economic growth authority shall not designate more than 5 new anchor companies in each calendar year and shall not approve more than 5 new credits in each calendar year under this subsection. An anchor company has 5 years from the date on which the anchor company designation occurs to seek certification from the Michigan economic growth authority as a qualified taxpayer for each qualified supplier or qualified customer that is included in the credit which that anchor company is seeking under this section. However, a credit shall not be provided for a tax year prior to the tax year during which the designation as an anchor company is made.

(3) The Michigan economic growth authority may provide that qualified sales to a qualified customer shall not be considered in calculating the sales factor under this act for the tax year for which a credit is provided under this section. Not later than July 1 of each year, the Michigan economic growth authority shall disclose

to the senate majority leader or his or her designee, the speaker of the house of representatives or his or her designee, and the chairperson of each standing committee of the house of representatives and the senate that primarily addresses and has jurisdiction over issues pertaining to taxation, finance, and economic development the name and address of each qualified customer whose sales are not considered in the sales factor pursuant to this subsection.

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

(a) The taxpayer is a qualified taxpayer and the date on which the taxpayer was designated as an anchor company.

(b) The amount of the credit under this section for the taxpayer for the designated tax year.

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

(d) Subject to subsection (3), the amount of the qualified sales to a qualified customer.

(5) A qualified taxpayer that claims a credit under this section and subsequently fails to meet the requirements of this section or any other conditions included in an agreement entered into with the Michigan economic growth authority in order to obtain a certificate for which the credit was claimed under this section may, as to be determined by the Michigan economic growth authority, have its credit reduced or terminated or have a percentage of the credit amount previously claimed under this section added back to the tax liability of the qualified taxpayer in the year that the qualified taxpayer fails to comply with this section or the agreement.

(6) If the credit allowed under this subsection exceeds the liability of the qualified taxpayer for the tax year, the qualified taxpayer may elect to have that portion that exceeds the tax liability of the qualified taxpayer refunded or to have the excess carried forward to offset tax liability in subsequent years for 5 years or until it is used up, whichever occurs first.

(7) A credit under this section may be taken after all other allowable nonrefundable credits under this act.

(8) As used in this section:

(a) "Anchor company" means a qualified high-technology business that is an integral part of a high-technology activity and that has the ability or potential ability to influence business decisions and site location of qualified suppliers and qualified customers.

(b) "Business", "qualified high-technology activity", and "qualified high-technology business" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(i) A qualified supplier or qualified customer.

(ii) An employee leasing company on behalf of a qualified supplier or qualified customer.

(iii) A professional employer organization on behalf of a qualified supplier or qualified customer.

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

(e) "Qualified new job" means a full-time job created by a qualified supplier or qualified customer at a facility or facilities that is in excess of the number of full-time jobs a qualified supplier or qualified customer maintained in this state or facility prior to the expansion or location, as determined by the authority.

(f) "Qualified sales to a qualified customer" means sales to a qualified customer that are in excess of the Michigan sales to the customer prior to the year of expansion or location within this state as determined by the Michigan economic growth authority and that would otherwise be included in the calculation of the sales factor under this act.

(g) "Qualified supplier" and "qualified customer" mean a business that opens a new location in this state, a business that locates in this state, or an existing business located in this state that expands its business as a result of an anchor company and satisfies prior to the issuance of a certificate and at the time specified in the agreement with the qualified taxpayer, as certified by the Michigan economic growth authority, each of the following:

(i) Has financial transactions with the anchor company.

(ii) Sells a critical or unique component or technology necessary for the anchor company to market a finished product as the result of a commercial relationship with the anchor company or buys a critical or unique component from the anchor company.

(iii) Has created more than 10 qualified new jobs.

(iv) Has made an investment of at least \$1,000,000.00 as certified by the Michigan economic growth authority.

(h) "Qualified taxpayer" means a taxpayer that was designated by the Michigan economic growth authority as an anchor company within the last 5 years and that has influenced a qualified supplier or qualified customer to open, locate, or expand in this state and conduct business activity within a 10-mile radius of the anchor company or within the same county or a county adjacent to the taxpayer and within an existing industrial site that is approved by the Michigan economic growth authority.

History: Add. 2008, Act 88, Imd. Eff. Apr. 8, 2008;—Am. 2009, Act 160, Eff. Dec. 31, 2008.

Compiler's note: Enacting section 1 of Act 160 of 2009 provides:

"Enacting section 1. This amendatory act is retroactive and is effective for tax years that begin after December 31, 2008."

Popular name: MBT

***** 208.1432 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1432 Agreement to manufacture polycrystalline silicon; tax credit; certificate; definitions.

Sec. 432. (1) A qualified taxpayer that has entered into an agreement with the Michigan economic growth authority that provides that the qualified taxpayer will construct and operate a new or expanded facility described in the agreement under this section for the manufacture of polycrystalline silicon may claim a credit against the tax imposed by this act for a period of 12 years calculated as provided in sections 432a through 432d and claimed for the tax years as provided in sections 432a through 432d. This credit shall be taken after all other credits provided under this act.

(2) The Michigan economic growth authority shall not enter into more than 1 agreement under this section and shall not enter into an agreement after December 31, 2008.

(3) A qualified taxpayer shall not claim a credit under sections 432a through 432d unless the Michigan economic growth authority has issued a certificate to that taxpayer. The qualified taxpayer shall attach the certificate to the annual return filed under this act on which a credit under this section is claimed.

(4) The certificate required under subsection (3) shall state all of the following:

(a) The taxpayer is a qualified taxpayer.

(b) The amount of the credit under this section for the qualified taxpayer for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan department of treasury number assigned to the taxpayer and for a taxpayer that is a unitary business group, the federal employer identification number or Michigan department of treasury number assigned to the member of the group engaged in this state in the manufacture of polycrystalline silicon for solar cells and semiconductor microchips.

(5) For purposes of this section and sections 432a through 432d:

(a) "Guaranteed cost of electricity" means the following:

(i) For a tax year that begins after December 31, 2011 and before January 1, 2019, 4.85 cents per kilowatt hour.

(ii) For a tax year that begins after December 31, 2018 and before January 1, 2021, 5.20 cents per kilowatt hour.

(iii) For a tax year that begins after December 31, 2020 and before January 1, 2024, 6.00 cents per kilowatt hour.

(b) "Projected cost of electricity" means the following:

(i) For a tax year that begins after December 31, 2011 and before January 1, 2013, 6.49 cents per kilowatt hour.

(ii) For a tax year that begins after December 31, 2012 and before January 1, 2014, 6.66 cents per kilowatt hour.

(iii) For a tax year that begins after December 31, 2013 and before January 1, 2015, 6.84 cents per kilowatt hour.

(iv) For a tax year that begins after December 31, 2014 and before January 1, 2016, 7.02 cents per kilowatt hour.

(v) For a tax year that begins after December 31, 2015 and before January 1, 2017, 7.20 cents per kilowatt hour.

(vi) For a tax year that begins after December 31, 2016 and before January 1, 2018, 7.40 cents per kilowatt hour.

(vii) For a tax year that begins after December 31, 2017 and before January 1, 2019, 7.59 cents per kilowatt hour.

(viii) For a tax year that begins after December 31, 2018 and before January 1, 2020, 7.79 cents per kilowatt hour.

(ix) For a tax year that begins after December 31, 2019 and before January 1, 2021, 8.00 cents per kilowatt hour.

(x) For a tax year that begins after December 31, 2020 and before January 1, 2022, 8.21 cents per kilowatt hour.

(xi) For a tax year that begins after December 31, 2021 and before January 1, 2023, 8.43 cents per kilowatt hour.

(xii) For a tax year that begins after December 31, 2022 and before January 1, 2024, 8.65 cents per kilowatt hour.

(c) "Qualified taxpayer" means a taxpayer whose business activity conducted in this state includes the manufacturing of polycrystalline silicon for solar cells and semiconductor microchips.

History: Add. 2008, Act 263, Imd. Eff. Aug. 6, 2008.

Popular name: MBT

***** 208.1432a THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1432a Tax years beginning after December 31, 2011 and before January 1, 2016; tax credit; electricity; "qualified consumption of electricity" defined.

Sec. 432a. (1) For tax years that begin after December 31, 2011 and before January 1, 2016, a qualified taxpayer that has received a certificate under section 432 may claim a credit equal to the product obtained by multiplying the qualified consumption of electricity times the difference between the guaranteed cost of electricity and the actual delivered price of electricity billed to the qualified taxpayer under a tariff rate approved by the public service commission or the projected cost of electricity, whichever is less.

(2) If the credit allowed under this section exceeds the tax liability of the qualified taxpayer for the tax year, the qualified taxpayer may elect to have that portion that exceeds the tax liability of the qualified taxpayer refunded or to have the excess carried forward to offset the tax liability in subsequent years for 10 years or until used up, whichever occurs first.

(3) As used in this section, "qualified consumption of electricity" means up to 1,445,400 megawatt hours of electricity consumed during the tax year at a facility described by an agreement entered into under section 432.

History: Add. 2008, Act 267, Imd. Eff. Aug. 6, 2008.

Popular name: MBT

***** 208.1432b THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1432b Tax years beginning after December 31, 2015 and before January 1, 2022; tax credit; "qualified consumption of electricity" defined.

Sec. 432b. (1) For tax years that begin after December 31, 2015 and before January 1, 2022, a qualified taxpayer that has received a certificate under section 432 may claim a credit equal to the product obtained by multiplying the qualified consumption of electricity times the difference between the projected cost of electricity and the guaranteed cost of electricity.

(2) If the credit allowed under this section exceeds the tax liability of the qualified taxpayer for the tax year, the qualified taxpayer may elect to have that portion that exceeds the tax liability of the qualified taxpayer refunded or to have the excess carried forward to offset the tax liability in subsequent years for 10 years or until used up, whichever occurs first.

(3) As used in this section, "qualified consumption of electricity" means up to 1,445,400 megawatt hours of electricity consumed during the tax year at a facility described by an agreement entered into under section 432.

History: Add. 2008, Act 265, Imd. Eff. Aug. 6, 2008.

Popular name: MBT

***** 208.1432c THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1432c For 2022 tax year; tax credit; "qualified consumption of electricity" defined.

Sec. 432c. (1) For the 2022 tax year, a qualified taxpayer that has received a certificate under section 432 may claim a credit equal to the product obtained by multiplying 50% of the qualified consumption of

electricity times the difference between the projected cost of electricity and the guaranteed cost of electricity.

(2) If the credit allowed under this section exceeds the tax liability of the qualified taxpayer for the tax year, the qualified taxpayer may elect to have that portion that exceeds the tax liability of the qualified taxpayer refunded or to have the excess carried forward to offset the tax liability in subsequent years for 10 years or until used up, whichever occurs first.

(3) As used in this section, "qualified consumption of electricity" means up to 1,445,400 megawatt hours of electricity consumed during the tax year at a facility described by an agreement entered into under section 432.

History: Add. 2008, Act 266, Imd. Eff. Aug. 6, 2008.

Popular name: MBT

***** 208.1432d THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1432d For 2023 tax year; tax credit; electricity; "qualified consumption of electricity" defined.

Sec. 432d. (1) For the 2023 tax year, a qualified taxpayer that has received a certificate under section 432 may claim a credit equal to the product obtained by multiplying 25% of the qualified consumption of electricity times the difference between the projected cost of electricity and the guaranteed cost of electricity.

(2) If the credit allowed under this section exceeds the tax liability of the qualified taxpayer for the tax year, the qualified taxpayer may elect to have that portion that exceeds the tax liability of the qualified taxpayer refunded or to have the excess carried forward to offset the tax liability in subsequent years for 10 years or until used up, whichever occurs first.

(3) As used in this section, "qualified consumption of electricity" means up to 1,445,400 megawatt hours of electricity consumed during the tax year at a facility described by an agreement entered into under section 432.

History: Add. 2008, Act 264, Imd. Eff. Aug. 6, 2008.

Popular name: MBT

***** 208.1433 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1433 Business located in renaissance zone; tax credit; tax liability attributable to illegal activity; duration of credit; refund; employment or compensation to state employee member of state administrative board or renaissance zone review board prohibited; filing of annual return; "taxpayer" defined; business activity related to casino; definitions.

Sec. 433. (1) A taxpayer that is a business located and conducting business activity within a renaissance zone may claim a credit against the tax imposed by this act for the tax year to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, as follows:

(a) Except as otherwise provided under subdivision (b), for a taxpayer located and conducting business activity in a renaissance zone after November 30, 2002, a credit equal to the lesser of the following:

(i) The tax liability attributable to business activity conducted within a renaissance zone in the tax year.

(ii) Ten percent of adjusted services performed in a designated renaissance zone.

(b) For a taxpayer located and conducting business activity in a renaissance zone before December 1, 2002, a credit equal to the greater of the following:

(i) The amount calculated under subdivision (a)(i) or (ii), whichever is less.

(ii) The product of the following:

(A) The credit claimed under section 39b of former 1975 PA 228 for the tax year ending in 2007.

(B) The ratio of the taxpayer's payroll in this state in the tax year divided by the taxpayer's payroll in this state in its tax year ending in 2007 under former 1975 PA 228.

(C) The ratio of the taxpayer's renaissance zone business activity factor for the tax year divided by the taxpayer's renaissance zone business activity factor for its tax year ending in 2007 under section 39b of former 1975 PA 228.

(2) Any portion of the taxpayer's tax liability that is attributable to illegal activity conducted in the renaissance zone shall not be used to calculate a credit under this section.

(3) The credit allowed under this section continues through the tax year in which the renaissance zone designation expires.

(4) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(5) A taxpayer that claims a credit under this section shall not employ, pay a speaker fee to, or provide any remuneration, compensation, or consideration to any person employed by the state, the state administrative board created in 1921 PA 2, MCL 17.1 to 17.3, or the renaissance zone review board created in section 5 of the renaissance zone act, 1996 PA 376, MCL 125.2685, whose employment relates or related in any way to the authorization or enforcement of the credit allowed under this section for any year in which the taxpayer claims a credit under this section and for the 3 years after the last year that a credit is claimed.

(6) To be eligible for the credit allowed under this section, an otherwise qualified taxpayer shall file an annual return under this act in a format determined by the department.

(7) Any portion of the taxpayer's tax liability that is attributable to business activity related to the operation of a casino, and business activity that is associated or affiliated with the operation of a casino, including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used to calculate a credit under this section.

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

(9) As used in this section:

(a) "Adjusted services performed in a designated renaissance zone" means either of the following:

(i) Except as provided in subparagraph (ii), the sum of the taxpayer's payroll for services performed in a designated renaissance zone plus an amount equal to the amount deducted in arriving at federal taxable income for the tax year for depreciation, amortization, or immediate or accelerated write-off for tangible property exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, in the tax year or, for new property, in the immediately following tax year.

(ii) For a partnership, limited liability company, S corporation, or individual, the amount determined under subparagraph (i) plus the product of the following as related to the taxpayer if greater than zero:

(A) Business income.

(B) The ratio of the taxpayer's total sales in this state during the tax year divided by the taxpayer's total sales everywhere during the tax year.

(C) The renaissance zone business activity factor.

(b) "Casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(c) "New property" means property that has not been subject to, or exempt from, the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, and has not been subject to, or exempt from, ad valorem property taxes levied in another state, except that receiving an exemption as inventory property does not disqualify property.

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

(e) "Renaissance zone" means that term as defined in the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(f) "Renaissance zone business activity factor" means a fraction, the numerator of which is the ratio of the average value of the taxpayer's property located in a designated renaissance zone to the average value of the taxpayer's property in this state plus the ratio of the taxpayer's payroll for services performed in a designated renaissance zone to all of the taxpayer's payroll in this state and the denominator of which is 2.

(g) "Tax liability attributable to business activity conducted within a renaissance zone" means the taxpayer's tax liability multiplied by the renaissance zone business activity factor.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 215, Eff. Jan. 1, 2008;—Am. 2014, Act 282, Imd. Eff. Sept. 12, 2014.

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."

Enacting section 1 of Act 282 of 2014 provides:

"Enacting section 1. 1969 PA 343, MCL 205.581 to 205.589, is repealed retroactively and effective beginning January 1, 2008. It is the intent of the legislature that the repeal of 1969 PA 343, MCL 205.581 to 205.589, is to express the original intent of the legislature regarding the application of section 301 of the Michigan business tax act, 2007 PA 36, MCL 208.1301, and the intended effect of that section to eliminate the election provision included within section 1 of 1969 PA 343, MCL 205.581, and that the 2011 amendatory act that amended section 1 of 1969 PA 343, MCL 205.581, was to further express the original intent of the legislature regarding the application of section 301 of the Michigan business tax act, 2007 PA 36, MCL 208.1301, and to clarify that the election provision included within section 1 of 1969 PA 343, MCL 205.581, is not available under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713."

Enacting section 2 of Act 282 of 2014 provides:

"Enacting section 2. This amendatory act is retroactive and is effective for tax years beginning on and after January 1, 2010."

Popular name: MBT

***** 208.1434 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1434 Tax credits or voucher certificates to stimulate domestic commercialization and affordability of high-power energy batteries; authority for Michigan economic growth authority to enter agreements; limitations; allowable credit; review board; specifications; issuance of certificate to taxpayer; definitions.

Sec. 434. (1) The Michigan economic growth authority is authorized to enter into agreements to provide tax credits or voucher certificates available under this section to stimulate the domestic commercialization and affordability of high-power energy batteries, the lack of which today is limiting hybrid, plug-in hybrid battery-electric, and fuel cell vehicle applications, and to help insure that job growth from battery technology and commercial production develops alongside advanced vehicle technology development and renewable power generation initiatives both within and outside the transportation sector.

(2) Subject to the limitations provided under this section, for tax years that begin on or after January 1, 2010 and end before January 1, 2015, a taxpayer that has entered into an agreement with the Michigan economic growth authority that provides that the taxpayer will manufacture plug-in traction battery packs in this state may claim a credit against the tax imposed by this act for the manufacture of those plug-in traction battery packs as provided in this section. The Michigan economic growth authority may enter into more than 1 agreement under this section. However, the total number of plug-in traction battery packs eligible for all credits under all agreements allowed under this section shall not exceed the number of plug-in traction battery packs eligible for a credit as provided in this section and at least 1 agreement shall make capital investments of not less than \$200,000,000.00 not later than December 31, 2012. A taxpayer shall not claim a credit under this section for more than 3 years. The total of all credits allowed under this section shall be as follows:

(a) For tax years beginning after December 31, 2010 and ending before January 1, 2012, \$500.00 for an equivalent of 4 kilowatt hours of battery capacity plus \$125.00 for each kilowatt hour of battery capacity in excess of 4 kilowatt hours of battery capacity not to exceed \$2,000.00 for each plug-in traction battery pack. The total number of traction battery packs shall not exceed 20,000 plug-in traction battery pack units under this subdivision, and the total amount of credits allowed under this subdivision shall not exceed \$40,000,000.00.

(b) For tax years beginning after December 31, 2011 and ending before January 1, 2013, \$375.00 for an equivalent of 4 kilowatt hours of battery capacity plus \$93.75 for each kilowatt hour of battery capacity in excess of 4 kilowatt hours of battery capacity not to exceed \$1,500.00 for each plug-in traction battery pack. The total number of traction battery packs shall not exceed 40,000 plug-in traction battery pack units under this subdivision, and the total amount of credits allowed under this subdivision shall not exceed \$43,000,000.00. A single taxpayer shall not claim a credit for more than 25,000 plug-in traction battery pack units under this subdivision. The number of battery pack units not used for credits under subdivision (a) may be added to the total number of battery pack units for which a credit is available under this subdivision, and the credits for those units shall be calculated as described in subdivision (a) and shall be in addition to the maximums allowed for any 1 taxpayer under this subdivision or the total limits allowed under this subdivision.

(c) For tax years beginning after December 31, 2012 and ending before January 1, 2014, \$375.00 for an equivalent of 4 kilowatt hours of battery capacity plus \$93.75 for each kilowatt hour of battery capacity in excess of 4 kilowatt hours not to exceed \$1,500.00 for each plug-in traction battery pack. The total number of traction battery packs shall not exceed 40,000 plug-in traction battery pack units under this subdivision, and the total amount of credits allowed under this subdivision shall not exceed \$43,000,000.00. A single taxpayer shall not claim a credit for more than 25,000 plug-in traction battery pack units under this subdivision.

(d) For tax years beginning after December 31, 2013 and ending before January 1, 2015, \$375.00 for an equivalent of 4 kilowatt hours of battery capacity plus \$93.75 for each kilowatt hour of battery capacity in excess of 4 kilowatt hours not to exceed \$1,500.00 for each plug-in traction battery pack. The total number of traction battery packs shall not exceed 25,000 plug-in traction battery pack units under this subdivision, and the total amount of credits allowed under this subdivision shall not exceed \$9,000,000.00.

(3) For tax years that begin on or after January 1, 2012 and subject to the limitations of this subsection, a taxpayer may claim a credit of up to 75% of the qualified expenses for vehicle engineering in this state to support battery integration, prototyping, and launch expenses incurred for tax years that begin on or after January 1, 2009 and end before January 1, 2014. This credit shall not exceed \$15,000,000.00 per year as agreed to and certified by the Michigan economic growth authority. Any expenses for which a credit is claimed under this subsection shall not be included in costs and expenses used for credits available under sections 403 and 405. The Michigan economic growth authority may not authorize more than

\$135,000,000.00 in total credits to all taxpayers under this subsection. To claim the credit under this subsection, a taxpayer must manufacture a cumulative total of at least 1,000 motor vehicles that would qualify for the credit under section 30D of the internal revenue code and the credit shall be available to the taxpayer only for the following percentages of the total authorized annual expenses:

(a) In a tax year in which the taxpayer has manufactured a cumulative total of at least 1,000 motor vehicles and fewer than 2,000 motor vehicles that qualify for the credit under section 30D of the internal revenue code, 20%.

(b) In a tax year in which the taxpayer has manufactured a cumulative total of at least 2,000 motor vehicles but fewer than 3,000 motor vehicles that qualify for the credit under section 30D of the internal revenue code, 40%.

(c) In a tax year in which the taxpayer has manufactured a cumulative total of at least 3,000 motor vehicles but fewer than 4,000 motor vehicles that qualify for the credit under section 30D of the internal revenue code, 60%.

(d) In a tax year in which the taxpayer has manufactured a cumulative total of at least 4,000 motor vehicles but fewer than 5,000 motor vehicles that qualify for the credit under section 30D of the internal revenue code, 80%.

(e) In a tax year in which the taxpayer has manufactured a cumulative total of at least 5,000 motor vehicles that qualify for the credit under section 30D of the internal revenue code, 100%.

(4) For tax years that begin on or after January 1, 2012 and end before January 1, 2015, a taxpayer that has entered into an agreement with the Michigan economic growth authority that provides that the taxpayer will increase its engineering activities in this state for advanced automotive battery technologies may claim a credit under this subsection. A taxpayer's qualified advanced battery engineering expenses for advanced automotive battery technologies shall exceed those expenses for the taxpayer's 2008 fiscal year to qualify for the credit under this subsection. The Michigan economic growth authority may enter into not more than 1 agreement for advanced battery engineering credits, and the total value of credits available under this subsection is limited to \$30,000,000.00. The credits under this subsection shall be allowed as follows:

(a) Up to 75% of the total dollar amount of the qualified advanced battery engineering expenses of an authorized business incurred during tax years beginning on or after January 1, 2009 and ending before January 1, 2014. The taxpayer must submit to the Michigan economic growth authority an affidavit certifying the amount of qualified advanced battery engineering expenses for each year.

(b) Notwithstanding any other provision of this section, a taxpayer may claim no more than \$10,000,000.00 in credits under this subsection in any tax year.

(c) The credits available under this subsection shall not be allowed if the taxpayer claims credits under subsection (2) for battery pack assembly for the tax year. Notwithstanding this limitation, the credits available under this subsection are in addition to any other incentives which may be authorized under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, for other related or unrelated projects including the vehicle research and development expenses authorized under subsection (3). Any expenses for which a credit is claimed under this subsection shall not be included in costs and expenses used for credits available under sections 403 and 405.

(5) Except as otherwise provided under section 500(7), a taxpayer that has entered into an agreement with the Michigan economic growth authority may claim a credit equal to 50% of the capital investment expenses for any tax year for the construction of an integrative cell manufacturing facility that includes anode and cathode manufacturing and cell assembly if the taxpayer will create not less than 300 new jobs in this state. Not more than 5 agreements may be entered into under this section, and the maximum allowable credit under each agreement shall not exceed \$25,000,000.00 per year for no more than 4 years. No credit shall be claimed in a tax year beginning before 2012. However, tax credits may be based on expenses incurred in this state in prior years. The Michigan economic growth authority shall not adopt a resolution authorizing an agreement to provide credits under this subsection after March 31, 2010.

(6) Subject to the limitations under this subsection, a taxpayer that has entered into an agreement with the Michigan economic growth authority may claim a credit equal to 25% of the capital investment expenses for any tax year for the construction of a facility that will produce at least 1 or more of the following: batteries, battery components, storage systems, battery thermal and management components or systems, AC or DC power supplies, power electronics, battery formation and test equipment, or energy conversion devices including components related to such products of various sizes and capacities if the taxpayer agrees to create not fewer than 750 new jobs in this state. Not more than 1 agreement may be entered into under this subsection for a total credit of not more than \$50,000,000.00 over 4 years, and the maximum allowable credit under the agreement shall not exceed \$25,000,000.00 per year. No credit shall be claimed in a tax year beginning before 2012. The Michigan economic growth authority shall not adopt a resolution authorizing an

agreement to provide a credit under this subsection after June 30, 2012.

(7) Subject to the limitations under subsection (8), for tax years that begin on or after January 1, 2012 and end before January 1, 2017, a taxpayer that has entered into an agreement with the Michigan economic growth authority that provides that the taxpayer will manufacture advanced lithium ion battery packs in this state may claim a credit against the tax imposed by this act for the manufacture of those advanced lithium ion battery packs as follows:

(a) For a taxpayer that agrees to make capital investments in this state of not less than \$250,000,000.00, to create at least 1,000 new jobs that shall include jobs that are transferred to this state from a foreign country, and to manufacture not less than 225,000 advanced lithium ion battery packs in this state, a total credit of not more than \$26,000,000.00 per tax year for no more than 3 tax years. The Michigan economic growth authority shall not adopt a resolution authorizing an agreement under this subdivision after March 1, 2010.

(b) For a taxpayer that agrees to make capital investments in this state of not less than \$200,000,000.00 and to create at least 300 new jobs, a total credit of not more than \$42,000,000.00 over 4 consecutive tax years unless otherwise provided under subsection (10). Unless the Michigan economic growth authority determines that there are previously issued credits authorized under subsection (6) available or that there are credits available under subsection (7)(a) for additional credits under this subdivision, the Michigan economic growth authority shall not adopt a resolution authorizing an agreement under this subdivision after March 1, 2010.

(8) Any capital investments made, jobs created, or expenses incurred pursuant to an agreement entered for a credit under subsection (7) or (9) shall be in addition to any other capital investments, jobs, or expenses used for any other credit available under this section and shall not be included or used for a credit available under any subsection other than subsection (7) or (9), respectively. A taxpayer that claims a credit under subsection (7)(a) shall not claim an additional credit under subsection (7)(b). For purposes of subsection (7), "new job" means a full-time job created by a taxpayer related to its advanced lithium ion battery activities, including its battery pack assembly facility, a cell manufacturing facility, and a motor vehicle assembly facility at which the battery pack is installed in a motor vehicle, or related battery engineering, that is in excess of the number of active full-time jobs the taxpayer maintained in this state prior to the effective date of the amendatory act that added this subsection as determined by the Michigan economic growth authority.

(9) Subject to the limitations of this subsection, if the Michigan economic growth authority determines that there are previously issued credits authorized under subsection (6) available, then for tax years that begin on or after January 1, 2015 and end before January 1, 2017 a taxpayer may claim a credit of up to 75% of the costs incurred during each tax year that begins on or after January 1, 2013 and ends before January 1, 2016 to implement a sourcing program to utilize battery cells from a business that has entered into an agreement under subsection (5) for the construction of an integrative cell manufacturing facility. Costs eligible for the credit under this subsection shall include payments for battery pack and vehicle engineering and associated design or integration including prototyping, facility, equipment or component retooling, and vehicle regulatory certification and shall include costs such as direct labor, purchases of capital equipment at cost, expensed supplies, intellectual property licensing, services, and financing, as determined and certified by the Michigan economic growth authority. Any costs for which a credit is claimed under this subsection shall not be included in costs and expenses used for credits available under sections 403 and 405. The Michigan economic growth authority may enter into more than 1 agreement under this subsection. The Michigan economic growth authority shall not authorize more than an amount equal to 25% of the previously issued credits available under subsection (6) as determined under subsection (10) in total credits to all taxpayers under this subsection. A single taxpayer shall not claim a credit of more than \$12,500,000.00 per year for no more than 2 years. To claim the credit under this subsection, a taxpayer must manufacture at least 10,000 motor vehicles in each year a credit is claimed at a facility in this state at which some of the costs eligible for a credit under this subsection are or were incurred. An agreement entered into under this subsection shall contain a repayment provision that if the taxpayer relocates its battery pack assembly facility for which credits are taken under subsection (7) outside of this state during the term of the agreement or subsequently substantially fails to meet the requirements of the agreement, as determined by the Michigan economic growth authority, the taxpayer shall have its credit reduced or terminated or have a percentage of the amount previously claimed under this subsection added back to the tax liability of the taxpayer in the year that the taxpayer fails to comply with the agreement.

(10) If the Michigan economic growth authority determines that there are previously issued credits authorized under subsection (6) available, an amount equal to 25% of those previously issued credits may be used by the authority to enter into agreements for which a credit may be claimed under subsection (9) and an amount equal to 25% of those previously issued credits may be used by the authority to enter into additional agreements for which a credit may be claimed under subsection (7)(b). If the Michigan economic growth authority approves a total of less than \$78,000,000.00 in credits under subsection (7)(a), the Michigan

economic growth authority may use the difference between \$78,000,000.00 and the total amount of credits approved under subsection (7)(a) to approve additional credits under subsection (7)(b). As used in this subsection and subsections (7) and (9), "previously issued credits" means the total amount of credits authorized by the authority for a taxpayer under subsection (6) that meets all of the following:

(a) The taxpayer did not use any or a portion of the credits authorized under the written agreement under subsection (6).

(b) The authority determined at a meeting upon a vote of the majority of the members present that the credits previously authorized satisfy subdivision (a).

(11) The Michigan economic growth authority shall appoint a review board to advise it about decisions concerning credits under subsection (5). The review board shall be composed of not fewer than 2 independent scientists. Additional experts may be sought on an ad hoc basis to review business plans and addressable markets. In making its recommendations, the review board shall give preference to technologies presenting novel materials, manufacturing, and performance qualities. The review board shall also consider all of the following:

(a) Business activities related to advanced battery technology occurring exclusively in Michigan.

(b) Activities directly related to whole cell production, from materials to large format cells, in Michigan.

(c) Scalability of manufacturing processes that are established, are robust, and address strategic global automotive market requirements.

(12) Credits under this section shall be taken after nonrefundable credits available under this act. If a credit or the sum of credits allowed under this section exceeds the tax liability of the taxpayer for the tax year, the taxpayer may elect to have that portion that exceeds the tax liability of the taxpayer refunded or to have the excess carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first. Amounts carried forward shall not affect the maximum amount of credits that may be claimed in subsequent years.

(13) An agreement entered into for tax credits under this section shall specify all of the following:

(a) For credits provided under subsection (2), the number of plug-in traction battery packs eligible for a credit for each tax year covered by the period of the agreement and the maximum amount of the credit that may be claimed by the taxpayer in each tax year.

(b) If the taxpayer claims a credit under subsection (3), the qualified expenses for vehicle engineering, prototype, and launch costs and the annual and total dollar amount of the credits that may be claimed under subsection (3).

(c) If the taxpayer claims a credit under subsection (4), the total dollar amount of the credits that may be claimed under subsection (4).

(d) If a taxpayer claims a credit under subsection (5), all of the following:

(i) The location of the facility.

(ii) The estimated total cost of the facility.

(iii) The capital investment expenses that qualify for the credit under subsection (5).

(iv) The annual and total dollar amount of the credits that may be claimed under subsection (5).

(v) A repayment provision that if the taxpayer subsequently substantially fails to meet certain requirements of the agreement, as determined by the Michigan economic growth authority, the taxpayer may have its credit reduced or terminated or have a percentage of the amount previously claimed under subsection (5) added back to the tax liability of the taxpayer in the year that the taxpayer fails to comply with the agreement.

(e) If a taxpayer claims a credit under subsection (6), all of the following:

(i) The location of the facility.

(ii) The estimated total cost of the facility.

(iii) The capital investment expenses that qualify for the credit under subsection (6).

(iv) The annual and total dollar amount of the credits that may be claimed under subsection (6).

(v) The minimum number of new jobs to be created in this state each year to qualify for the credit under subsection (6).

(vi) A repayment provision that if the taxpayer subsequently substantially fails to meet certain requirements of the agreement, as determined by the Michigan economic growth authority, the taxpayer may have its credit reduced or terminated or have a percentage of the amount previously claimed under subsection (6) added back to the tax liability of the taxpayer in the year that the taxpayer fails to comply with the agreement.

(vii) A provision that, if the taxpayer fails to create 750 new jobs, the taxpayer shall have its credit reduced by \$65,000.00 for each job less than 750 that was not created and, if the taxpayer fails to create at least 500 new jobs, a provision regarding an additional clawback of any credit or benefit received pursuant to the agreement.

(f) If a taxpayer claims a credit under subsection (7), all of the following:

(i) A provision that the taxpayer agrees to make a good faith effort to utilize Michigan suppliers and vendors when purchasing components and services related to the production of advanced lithium ion battery packs for which a credit is claimed in the 2012, 2013, and 2014 tax years. For a credit during the 2015 and 2016 tax years, a provision that the taxpayer shall utilize cells from a business that has entered into an agreement under subsection (5) for the construction of an integrative cell manufacturing facility.

(ii) A repayment provision that if the taxpayer relocates its advanced lithium ion battery pack assembly facility that produces the battery pack units for which the credit is claimed under subsection (7) outside of this state during the term of the agreement or subsequently fails to meet the capital investment or new jobs requirements of the agreement entered into for a credit under subsection (7), as determined by the Michigan economic growth authority, the taxpayer shall have a percentage of the amount previously claimed under subsection (7) added back to the tax liability of the taxpayer in the year that the taxpayer fails to comply with the agreement entered into for a credit under subsection (7) and shall have its credit terminated or reduced prospectively.

(iii) The minimum number of advanced lithium ion battery packs to be manufactured to be eligible for a credit for each tax year covered by the period of the agreement and the maximum amount of the credit that may be claimed by the taxpayer in each tax year.

(iv) The capital investment that qualifies for the credit under subsection (7).

(v) The minimum number of new jobs to be created in this state to qualify for the credit under subsection (7).

(14) A 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. The certificate required under this subsection shall state all of the following:

(a) The taxpayer is located in this state and engaged in activity that qualifies for the credit under this section.

(b) The taxpayer's federal employer identification number or the Michigan department of treasury number assigned to the taxpayer and, for a taxpayer that is a unitary business group, the federal employer identification number or Michigan department of treasury number assigned to the member of the group engaged in this state in activity that qualifies for a credit under this section.

(c) If applicable, the number of plug-in traction battery pack units or advanced lithium ion battery pack units manufactured by the taxpayer during the designated tax year and the amount of the credit under this section for which the taxpayer is allowed to claim for the designated tax year.

(d) For credits available under subsections (3), (4), (5), (6), (7), and (9), the amount of the credit available for the tax year and such other information as may be required by the department.

(15) For project agreements created under subsection (6) before July 1, 2012 and for project agreements amended after December 1, 2011 but before July 1, 2012 under subsection (5), the Michigan strategic fund shall report to the chair and minority vice-chair of the house and senate subcommittees on general government, the house commerce committee, and the senate economic development committee annually beginning January 1, 2014 and every January 1 thereafter, and ending with a final report on January 1, 2020. The report shall detail each of the projects individually and shall separately list direct jobs created, direct revenue created, indirect jobs created, and indirect revenue created for each of those projects.

(16) As used in this section:

(a) "Advanced automotive battery technology" means a rechargeable lithium battery that supports vehicle propulsion or other advanced technologies as may be further defined by the Michigan economic growth authority.

(b) "Advanced lithium ion battery pack" means an assembled unit of battery cells containing rechargeable lithium ion chemistry designed and mass-produced for the purpose of transportation, including defense and commercial applications.

(c) "Battery cell" means the basic electrochemical unit that provides a source of electrical energy by direct conversion of chemical energy and consists of an assembly of electrodes, separators, electrolyte, container, and terminals.

(d) "Capital investment" means expenses incurred during the tax year and included in an agreement under this section that are associated with facilities, equipment, tooling and engineering, and manufacturing, including salaries, contract services, taxes, utilities, raw materials, and supplies.

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

(f) "Plug-in traction battery pack" means an electrochemical energy storage device that meets the following

requirements:

- (i) Has a traction battery capacity of not less than 4.0 kilowatt hours.
- (ii) Is equipped with an electrical plug by means of which it can be energized and recharged when plugged into an external source of power.
- (iii) Consists of standardized configuration and is mass-produced.
- (iv) Has been tested and approved by the national highway transportation safety administration as compliant with applicable motor vehicle and motor vehicle equipment safety standards when installed by a mechanic with standardized training in protocols established by the manufacturer as part of a nationwide distribution program.
- (v) Is installed in a new qualified plug-in electric drive motor vehicle that qualifies for the credit under section 30D of the internal revenue code.
- (g) "Qualified advanced battery engineering expenses" means that part of a taxpayer's qualified research expenses as defined under section 41(b) of the internal revenue code related to engineering research and development related to advanced automotive battery technology.
- (h) "Qualified expenses for vehicle engineering" means that part of a taxpayer's expenses for activities within this state related to integrating batteries into a motor vehicle that would qualify for the credit under section 30D of the internal revenue code including such qualified research expenses as defined under section 41(b) of the internal revenue code.
- (i) "Traction battery capacity" is the number of kilowatt hours measured from a 100% state of charge to a 0% state of charge.

History: Add. 2008, Act 580, Imd. Eff. Jan. 16, 2009;—Am. 2009, Act 5, Imd. Eff. Apr. 6, 2009;—Am. 2009, Act 6, Imd. Eff. Apr. 6, 2009;—Am. 2009, Act 26, Imd. Eff. May 12, 2009;—Am. 2009, Act 110, Imd. Eff. Oct. 6, 2009;—Am. 2009, Act 240, Imd. Eff. Jan. 8, 2010;—Am. 2010, Act 114, Imd. Eff. July 13, 2010;—Am. 2011, Act 292, Eff. Jan. 1, 2012.

Compiler's note: Enacting section 1 of Act 39 of 2011 provides:

"Enacting section 1. The Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, is repealed effective on the date that the secretary of state receives a written notice from the department of treasury that the last certificated credit or any carryforward from that certificated credit has been claimed."

Enacting section 2 of Act 292 of 2011 provides:

"Enacting section 2. It is the intent of the legislature that the \$75,000,000.00 savings realized in reduced credits allowed under section 434(5) and (6) of the Michigan business tax act, 2007 PA 36, MCL 208.1434, as a result of this amendatory act shall be passed on and utilized to replace any revenue lost due to any personal property tax reform."

Popular name: MBT

***** 208.1435 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1435 Rehabilitation of historic resource; tax credit; definitions.

Sec. 435. (1) A qualified taxpayer with a rehabilitation plan certified after December 31, 2007 or a qualified taxpayer that has a rehabilitation plan certified before January 1, 2008 under section 39c of former 1975 PA 228 for the rehabilitation of an historic resource for which a certification of completed rehabilitation has been issued after the end of the taxpayer's last tax year may credit against the tax imposed by this act the amount determined pursuant to subsection (2) for the qualified expenditures for the rehabilitation of an historic resource pursuant to the rehabilitation plan in the year in which the certification of completed rehabilitation of the historic resource is issued. Only those expenditures that are paid or incurred during the time periods prescribed for the credit under section 47(a)(2) of the internal revenue code and any related treasury regulations shall be considered qualified expenditures.

(2) The credit allowed under this subsection shall be 25% of the qualified expenditures that are eligible, or would have been eligible except that the taxpayer entered into an agreement under subsection (13), for the credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, 25% of the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to an historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, subject to both of the following:

(a) A taxpayer with qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code may not claim a credit under this section for those qualified expenditures unless the taxpayer has claimed and received a credit for those qualified expenditures under section 47(a)(2) of the internal revenue code or the taxpayer has entered into an agreement under subsection (13).

(b) A credit under this subsection shall be reduced by the amount of a credit received by the taxpayer for the same qualified expenditures under section 47(a)(2) of the internal revenue code.

(3) To be eligible for the credit under subsection (2), the taxpayer shall apply to and receive from the Michigan state housing development authority that the historic significance, the rehabilitation plan, and the completed rehabilitation of the historic resource meet the criteria under subsection (6) and either of the following:

(a) All of the following criteria:

(i) The historic resource contributes to the significance of the historic district in which it is located.

(ii) Both the rehabilitation plan and completed rehabilitation of the historic resource meet the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR part 67.

(iii) All rehabilitation work has been done to or within the walls, boundaries, or structures of the historic resource or to historic resources located within the property boundaries of the property.

(b) The taxpayer has received certification from the national park service that the historic resource's significance, the rehabilitation plan, and the completed rehabilitation qualify for the credit allowed under section 47(a)(2) of the internal revenue code.

(4) If a qualified taxpayer is eligible for the credit allowed under section 47(a)(2) of the internal revenue code, the qualified taxpayer shall file for certification with the authority to qualify for the credit allowed under section 47(a)(2) of the internal revenue code. If the qualified taxpayer has previously filed for certification with the authority to qualify for the credit allowed under section 47(a)(2) of the internal revenue code, additional filing for the credit allowed under this section is not required.

(5) The authority may inspect an historic resource at any time during the rehabilitation process and may revoke certification of completed rehabilitation if the rehabilitation was not undertaken as represented in the rehabilitation plan or if unapproved alterations to the completed rehabilitation are made during the 5 years after the tax year in which the credit was claimed. The authority shall promptly notify the department of a revocation.

(6) Qualified expenditures for the rehabilitation of an historic resource may be used to calculate the credit under this section if the historic resource meets 1 of the criteria listed in subdivision (a) and 1 of the criteria listed in subdivision (b):

(a) The resource is 1 of the following during the tax year in which a credit under this section is claimed for those qualified expenditures:

(i) Individually listed on the national register of historic places or state register of historic sites.

(ii) A contributing resource located within an historic district listed on the national register of historic places or the state register of historic sites.

(iii) A contributing resource located within an historic district designated by a local unit pursuant to an ordinance adopted under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(b) The resource meets 1 of the following criteria during the tax year in which a credit under this section is claimed for those qualified expenditures:

(i) The historic resource is located in a designated historic district in a local unit of government with an existing ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(ii) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and has a population of less than 5,000.

(iii) The historic resource is located in an unincorporated local unit of government.

(iv) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is located within the boundaries of an association that has been chartered under 1889 PA 39, MCL 455.51 to 455.72.

(v) The historic resource is subject to a historic preservation easement.

(7) For projects for which a certificate of completed rehabilitation is issued for a tax year beginning before January 1, 2009, if a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or any portion of a credit allowed under this section to its partners, members, or shareholders, based on the partner's, member's, or shareholder's proportionate share of ownership or based on an alternative method approved by the department. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned to the partner, member, or shareholder under this subsection. A credit amount assigned under this subsection may be claimed against the partner's, member's, or shareholder's tax liability under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. A credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer and assignees shall

attach a copy of the completed assignment form to the department in the tax year in which the assignment is made and attach a copy of the completed assignment form to the annual return required to be filed under this act for that tax year.

(8) For projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2008, a qualified taxpayer may assign all or any portion of the credit allowed under this section. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completed rehabilitation is issued pursuant to this section. An assignee may subsequently assign the credit or any portion of the credit assigned under this subsection to 1 or more assignees. An assignment or subsequent reassignment of a credit can be made in the year the certificate of completed rehabilitation is issued. A credit assignment or subsequent reassignment under this section shall be made on a form prescribed by the department. The department or its designee shall review and issue a completed assignment or reassignment certificate to the assignee or reassignee. A credit amount assigned under this subsection may be claimed against the assignees' tax under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. An assignee or subsequent reassignee shall attach a copy of the completed assignment certificate to the annual return required to be filed under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, for the tax year in which the assignment or reassignment is made and the assignee or reassignee first claims the credit, which shall be the same tax year.

(9) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first. If a qualified taxpayer has an unused carryforward of a credit under this section, the amount otherwise added under subsection (10), (11), or (12) to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under this section. An unused carryforward of a credit under section 39c of former 1975 PA 228 that was unused at the end of the last tax year for which former 1975 PA 228 was in effect may be claimed against the tax imposed under this act for the years the carryforward would have been available under section 39c of former 1975 PA 228. For projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2008 and for which the credit amount allowed is less than \$250,000.00, a qualified taxpayer may elect to forgo the carryover period and receive a refund of the amount of the credit that exceeds the qualified taxpayer's tax liability. The amount of the refund shall be equal to 90% of the amount of the credit that exceeds the qualified taxpayer's tax liability. An election under this subsection shall be made in the year that a certificate of completed rehabilitation is issued and shall be irrevocable.

(10) For tax years beginning before January 1, 2009, if the taxpayer sells an historic resource for which a credit was claimed under this section or under section 39c of former 1975 PA 228 less than 5 years after the year in which the credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the sale:

- (a) If the sale is less than 1 year after the year in which the credit was claimed, 100%.
- (b) If the sale is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.
- (c) If the sale is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.
- (d) If the sale is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.
- (e) If the sale is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.
- (f) If the sale is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(11) For tax years beginning before January 1, 2009, if a certification of completed rehabilitation is revoked under subsection (5) less than 5 years after the year in which a credit was claimed under this section or under section 39c of former 1975 PA 228, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the revocation:

- (a) If the revocation is less than 1 year after the year in which the credit was claimed, 100%.
- (b) If the revocation is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.
- (c) If the revocation is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.
- (d) If the revocation is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.

(e) If the revocation is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.

(f) If the revocation is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(12) Except as otherwise provided under subsection (13), for tax years beginning after December 31, 2008, if a certificate of completed rehabilitation is revoked under subsection (5), a preapproval letter is revoked under subsection (23)(b), or an historic resource is sold or disposed of less than 5 years after the historic resource is placed in service as defined in section 47(b)(1) of the internal revenue code and related treasury regulations or if a certificate of completed rehabilitation issued after December 1, 2008 is revoked under subsection (5) during a tax year beginning after December 31, 2008, a preapproval letter issued after December 1, 2008 is revoked under subsection (23)(b) during a tax year beginning after December 31, 2008, or an historic resource is sold or disposed of less than 5 years after the historic resource is placed in service during a tax year beginning after December 31, 2008, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the qualified taxpayer that received the certificate of completed rehabilitation and not the assignee in the year of the revocation:

(a) If the revocation is less than 1 year after the historic resource is placed in service, 100%.

(b) If the revocation is at least 1 year but less than 2 years after the historic resource is placed in service, 80%.

(c) If the revocation is at least 2 years but less than 3 years after the historic resource is placed in service, 60%.

(d) If the revocation is at least 3 years but less than 4 years after the historic resource is placed in service, 40%.

(e) If the revocation is at least 4 years but less than 5 years after the historic resource is placed in service, 20%.

(f) If the revocation is at least 5 years or more after the historic resource is placed in service, an addback to the qualified taxpayer tax liability shall not be required.

(13) Subsection (12) shall not apply if the qualified taxpayer enters into a written agreement with the authority that will allow for the transfer or sale of the historic resource and provides the following:

(a) Reasonable assurance that subsequent to the transfer the property will remain a historic resource during the 5-year period after the historic resource is placed in service.

(b) A method that the department can recover an amount from the taxpayer equal to the appropriate percentage of credit added back as described under subsection (12).

(c) An encumbrance on the title to the historic resource being sold or transferred, stating that the property must remain a historic resource throughout the 5-year period after the historic resource is placed in service.

(d) A provision for the payment by the taxpayer of all legal and professional fees associated with the drafting, review, and recording of the written agreement required under this subsection.

(14) The authority may impose a fee to cover the administrative cost of implementing the program under this section.

(15) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return required under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, if applicable, on which the credit is claimed:

(a) Certification of completed rehabilitation.

(b) Certification of historic significance related to the historic resource and the qualified expenditures used to claim a credit under this section.

(c) A completed assignment form if the qualified taxpayer or assignee has assigned any portion of a credit allowed under this section or if the taxpayer is an assignee of any portion of a credit allowed under this section.

(16) The authority may promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(17) The total of the credits claimed under subsection (2) and section 266 of the income tax act of 1967, 1967 PA 281, MCL 206.266, for a rehabilitation project shall not exceed 25% of the total qualified expenditures eligible for the credit under subsection (2) for that rehabilitation project.

(18) The authority shall report all of the following to the legislature annually for the immediately preceding state fiscal year:

(a) The fee schedule used by the authority and the total amount of fees collected.

(b) A description of each rehabilitation project certified.

(c) The location of each new and ongoing rehabilitation project.

(19) In addition to the credit allowed under subsection (2) and subject to the criteria under this subsection and subsections (21), (22), and (23), for tax years that begin on and after January 1, 2009 a qualified taxpayer that has a preapproval letter issued on or before December 31, 2013 may claim an additional credit that has been approved under this subsection or subsection (20) against the tax imposed by this act equal to a percentage established in the taxpayer's preapproval letter of the qualified taxpayer's qualified expenditures for the rehabilitation of an historic resource or the actual amount of the qualified taxpayer's qualified expenditures incurred during the completion of the rehabilitation of an historic resource, whichever is less. The authority may approve 1 credit under this subsection for a qualified taxpayer that receives a certificate of completed rehabilitation for a credit under subsection (2) on or after January 1, 2009 and before November 15, 2009 notwithstanding that the qualified taxpayer has not received a preapproval letter for a credit under this subsection. The qualified taxpayer must apply for the additional credit under this subsection before January 1, 2010. If the additional credit approved under this subsection for a qualified taxpayer that has not received a preapproval letter on or before December 31, 2009 exceeds the allotted amount available for additional credits approved under this subsection in the calendar year ending December 31, 2009, then \$2,800,000.00 of the allotted amount available in the calendar year ending December 31, 2010 may be allocated to that 1 credit. The total amount of all additional credits approved under this subsection shall not exceed \$8,000,000.00 in calendar year ending December 31, 2009; \$9,000,000.00 in calendar year ending December 31, 2010; \$10,000,000.00 in calendar year ending December 31, 2011; \$11,000,000.00 in calendar year ending December 31, 2012; and \$12,000,000.00 in calendar year ending December 31, 2013 and, except as otherwise provided under this subsection, at least, 25% of the allotted amount for additional credits approved under this subsection during each calendar year shall be allocated to rehabilitation plans that have \$1,000,000.00 or less in qualified expenditures. On October 1 of each calendar year, if the total of all credits approved under subdivision (a) for the calendar year is less than the minimum allotted amount, the authority may use the remainder of that allotted amount to approve applications for additional credits submitted under subdivision (b) for that calendar year. To be eligible for the additional credit under this subsection, the taxpayer shall apply to and receive a preapproval letter and comply with the following:

(a) For a rehabilitation plan that has \$1,000,000.00 or less in qualified expenditures, the taxpayer shall apply to the authority for approval of the additional credit under this subsection. Subject to the limitation provided under this subsection, the authority is authorized to approve an application under this subdivision and determine the percentage of at least 10% but not more than 15% of the taxpayer's qualified expenditures for which he or she may claim an additional credit. If the authority approves the application under this subdivision, then the authority shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the rehabilitation plan when it is complete and a certification of completed rehabilitation is issued.

(b) For a rehabilitation plan that has more than \$1,000,000.00 in qualified expenditures, the taxpayer shall apply to the authority for approval of the additional credit under this subsection. The authority, subject to the approval of the president of the Michigan strategic fund or his or her designee, is authorized to approve an application under this subdivision and determine the percentage of up to 15% of the taxpayer's qualified expenditures for which he or she may claim an additional credit. An application shall be approved or denied not more than 15 business days after the authority has reviewed the application, determined the percentage amount of the credit for that applicant, and submitted the same to the president of the Michigan strategic fund or his or her designee. If the president of the Michigan strategic fund or his or her designee does not approve or deny the application within 15 business days after the application is received from the authority, the application is considered approved and the credit awarded in the amount as determined by the authority. If the president of the Michigan strategic fund or his or her designee approves the application under this subdivision, the director of the authority shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the rehabilitation plan when it is complete and a certification of completed rehabilitation is issued.

(20) Except as otherwise provided under this subsection, the authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may approve 3 additional credits during the 2009 calendar year of up to 15% of the qualified taxpayer's qualified expenditures, and 2 additional credits during the 2010, 2011, 2012, and 2013 calendar years of up to 15% of the qualified taxpayer's qualified expenditures, for certain rehabilitation plans that the authority determines is a high community impact rehabilitation plan that will have a significantly greater historic, social, and economic impact than those plans described under subsection (19)(a) and (b). The authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may use 1 of the 2 additional credits available during the 2010 calendar year to approve an additional credit during the 2009 calendar year of up to 15% of the qualified

taxpayer's qualified expenditures and 1 of the 2 additional credits available during the 2011 calendar year to approve an additional credit during the 2010 calendar year of up to 15% of the qualified taxpayer's qualified expenditures. Subject to the limitations provided under subsection (21), for the 2011, 2012, and 2013 calendar years, of the additional credits available under this subsection the authority may use 1 of those credits to approve a combined rehabilitation plan that the authority determines would allow for the rehabilitation of several multiple historic resources within the same geographic district and would have a greater impact on the community than the approval of a plan for the rehabilitation of a single larger historic resource. To be eligible for the additional credit under this subsection, the taxpayer shall apply to and receive a preapproval letter from the authority. The authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may combine applications that are received for the rehabilitation of historic resources that are located within the same geographic district and that taken as a whole satisfy the additional requirements under subsection (28) and consider the approval of the combination of those applications as the approval of a single credit for a combined rehabilitation plan. An application shall be approved or denied not more than 15 business days after the authority has reviewed the application, determined the percentage amount of the credit for that applicant, and submitted the same to the president of the Michigan strategic fund and the state treasurer. If the president of the Michigan strategic fund and the state treasurer do not approve or deny the application within 15 business days after the application is received from the authority, the application is considered approved and the credit awarded in the amount as determined by the authority. If the president of the Michigan strategic fund and the state treasurer approve the application under this subsection, the authority shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the high community impact rehabilitation plan when it is complete and a certification of completed rehabilitation is issued. Before approving a credit under this subsection, the authority shall consider all of the following criteria to the extent reasonably applicable:

- (a) The importance of the historic resource to the community in which it is located.
- (b) If the rehabilitation of the historic resource will act as a catalyst for additional rehabilitation or revitalization of the community in which it is located.
- (c) The potential that the rehabilitation of the historic resource will have for creating or preserving jobs and employment in the community in which it is located.
- (d) Other social benefits the rehabilitation of the historic resource will bring to the community in which it is located.
- (e) The amount of local community and financial support for the rehabilitation of the historic resource.
- (f) The taxpayer's financial need of the additional credit.
- (g) Whether the taxpayer is eligible for the credit allowed under section 47(a)(2) of the internal revenue code.
- (h) Any other criteria that the authority, the president of the Michigan strategic fund, and the state treasurer consider appropriate for the determination of approval under this subsection.

(21) The maximum amount of credit that a taxpayer or an assignee may claim under subsection (20) during a tax year is \$3,000,000.00. If the amount of the credit approved in the taxpayer's certificate of completed renovation is greater than \$3,000,000.00 that portion that exceeds the cap shall be carried forward to offset tax liability in subsequent tax years until used up. The aggregate amount of credits approved under subsection (20) for a combined rehabilitation plan shall not exceed \$24,000,000.00. Except as otherwise provided in the preapproval letter, the amount of the credit allowed for a combined rehabilitation plan shall be applied pro rata to each of the qualified taxpayers that submitted an application under subsection (20) that was considered a part of a combined rehabilitation plan. The taxpayer's pro rata share shall be the total amount of the credit allowed multiplied by a fraction the numerator of which is the amount of investment made by the taxpayer for the rehabilitation of the taxpayer's historic resource during the tax year and the denominator of which is the sum of the investments made by all taxpayers for the rehabilitation of all historic resources included within the combined rehabilitation plan during the tax year.

(22) Before approving a credit, determining the amount of such credit, and issuing a preapproval letter for such credit under subsection (19) or before considering an amendment to the preapproval letter, the authority shall consider the following criteria to the extent reasonably applicable:

- (a) The importance of the historic resource to the community.
- (b) The physical condition of the historic resource.
- (c) The taxpayer's financial need of the additional credit.
- (d) The overall economic impact the renovation will have on the community.
- (e) Any other criteria that the authority and the president of the Michigan strategic fund, as applicable, consider appropriate for the determination of approval under subsection (19).

(23) The authority may at any time before a certification of completed rehabilitation is issued for a credit for which a preapproval letter was issued pursuant to subsection (19) do the following:

(a) Subject to the limitations and parameters under subsection (19), make amendments to the preapproval letter, which may include revising the amount of qualified expenditures for which the taxpayer may claim the additional credit under subsection (19).

(b) Revoke the preapproval letter if the authority determines that there has not been substantial progress toward completion of the rehabilitation plan or that the rehabilitation plan cannot be completed. The authority shall provide the qualified taxpayer with a notice of his or her intent to revoke the preapproval letter 45 days prior to the proposed date of revocation.

(24) If a preapproval letter is revoked under subsection (23)(b), the amount of the credit approved under that preapproval letter shall be added to the annual cap in the calendar year that the preapproval letter is revoked. After a certification of completed rehabilitation is issued for a rehabilitation plan approved under subsection (19), if the authority determines that the actual amount of the additional credit to be claimed by the taxpayer for the calendar year is less than the amount approved under the preapproval letter, the difference shall be added to the annual cap in the calendar year that the certification of completed rehabilitation is issued.

(25) Unless otherwise specifically provided under subsections (19) through (24), all other provisions under this section such as the recapture of credits, assignment of credits, and refundability of credits in excess of a qualified taxpayer's tax liability apply to the additional credits issued under subsections (19) and (20).

(26) In addition to meeting the criteria in subsection (20)(a) through (h), 3 of the credits available under subsection (20), including the credit used from the 2010 calendar year, and approved during the 2009 calendar year for a high community impact rehabilitation plan shall be for an application meeting 1 of the following criteria:

(a) All of the following:

(i) The historic resource must be at least 70 years old.

(ii) The historic resource must comprise at least 500,000 total square feet.

(iii) The historic resource must be located in a county with a population of more than 1,500,000.

(iv) The historic resource must be located in a city with an unemployment rate that is at least 2% higher than the current state average unemployment rate at the time of the application.

(b) All of the following:

(i) The historic resource must be at least 85 years old.

(ii) The historic resource must comprise at least 120,000 total square feet.

(iii) The historic resource must be located in a county with a population of more than 400,000 and less than 500,000.

(iv) The historic resource must be located in a city with a population of more than 100,000 and less than 125,000.

(v) The historic resource must be located in a city with an unemployment rate that is at least 2% higher than the current state average unemployment rate at the time of the application.

(c) All of the following:

(i) The historic resource must be at least 70 years old.

(ii) The historic resource must comprise at least 180,000 total square feet but not more than 250,000 square feet and must exceed 30 stories in height.

(iii) The historic resource must be located in a county with a population of more than 1,500,000.

(iv) The historic resource must be located in a city with an unemployment rate that is at least 2% higher than the current state average unemployment rate at the time of the application.

(v) The historic resource must be located in a historic district that contains a park bifurcated by an all-American road designated by the federal highway administration in a city with a population of more than 750,000.

(vi) The historic resource must have been included in a rehabilitation plan for which an application was submitted by the application deadline for consideration of an additional credit for the 2009 calendar year for a high community impact rehabilitation plan.

(27) In addition to meeting the criteria in subsection (20)(a) through (h), 1 of the credits available under subsection (20), including the credit used from the 2011 calendar year, and approved during the 2010 calendar year for a high community impact rehabilitation plan shall be for an application that meets all of the following criteria:

(a) The historic resource must be at least 85 years old.

(b) The historic resource must comprise at least 85,000 total square feet.

(c) The historic resource must be located in a county with a population of more than 500,000 but less than 600,000 according to the official 2000 federal decennial census.

(d) The historic resource must be located in a city with a population of more than 180,000 but less than 200,000 according to the official 2000 federal decennial census.

(e) The historic resource is or was formerly owned by the United States government or formerly housed agencies of the United States government, or both.

(f) The historic resource houses facilities operated in conjunction with a public university.

(28) In addition to meeting the criteria in subsection (20)(a) through (h), the credit available during the 2011, 2012, and 2013 calendar years and approved for a combined rehabilitation plan under subsection (20) shall be for applications that taken as a whole meet all of the following criteria:

(a) The geographic district in which the historic resources to be rehabilitated are located must not exceed 1 square mile.

(b) The historic resources to be rehabilitated combined must comprise more than 1,000,000 square feet.

(c) The historic resources to be rehabilitated combined must be redeveloped into residential, commercial, and retail establishments.

(d) The combined investment associated with the historic resources to be rehabilitated must be at least \$150,000,000.00.

(e) Each historic resource to be rehabilitated must be at least 50,000 square feet.

(f) The historic resources to be rehabilitated combined must be at least 80% vacant.

(29) For purposes of this section, taxpayer includes a person subject to the tax imposed under chapter 2A or 2B.

(30) Notwithstanding subsections (7) and (8), for projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2007 and ending before January 1, 2012, an assignment by a qualified taxpayer of all or any portion of a credit allowed under subsection (1), (19), or (20), made within the 12 months immediately succeeding the tax year in which the certificate of completed rehabilitation is issued, will qualify as an assignment under subsections (7) and (8).

(31) As used in this section:

(a) "Combined rehabilitation plan" means a rehabilitation plan for the rehabilitation of 1 or more historic resources that are located within the same geographic district.

(b) "Contributing resource" means an historic resource that contributes to the significance of the historic district in which it is located.

(c) "Historic district" means an area, or group of areas not necessarily having contiguous boundaries, that contains 1 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

(d) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within an historic district designated by the national register of historic places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, or that is individually listed on the state register of historic sites or national register of historic places, and includes all of the following:

(i) An owner-occupied personal residence or a historic resource located within the property boundaries of that personal residence.

(ii) An income-producing commercial, industrial, or residential resource or an historic resource located within the property boundaries of that resource.

(iii) A resource owned by a governmental body, nonprofit organization, or tax-exempt entity that is used primarily by a taxpayer lessee in a trade or business unrelated to the governmental body, nonprofit organization, or tax-exempt entity and that is subject to tax under this act.

(iv) A resource that is occupied or utilized by a governmental body, nonprofit organization, or tax-exempt entity pursuant to a long-term lease or lease with option to buy agreement.

(v) Any other resource that could benefit from rehabilitation.

(e) "Last tax year" means the taxpayer's tax year under former 1975 PA 228 that begins after December 31, 2006 and before January 1, 2008.

(f) "Local unit" means a county, city, village, or township.

(g) "Long-term lease" means a lease term of at least 27.5 years for a residential resource or at least 31.5 years for a nonresidential resource.

(h) "Michigan state housing development authority" or "authority" means the public body corporate and politic created by section 21 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1421.

(i) "Michigan strategic fund" means the Michigan strategic fund created under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(j) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made

landscaped area that provides a connective link or a buffer between other resources.

(k) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(l) "Preapproval letter" means a letter issued by the authority that indicates the date that the complete part 2 application was received and the amount of the credit allocated to the project based on the estimated rehabilitation cost included in the application.

(m) "Qualified expenditures" means capital expenditures that qualify, or would qualify except that the taxpayer entered into an agreement under subsection (13), for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to an historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code that were paid. Qualified expenditures do not include capital expenditures for nonhistoric additions to an historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.

(n) "Qualified taxpayer" means a person that either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource equal to or greater than 10% of the state equalized valuation of the property. If the historic resource to be rehabilitated is a portion of an historic or nonhistoric resource, the state equalized valuation of only that portion of the property shall be used for purposes of this subdivision. If the assessor for the local tax collecting unit in which the historic resource is located determines the state equalized valuation of that portion, that assessor's determination shall be used for purposes of this subdivision. If the assessor does not determine that state equalized valuation of that portion, qualified expenditures, for purposes of this subdivision, shall be equal to or greater than 5% of the appraised value as determined by a certified appraiser. If the historic resource to be rehabilitated does not have a state equalized valuation, qualified expenditures for purposes of this subdivision shall be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.

(o) "Rehabilitation plan" means a plan for the rehabilitation of an historic resource that meets the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitation of historic buildings under 36 CFR part 67.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 216, Eff. Jan. 1, 2008;—Am. 2008, Act 448, Imd. Eff. Jan. 9, 2009;—Am. 2009, Act 141, Eff. Dec. 31, 2007;—Am. 2009, Act 192, Imd. Eff. Dec. 22, 2009;—Am. 2010, Act 310, Imd. Eff. Dec. 17, 2010;—Am. 2012, Act 475, Imd. Eff. Dec. 27, 2012;—Am. 2012, Act 605, Imd. Eff. Jan. 9, 2013.

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."

For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Enacting section 1 of Act 141 of 2009 provides:

"Enacting section 1. This amendatory act is retroactive and is effective for tax years beginning after December 31, 2007."

Enacting section 1 of Act 39 of 2011 provides:

"Enacting section 1. The Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, is repealed effective on the date that the secretary of state receives a written notice from the department of treasury that the last certificated credit or any carryforward from that certificated credit has been claimed."

Enacting section 1 of Act 605 of 2012 provides:

"Enacting section 1. This amendatory act is curative and intended to clarify the original intent of 2007 PA 36 and shall be retroactively applied."

For transfer of powers and duties of the state historic preservation office relating to the identification, certification, and preservation of historical sites from the Michigan state housing development authority to the Michigan strategic fund, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

Popular name: MBT

***** 208.1437 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1437 Qualified taxpayer with unused credits or preapproval letter; taxpayer not receiving certificate of completion; tax credit; project \$2,000,000.00 or less; project more than \$2,000,000.00 but \$10,000,000.00 or less; project more than \$10,000,000.00; application to Michigan economic growth authority; functionally obsolete property; approval of projects; limitations; multiphase project; documentation of completed project; addition of personal property; credit assignment; designation as urban development area project; professional

sports stadiums; casinos; landfills; report; total credits; definitions.

Sec. 437. (1) Subject to the criteria under this section, a qualified taxpayer that has unused credits or has a preapproval letter issued after December 31, 2007 and before January 1, 2014, or a taxpayer that received a preapproval letter prior to January 1, 2008 under section 38g of former 1975 PA 228 and has not received a certificate of completion prior to the taxpayer's last tax year, provided that the project is completed not more than 5 years after the preapproval letter for the project is issued unless extended under subsection (9) or (34) or if it is a multiphase project not more than 10 years after the preapproval letter, as amended, if applicable, or as otherwise extended under subsection (10), for the project is issued, or an assignee under subsection (20), (21), or (22) may claim a credit that has been approved under section 38g of former 1975 PA 228 or under subsection (2), (3), or (4) against the tax imposed by this act equal to either of the following:

(a) For projects approved before April 8, 2008, if the total of all credits for a project is \$1,000,000.00 or less, 10% of the cost of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property provided that the project does not exceed the amount stated in the preapproval letter, as amended. For projects approved, or amended, on and after April 8, 2008, if the total of all eligible investments for a project are \$10,000,000.00 or less, up to 12.5% of the costs of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property or up to 15% of the costs of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property if the project is designated as an urban development area project by the Michigan economic growth authority to the extent that the project does not exceed the amount stated in the preapproval letter, as amended, or, until December 31, 2010, up to 20% of the costs of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property if the project is designated as an urban development area project by the Michigan economic growth authority. If eligible investment exceeds the amount of eligible investment in the preapproval letter, as amended, for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(b) For projects approved before April 8, 2008, if the total of all credits for a project is more than \$1,000,000.00 but \$30,000,000.00 or less and, except as provided in subsection (6)(b), the project is located in a qualified local governmental unit, a percentage as determined by the Michigan economic growth authority not to exceed 10% of the cost of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property. For projects approved, or amended, on and after April 8, 2008 and before January 1, 2010, if the total of all eligible investments for a project is more than \$10,000,000.00 but \$300,000,000.00 or less, up to 12.5% of the costs of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property that, except as provided in subsection (6)(b), is located in a qualified local governmental unit, up to 15% of the cost of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property if the project is designated as an urban development area project by the Michigan economic growth authority, or, until December 31, 2010, up to 20% of the costs of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property if the project is designated as an urban development area project by the Michigan economic growth authority. For projects approved, or amended, on and after January 1, 2010, if the total of all eligible investments for a project is more than \$10,000,000.00 but \$100,000,000.00 or less, up to 12.5% of the costs of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property that, except as provided in subsection (6)(b), is located in a qualified local governmental unit, up to 15% of the cost of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property if the project is designated as an urban development area project by the Michigan economic growth authority, or, until December 31, 2010, up to 20% of the costs of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property if the project is designated as an urban development area project by the Michigan economic growth authority. If eligible investment exceeds the amount of eligible investment in the preapproval letter, as amended, for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion except as authorized under subsection (34).

(2) If the cost of a project will be \$2,000,000.00 or less, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project. Subject to the limitation provided under subsection (31), the chairperson of the Michigan economic growth authority or his or her designee is authorized to approve an application or project under this subsection. Only the chairperson of the Michigan economic growth authority is authorized to deny an application or project under this subsection. A project

shall be approved or denied not more than 45 days after receipt of the application. If the chairperson of the Michigan economic growth authority or his or her designee does not approve or deny the application within 45 days after the application is received by the Michigan economic growth authority, the application is considered approved as written. If the chairperson of the Michigan economic growth authority or his or her designee approves a project under this subsection, the chairperson of the Michigan economic growth authority or his or her designee shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection for the same project or for another project. The Michigan economic growth authority shall develop and implement the use of the application form to be used for projects under this subsection.

(3) If the cost of a project will be for more than \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project. Subject to the limitation provided under subsection (31), the chairperson of the Michigan economic growth authority or his or her designee is authorized to approve an application or project under this subsection. Only the chairperson of the Michigan economic growth authority is authorized to deny an application or project under this subsection. A project shall be approved or denied not more than 45 days after receipt of the application. If the chairperson of the Michigan economic growth authority or his or her designee does not approve or deny an application within 45 days after the application is received by the Michigan economic growth authority, the application is considered approved as written. The criteria in subsection (7) shall be used when approving projects under this subsection. When approving projects under this subsection, priority shall be given to projects on a facility. The total of all credits for an approved project under this subsection shall not exceed the amounts authorized under subsection (1)(a). A taxpayer may apply under this subsection instead of subsection (4) for approval of a project that will be for more than \$10,000,000.00, but the total of all credits for that project shall not exceed the amounts authorized under subsection (1)(a). If the chairperson of the Michigan economic growth authority or his or her designee approves a project under this subsection, the chairperson of the Michigan economic growth authority or his or her designee shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (4) for the same project or for another project.

(4) If the cost of a project will be for more than \$10,000,000.00 and, except as provided in subsection (6)(b), the project is located in a qualified local governmental unit, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project. An application under this subsection shall state whether the project is a multiphase project. The Michigan economic growth authority shall approve or deny the project not more than 65 days after receipt of the application. A project under this subsection shall not be approved without the concurrence of the state treasurer. If the Michigan economic growth authority does not approve or deny the application within 65 days after it receives the application, the Michigan economic growth authority shall send the application to the state treasurer. The state treasurer shall approve or deny the application within 5 days after receipt of the application. If the state treasurer does not deny the application within 5 days after receipt of the application, the application is considered approved. The Michigan economic growth authority shall approve a limited number of projects under this subsection during each calendar year as provided in subsection (6). The Michigan economic growth authority shall use the criteria in subsection (7) when approving projects under this subsection, when determining the total amount of eligible investment, and when determining the percentage of eligible investment for the project to be used to calculate a credit. The total of all credits for an approved project under this subsection shall not exceed the amount designated in the preapproval letter, as amended, for that project. If the Michigan economic growth authority approves a project under this subsection, the Michigan economic growth authority shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the percentage of eligible investment for the project determined by the Michigan economic growth authority for purposes of subsection (1)(b); the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. The Michigan economic growth authority shall send a copy of the preapproval letter to the department. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (3) for

the same project or for another project.

(5) If the project is on property that is functionally obsolete, the taxpayer shall include with the application an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(6) The Michigan economic growth authority may approve not more than 20 projects each calendar year through December 31, 2009, not more than 19 projects for the 2010 calendar year, and, except as otherwise provided under subdivision (d), not more than 17 projects for each calendar year after December 31, 2010 under subsection (4), and the following limitations apply:

(a) Of the projects allowed under this subsection, the total of all credits for each project may be more than \$10,000,000.00 but \$30,000,000.00 or less for only 1 project before December 31, 2009.

(b) Of the projects allowed under this subsection, up to 3 projects may be approved for projects that are not in a qualified local governmental unit if the property is a facility for which eligible activities are identified in a brownfield plan or, for 1 of the 3 projects, if the property is not a facility but is functionally obsolete or blighted, property identified in a brownfield plan. For purposes of this subdivision, a facility includes a building or complex of buildings that was used by a state or federal agency and that is no longer being used for the purpose for which it was used by the state or federal agency.

(c) The project allowed under subdivision (a) may also qualify under subdivision (b).

(d) If the Michigan economic growth authority determines that there are previously issued credits authorized under section 434(6) available, the Michigan economic growth authority may approve 2 additional projects for each calendar year after December 31, 2010. As used in this subdivision, "previously issued credits" means the total amount of credits authorized by the Michigan economic growth authority for a taxpayer under section 434(6) that meets all of the following:

(i) The taxpayer did not use any or a portion of the credits authorized under the written agreement under section 434(6).

(ii) The authority determined at a meeting upon a vote of the majority of the members present that the credits previously authorized satisfy subparagraph (i).

(7) The Michigan economic growth authority shall review all applications for projects under subsection (4) and, if an application is approved, shall determine the maximum total of all credits for that project. Before approving a project for which the total of all credits will be more than \$10,000,000.00 but \$30,000,000.00 or less only, the Michigan economic growth authority shall determine that the project would not occur in this state without the tax credit offered under subsection (4). The Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (4), and the chairperson of the Michigan economic growth authority or his or her designee shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (2) or (3) or when considering an amendment to a project under subsection (9) or (34):

(a) The overall benefit to the public.

(b) The extent of reuse of vacant buildings and redevelopment of blighted property.

(c) Creation of jobs.

(d) Whether the eligible property is in an area of high unemployment.

(e) The level and extent of contamination alleviated by the qualified taxpayer's eligible activities to the extent known to the qualified taxpayer.

(f) The level of private sector contribution.

(g) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(h) If the qualified taxpayer is moving from another location in this state, whether the move will create a brownfield.

(i) Whether the project is financially and economically sound.

(j) Any other criteria that the Michigan economic growth authority or the chairperson of the Michigan economic growth authority, as applicable, considers appropriate for the determination of eligibility under subsection (3) or (4).

(8) A qualified taxpayer may apply for projects under this section for eligible investment on more than 1 eligible property in a tax year. Each project approved and each project for which a certificate of completion is issued under this section shall be for eligible investment on 1 eligible property.

(9) If, after a taxpayer's project has been approved and the taxpayer has received a preapproval letter but before the taxpayer has made an eligible investment, other than soft costs or as otherwise authorized under subsection (34), at the property, the taxpayer determines that the project cannot be completed as preapproved, the taxpayer may petition the Michigan economic growth authority to amend the project and the preapproval

letter to increase the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project. A taxpayer may petition the Michigan economic growth authority to make any other amendments to the project or preapproval letter at any time before a certificate of completion is issued. Except as otherwise authorized under subsection (34), amendments to the project or preapproval letter may include, but are not limited to, extending the duration of time provided to complete the project, as long as that extension does not exceed 10 years from the date of the preapproval letter or as otherwise extended under subsection (10). However, if a project was approved prior to December 31, 2008 for 20% of the qualified taxpayer's eligible investment and a total of less than \$2,000,000.00 for all credits for that project and that project has received a funding reservation for an allocation of the federal low-income housing tax credit administered by the Michigan state housing development authority of more than \$1,100,000.00, then that project may be amended to extend the duration of time provided to complete the project to the placed-in-service date of the carryover allocation agreement for the federal low-income housing tax credit.

(10) A project may be a multiphase project. If a project is a multiphase project, when each component of the multiphase project is completed, the taxpayer shall submit documentation that the component is complete, an accounting of the cost of the component, and the eligible investment for the component of each taxpayer eligible for a credit for the project of which the component is a part to the Michigan economic growth authority or the designee of the Michigan economic growth authority, who shall verify that the component is complete. When the completion of the component is verified, a component completion certificate shall be issued to the qualified taxpayer which shall state that the taxpayer is a qualified taxpayer, the credit amount for the component, the qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer, and the project number. The taxpayer may assign all or part of the credit for a multiphase project as provided in this section after a component completion certificate for a component is issued. The qualified taxpayer may transfer ownership of or lease the completed component and assign a proportionate share of the credit for the entire project to the qualified taxpayer that is the new owner or lessee. A multiphase project shall not be divided into more than 10 components. A component is considered to be completed when a temporary or final certificate of occupancy has been issued by the local municipality in which the project is located for all of the buildings or facilities that comprise the completed component and a component completion certificate is issued or the chairperson of the Michigan economic growth authority or his or her designee, for projects approved under subsection (2) or (3), or the Michigan economic growth authority, for projects approved under subsection (4), verifies that the component is complete. A credit assigned based on a multiphase project shall be claimed by the assignee in the tax year in which the assignment is made. The total of all credits for a multiphase project shall not exceed the amount stated in the preapproval letter, as amended, for the project under subsection (1). Except as otherwise provided under this subsection, if all components of a multiphase project are not completed by 10 years after the date on which the preapproval letter, as amended, if applicable, for the project was issued, the qualified taxpayer that received the preapproval letter for the project shall pay to the state treasurer, as a penalty, an amount equal to the sum of all credits claimed and assigned for all components of the multiphase project and no credits based on that multiphase project shall be claimed after that date by the qualified taxpayer or any assignee of the qualified taxpayer. A qualified taxpayer that was approved for a credit based on a multiphase project by Resolution 2010-219 adopted by the Michigan economic growth authority and issued a preapproval letter on June 10, 2011 has until December 31, 2026 to complete that project and claim the credit without penalty if quarterly reports are submitted as required under this subsection and that project is completed and the temporary or final certificates of occupancy, as applicable, have been issued by the local municipality in which the project is located for all of the buildings or facilities that comprise the completed component by December 31, 2026. A qualified taxpayer that was approved for a credit based on a multiphase project by Resolution 2010-219 and was issued a certificate of completion before December 31, 2021 is not subject to repayment to this state under this subsection. A qualified taxpayer that was approved for a credit based on a multiphase project by Resolution 2010-219 adopted by the Michigan economic growth authority and issued a preapproval letter on June 10, 2011, but has not been issued a certificate of completion by September 14, 2023, must provide a quarterly report to the Michigan strategic fund on the progress of that project, including, but not limited to, the expected completion date, the names of any contractors or subcontractors engaged on the project, and the percentage of the project completed as of the immediately preceding quarter. The penalty under this subsection is subject to interest on the amount of the credit claimed or assigned determined individually for each component at the rate in section 23(2) of 1941 PA 122, MCL 205.23, beginning on the date that the credit for that component was claimed or assigned. As used in this subsection, "proportionate share" means the same percentage of the total of all credits for the project that the qualified investment for the completed component is of the total qualified investment stated in the preapproval letter, as amended, for the

entire project.

(11) When a project under this section is completed, the taxpayer shall submit documentation that the project is completed, an accounting of the cost of the project, the eligible investment of each taxpayer if there is more than 1 taxpayer eligible for a credit for the project, and, if the taxpayer is not the owner or lessee of the eligible property on which the eligible investment was made at the time the project is completed, that the taxpayer was the owner or lessee of, or was a party to an agreement to purchase or lease, that eligible property when all eligible investment of the taxpayer was made. The chairperson of the Michigan economic growth authority or his or her designee, for projects approved under subsection (2) or (3), or the Michigan economic growth authority, for projects approved under subsection (4), shall verify that the project is completed. The Michigan economic growth authority shall conduct an on-site inspection as part of the verification process for projects approved under subsection (4). When the completion of the project is verified, a certificate of completion shall be issued to each qualified taxpayer that has made eligible investment on that eligible property. The certificate of completion shall state the total amount of all credits for the project and that total shall not exceed the maximum total of all credits listed in the preapproval letter for the project under subsection (2), (3), or (4) as applicable and as amended under subsection (9) or (34) and shall state all of the following:

- (a) That the taxpayer is a qualified taxpayer.
- (b) The total cost of the project and the eligible investment of each qualified taxpayer.
- (c) Each qualified taxpayer's credit amount.
- (d) The qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.
- (e) The project number.
- (f) For a project approved under subsection (4) for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less, the total of all credits and the schedule on which the annual credit amount shall be claimed by the qualified taxpayer.
- (g) For a multiphase project under subsection (10), the amount of each credit assigned and the amount of all credits claimed in each tax year before the year in which the project is completed.

(12) Except as otherwise provided in this section, qualified taxpayers shall claim credits under this section in the tax year in which the certificate of completion is issued. For a project approved under subsection (4) for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less, the qualified taxpayer shall claim 10% of its approved credit each year for 10 years. A credit assigned based on a multiphase project shall be claimed in the year in which the credit is assigned.

(13) The cost of eligible investment for leased machinery, equipment, or fixtures is the cost of that property had the property been purchased minus the lessor's estimate, made at the time the lease is entered into, of the market value the property will have at the end of the lease. A credit for property described in this subsection is allowed only if the cost of that property had the property been purchased and the lessor's estimate of the market value at the end of the lease are provided to the Michigan economic growth authority.

(14) Credits claimed by a lessee of eligible property are subject to the total of all credits limitation under this section.

(15) Each qualified taxpayer and assignee under subsection (20), (21), or (22) that claims a credit under this section shall attach a copy of the certificate of completion and, if the credit was assigned, a copy of the assignment form provided for under this section to the annual return filed under this act on which the credit under this section is claimed. An assignee of a credit based on a multiphase project shall attach a copy of the assignment form provided for under this section and the component completion certificate provided for in subsection (10) to the annual return filed under this act on which the credit is claimed but is not required to file a copy of a certificate of completion.

(16) Except as otherwise provided in this subsection or subsection (10), (18), (20), (21), or (22), a credit under this section shall be claimed in the tax year in which the certificate of completion is issued to the qualified taxpayer. For a project described in subsection (11)(f) for which a schedule for claiming annual credit amounts is designated on the certificate of completion by the Michigan economic growth authority, the annual credit amount shall be claimed in the tax year specified on the certificate of completion.

(17) Except as otherwise provided under this subsection, the credits approved under this section shall be calculated after application of all other credits allowed under this act. The credits under this section shall be calculated before the calculation of the credits under sections 413, 423, 431, and 450.

(18) Except as otherwise provided under this subsection, if the credit allowed under this section for the tax year and any unused carryforward of the credit allowed under this section exceed the qualified taxpayer's or assignee's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used

up, whichever occurs first. Except as otherwise provided in this subsection, the maximum time allowed under the carryforward provisions under this subsection begins with the tax year in which the certificate of completion is issued to the qualified taxpayer. If the qualified taxpayer assigns all or any portion of its credit approved under this section, the maximum time allowed under the carryforward provisions for an assignee begins to run with the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. The maximum time allowed under the carryforward provisions for an annual credit amount for a credit allowed under subsection (4) begins to run in the tax year for which the annual credit amount is designated on the certificate of completion issued under this section. A credit carryforward available under section 38g of former 1975 PA 228 that is unused at the end of the last tax year may be claimed against the tax imposed under this act for the years the carryforward would have been available under former 1975 PA 228. Beginning on and after April 8, 2008, if the credit allowed under this section for the tax year exceeds the qualified taxpayer's tax liability for the tax year, the qualified taxpayer may elect to have the excess refunded at a rate equal to 85% of that portion of the credit that exceeds the tax liability of the qualified taxpayer for the tax year and forgo the remaining 15% of the credit and any carryforward.

(19) If a project or credit under this section is for the addition of personal property, if the cost of that personal property is used to calculate a credit under this section, and if the personal property is disposed of or transferred from the eligible property to any other location, the qualified taxpayer that disposed of that property, or transferred the personal property shall add the same percentage as determined under subsection (1) of the federal basis of the personal property used for determining gain or loss as of the date of the disposition or transfer to the qualified taxpayer's tax liability under this act after application of all credits under this act for the tax year in which the disposition or transfer occurs. If a qualified taxpayer has an unused carryforward of a credit under this section, the amount otherwise added under this subsection to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under subsection (18).

(20) For credits under this section for projects for which a certificate of completion is issued before January 1, 2006 and except as otherwise provided in this subsection, if a qualified taxpayer pays or accrues eligible investment on or to an eligible property that is leased for a minimum term of 10 years or sold to another taxpayer for use in a business activity, the qualified taxpayer may assign all or a portion of the credit under this section based on that eligible investment to the lessee or purchaser of that eligible property. A credit assignment under this subsection shall only be made to a taxpayer that when the assignment is complete will be a qualified taxpayer. All credit assignments under this subsection are irrevocable and, except for a credit based on a multiphase project, shall be made in the tax year in which the certificate of completion is issued, unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. Except as otherwise provided in this subsection, if the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which the certificate of completion is issued or, for a credit assigned and claimed for a multiphase project before a certificate of completion is issued, the taxpayer shall claim the credit in the year in which the credit is assigned. If a qualified taxpayer assigns all or a portion of the credit and the eligible property is leased to more than 1 taxpayer, the qualified taxpayer shall determine the amount of credit assigned to each lessee. A lessee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. A purchaser may subsequently assign a credit or any portion of a credit assigned to the purchaser under this subsection to a lessee of the eligible property. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which the assignment is made. The assignee shall attach a copy of the completed assignment form to its annual return required to be filed under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than \$10,000,000.00 but \$30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(21) Except as otherwise provided in this subsection, for projects for which a certificate of completion is

issued before January 1, 2006, and except as otherwise provided in this subsection, if a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or a portion of a credit under this section to its partners, members, or shareholders, based on their proportionate share of ownership of the partnership, limited liability company, or subchapter S corporation or based on an alternative method approved by the Michigan economic growth authority. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. Except as otherwise provided in this subsection, if the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completion is issued or for a credit assigned and claimed for a multiphase project, before the component completion certificate is issued, the taxpayer shall claim the credit in the year in which the credit is assigned. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which the assignment is made. A partner, member, or shareholder who is an assignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. A credit assignment based on a credit for a component of a multiphase project that is completed before January 1, 2006 shall be made under this subsection. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than \$10,000,000.00 but \$30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(22) For projects approved under this section or section 38g of former 1975 PA 228 for which a certificate of completion is issued on and after January 1, 2006, a qualified taxpayer may assign all or a portion of a credit allowed under this section or section 38g(2), (3), or (33) of former 1975 PA 228 under this subsection. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completion is issued pursuant to this section or section 38g of former 1975 PA 228. An assignee may subsequently assign a credit or any portion of a credit assigned under this subsection to 1 or more assignees. The credit assignment or a subsequent reassignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The Michigan economic growth authority or its designee shall review and issue a completed assignment or reassignment certificate to the assignee or reassignee. An assignee or subsequent reassignee shall attach a copy of the completed assignment certificate to its annual return required under this act, for the tax year in which the assignment or reassignment is made and the assignee or reassignee first claims a credit, which shall be the same tax year. A credit assignment based on a credit for a component of a multiphase project that is completed before January 1, 2006 shall be made under section 38g(18) of former 1975 PA 228. A credit assignment based on a credit for a component of a multiphase project that is completed on or after January 1, 2006 may be made under this section. In addition to all other procedures and requirements under this section, the following apply if the total of all credits for a project is more than \$10,000,000.00 but \$30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee, and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(23) A qualified taxpayer or assignee under subsection (20), (21), or (22) shall not claim a credit under subsection (1)(a) or (b) based on eligible investment on which a credit claimed under section 38d of former

1975 PA 228 was based.

(24) When reviewing an application for a project for designation as an urban development area project, the Michigan economic growth authority for projects approved under subsection (4) or the chairperson of the Michigan economic growth authority or his or her designee for projects approved under subsections (2) and (3) shall consider all of the following criteria:

- (a) If the project increases the density of the area by promoting multistory development.
- (b) If the project promotes mixed-use development and walkable communities.
- (c) If the project promotes sustainable redevelopment.
- (d) If the project addresses areawide redevelopment and includes multiple parcels of property.
- (e) If the project addresses underserved markets of commerce.

(f) Any other criteria determined by the Michigan economic growth authority or the chairperson of the Michigan economic growth authority.

(25) An eligible taxpayer that claims a credit under this section is not prohibited from claiming a credit under section 431. However, the eligible taxpayer shall not claim a credit under this section and section 431 based on the same costs.

(26) Eligible investment attributable or related to the operation of a professional sports stadium, and eligible investment that is associated or affiliated with the operation of a professional sports stadium, including, but not limited to, the operation of a parking lot or retail store, shall not be used as a basis for a credit under this section. Professional sports stadium does not include a professional sports stadium that will no longer be used by a professional sports team on and after the date that an application related to that professional sports stadium is filed under this section.

(27) Eligible investment attributable or related to the operation of a casino, and eligible investment that is associated or affiliated with the operation of a casino, including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used as a basis for a credit under this section. As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.201 to 432.226.

(28) Eligible investment attributable or related to the construction of a new landfill or the expansion of an existing landfill regulated under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11587, shall not be used as a basis for a credit under this section.

(29) The Michigan economic growth authority annually shall prepare and submit to the house of representatives and senate committees responsible for tax policy and economic development issues a report on the credits under subsections (2), (3), and (4). The report shall include, but is not limited to, all of the following:

(a) A listing of the projects under subsections (2), (3), and (4) that were approved in the calendar year.

(b) The total amount of eligible investment for projects approved under subsections (2), (3), and (4) in the calendar year.

(30) For purposes of this section, taxpayer includes a person subject to the tax imposed under chapters 2A and 2B.

(31) For the 2008 calendar year, the total of all credits for all projects approved under subsection (2) or (3) shall not exceed \$63,000,000.00. For each calendar year after 2008, the total of all credits for all projects approved under subsection (2) or (3) shall not exceed \$40,000,000.00. If the Michigan economic growth authority approves a total of all credits for all projects under subsection (2) or (3) of less than \$40,000,000.00 in a calendar year, the Michigan economic growth authority may carry forward for 1 year only the difference between \$40,000,000.00 and the total of all credits for all projects under this subsection approved in the immediately preceding calendar year.

(32) As used in this section:

(a) "Annual credit amount" means the maximum amount that a qualified taxpayer is eligible to claim each tax year for a project for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less, as approved under subsection (4).

(b) "Authority" means a brownfield redevelopment authority created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670.

(c) "Blighted", "brownfield plan", "eligible activities", "facility", "functionally obsolete", "qualified local governmental unit", and "response activity" mean those terms as defined in the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670.

(d) "Eligible investment" or "eligible investments" means, when made after the approval date of the brownfield plan but in any event no earlier than 90 days prior to the date of the preapproval letter, any demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property and the addition of machinery, equipment, and fixtures to eligible property

after the date that eligible activities on that eligible property have started pursuant to a brownfield plan under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670, if the costs of the eligible investment are not otherwise reimbursed to the taxpayer or paid for on behalf of the taxpayer from any source other than the taxpayer. The addition of leased machinery, equipment, or fixtures to eligible property by a lessee of the machinery, equipment, or fixtures is eligible investment if the lease of the machinery, equipment, or fixtures has a minimum term of 10 years or is for the expected useful life of the machinery, equipment, or fixtures, and if the owner of the machinery, equipment, or fixtures is not the qualified taxpayer with regard to that machinery, equipment, or fixtures. For projects approved after April 8, 2008, eligible investment does not include certain soft costs of the eligible investment as determined by the Michigan economic growth authority, including, but not limited to, developer fees, appraisals, performance bonds, closing costs, bank fees, loan fees, risk contingencies, financing costs, permanent or construction period interest, legal expenses, leasing or sales commissions, marketing costs, professional fees, shared savings, taxes, title insurance, bank inspection fees, insurance, and project management fees. Notwithstanding the foregoing, eligible investment does include architectural, engineering, surveying, and similar professional fees.

(e) "Eligible property", except as otherwise provided under subsection (33), means property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, public, or residential purposes, including personal property located on the property, to the extent included in the brownfield plan, and that is 1 or more of the following:

(i) Is in a qualified local governmental unit and is a facility, functionally obsolete, or blighted and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property.

(ii) Is not in a qualified local governmental unit and is a facility, and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property.

(iii) Is tax reverted property owned or under the control of a land bank fast track authority.

(f) "Last tax year" means the taxpayer's tax year under former 1975 PA 228 that begins after December 31, 2006 and before January 1, 2008.

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

(h) "Multiphase project" means a project approved under this section that has more than 1 component, each of which can be completed separately.

(i) "Personal property" means that term as defined in section 8 of the general property tax act, 1893 PA 206, MCL 211.8, except that personal property does not include either of the following:

(i) Personal property described in section 8(h), (i), or (j) of the general property tax act, 1893 PA 206, MCL 211.8.

(ii) Buildings described in section 14(6) of the general property tax act, 1893 PA 206, MCL 211.14.

(j) "Project" means the total of all eligible investment on an eligible property or, for purposes of subsection (6)(b), 1 of the following:

(i) All eligible investment on property not in a qualified local governmental unit that is a facility.

(ii) All eligible investment on property that is not a facility but is functionally obsolete or blighted.

(k) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(l) "Qualified taxpayer" means a taxpayer that meets both of the following criteria:

(i) Owns, leases, or has entered into an agreement to purchase or lease eligible property.

(ii) Certifies that, except as otherwise provided in this subparagraph, the department of environment, Great Lakes, and energy has not sued or issued a unilateral order to the taxpayer pursuant to part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response activity on or to the eligible property, or expended any state funds for response activity on or to the eligible property and demanded reimbursement for those expenditures from the qualified taxpayer. However, if the taxpayer has completed all response activity required by part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, is in compliance with any deed restriction or administrative or judicial order related to the required response activity, and has reimbursed the state for all costs incurred by the state related to the required response activity, the taxpayer meets the criteria under this subparagraph.

(m) "Urban development area project" means a project located on eligible property in the downtown or traditional central business district of a qualified local governmental unit or county seat or along a traditional commercial corridor of a qualified local governmental unit or county seat as determined by the Michigan

economic growth authority or the chairperson of the Michigan economic growth authority or his or her designee.

(33) For purposes of subsection (2), eligible property means that term as defined under subsection (32)(e) except that all of the following apply:

(a) Eligible property means property identified under a brownfield plan that was used or is currently used for commercial, industrial, public, or residential purposes and that is 1 of the following:

(i) Property for which eligible activities are identified under the brownfield plan, is in a qualified local governmental unit, and is a facility, functionally obsolete, or blighted.

(ii) Property that is not in a qualified local governmental unit but is within a downtown district established under part 2 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4201 to 125.4230, and is functionally obsolete or blighted, and a component of the project on that eligible property is 1 or more of the following:

(A) Infrastructure improvements that directly benefit the eligible property.

(B) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(iii) Property for which eligible activities are identified under the brownfield plan, is not in a qualified local governmental unit, and is a facility.

(b) Eligible property includes parcels that are adjacent or contiguous to the eligible property if the development of the adjacent or contiguous parcels is estimated to increase the captured taxable value of the property or tax reverted property owned or under the control of a land bank fast track authority pursuant to the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

(c) Eligible property includes, to the extent included in the brownfield plan, personal property located on the eligible property.

(d) Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(34) For credits approved by Resolutions 2011-154 and 2011-155 adopted by the Michigan economic growth authority and subsequently amended by Resolutions 2019-046 and 2019-047 adopted by the Michigan economic growth authority, the taxpayer may allocate eligible investments made for 1 development area to the other development area to maximize the combined credits for both of the development areas as long as the sum of the credits for both development areas does not exceed the sum of the credits approved under Resolutions 2019-046 and 2019-047, and the taxpayer, after an eligible investment is made, may petition the Michigan economic growth authority to further amend the project and the preapproval letter to do the following:

(a) To increase the maximum total eligible investment for the project on which the credit may be claimed and the maximum total of all credits for the project or allocate eligible investment made from 1 adjacent development area to the other as long as the subsequent amendment to the project and preapproval letter does not exceed the sum of the maximum eligible investment or total credits approved for each of the adjacent development areas under Resolutions 2019-046 and 2019-047.

(b) To extend the duration of time for up to 5 additional years to complete the project beyond the 10 years from the date of the original preapproval letter.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2008, Act 89, Imd. Eff. Apr. 8, 2008;—Am. 2008, Act 578, Imd. Eff. Jan. 16, 2009;—Am. 2009, Act 241, Imd. Eff. Jan. 8, 2010;—Am. 2017, Act 217, Eff. Dec. 20, 2017;—Am. 2021, Act 27, Imd. Eff. June 15, 2021;—Am. 2021, Act 93, Imd. Eff. Oct. 29, 2021;—Am. 2023, Act 120, Imd. Eff. Sept. 13, 2023.

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."

For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

Popular name: MBT

***** 208.1439 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1439 Qualified low-grade hematite consumed in industrial or manufacturing process; tax

credit; definitions.

Sec. 439. (1) A taxpayer may claim a credit against the tax imposed by this act equal to \$1.00 per long ton of qualified low-grade hematite consumed in an industrial or manufacturing process that is the business activity of the taxpayer.

(2) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 5 tax years or until the excess credit is used up, whichever occurs first.

(3) The credit under this section shall be based on low-grade hematite consumed on and after January 1, 2000.

(4) As used in this section:

(a) "Consumed in an industrial or manufacturing process" means a process in which low-grade hematite is used as a raw material in the production of pig iron or steel.

(b) "Low-grade hematite" means any hematitic iron formation that is not of sufficient quality in its original mineral state to be mined and shipped for the production of pig iron or steel without first being drilled, blasted, crushed, and ground very fine to liberate the iron minerals and for which additional beneficiation and agglomeration are required to produce a product of sufficient quality to be used in the production of pig iron or steel.

(c) "Qualified low-grade hematite" means pellets produced from low-grade hematitic iron ore mined in the United States.

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

***** 208.1441 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1441 Michigan entrepreneurial credit; conditions; definitions.

Sec. 441. (1) For the 2008, 2009, and 2010 tax years, except as otherwise provided under subsection (2), a taxpayer may claim the Michigan entrepreneurial credit equal to 100% of the eligible taxpayer's tax liability imposed by this act attributable to increased employment under subdivision (b) for 3 years if the taxpayer meets all of the following conditions:

(a) Had less than \$25,000,000.00 in gross receipts in the immediately preceding tax year. The \$25,000,000.00 amount shall be annually adjusted for inflation using the Detroit consumer price index.

(b) Has created in this state or transferred into this state not fewer than 20 new jobs in the immediately preceding tax year.

(c) Has made a capital investment in this state of not less than \$1,250,000.00 in the immediately preceding tax year. For purposes of determining eligibility under this subdivision, the capital investment shall not include the purchase of an existing plant or the purchase of existing equipment.

(d) Is not a retail establishment as described in major groups 52 through 59 and 70 under the standard industrial classification code as compiled by the United States department of labor. However, a restaurant that did not exist, as determined by the treasurer, in this state in the immediately preceding year before which the credit is claimed and that is not a franchise or a part of a unitary business group may qualify for the credit under this section.

(2) A taxpayer that is an eligible business as defined in section 407 and that received an eligible contribution as defined in section 407 for which a credit was claimed by another taxpayer may claim the Michigan entrepreneurial credit equal to 100% of the taxpayer's tax liability imposed by this act attributable to the increased employment under subdivision (b) for 3 years if the taxpayer meets all of the following conditions:

(a) Had less than \$25,000,000.00 in gross receipts in the immediately preceding tax year.

(b) Has increased the number of new jobs in this state by at least 20% from the immediately preceding tax year.

(3) An eligible taxpayer may claim the credit under this section on a form prescribed by the department.

(4) If the new jobs for which the taxpayer qualifies for this credit are relocated outside of this state within 5 years after claiming the credit under this section or if the taxpayer reduces the employment levels by more than 10% of the jobs for which the taxpayer qualifies for the credit under this section, that taxpayer is liable in an amount equal to the total of all credits received under this section. Any liability under this subsection shall

be collected under 1941 PA 122, MCL 205.1 to 205.31.

(5) A taxpayer's liability attributable to the increased employment is the total liability of the taxpayer multiplied by a fraction the numerator of which is the payroll of the increased jobs of the facility meeting the requirements of this section and the denominator of which is the taxpayer's total payroll in this state.

(6) As used in this section:

(a) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.

(b) "New jobs" means jobs that meet all of the following criteria:

(i) Did not exist in this state in the immediately preceding tax year.

(ii) Represent an overall increase in full-time equivalent jobs of the taxpayer in this state in the immediately preceding tax year.

(iii) Are not jobs into which employees transfer if the employees worked in this state for the taxpayer in other jobs prior to beginning the new jobs.

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

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

***** 208.1445 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1445 Taxpayer as new motor vehicle dealer; tax credit; "new motor vehicle inventory" defined.

Sec. 445. (1) A taxpayer that is a new motor vehicle dealer licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, may claim a credit against the tax imposed by this act equal to 0.25% of the amount paid by the taxpayer to acquire new motor vehicle inventory in the tax year.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that excess shall not be refunded and shall not be carried forward as an offset to the tax liability in subsequent tax years.

(3) As used in this section, "new motor vehicle inventory" means new motor vehicles or motor vehicle parts.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 145, 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."

Enacting section 3 of Act 145 of 2007 provides:

"Enacting section 3. Sections 281 and 451 of the Michigan business tax act, 2007 PA 36, MCL 208.1281 and 208.1451, as added by this amendatory act, and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1445, 208.1447, 208.1515, and 208.1601, as amended by this amendatory act, take effect January 1, 2008 and apply to all business activity occurring after December 31, 2007."

Popular name: MBT

***** 208.1446 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1446 Ownership, operation, or control of exhibition open to public; tax credit.

Sec. 446. (1) Beginning in 2009, a qualified taxpayer may claim a credit against the tax imposed by this act equal to the following:

(a) In 2009, the qualified taxpayer's tax liability under this act or \$500,000.00, whichever is less.

(b) In 2010 and each year thereafter, the qualified taxpayer's tax liability under this act or \$250,000.00, whichever is less.

(2) As used in this section, "qualified taxpayer" means a taxpayer that owns, operates, or controls an exhibition in this state that is open to the public and satisfies all of the following:

(a) Promotes, advertises, or displays the design or concept of products that are designed, manufactured, or produced, in whole or in part, in this state and are available for sale to the general public.

(b) The exhibition uses more than 100,000 square feet of floor space.

(c) Is open to the general public for at least 7 consecutive days in a calendar year.

(d) Attendance during the entire exhibition exceeds 500,000.

(e) Has more than 3,000 credentialed journalists, including international journalists, who attend the exhibition.

History: Add. 2008, Act 507, Imd. Eff. Jan. 13, 2009.

Popular name: MBT

***** 208.1447 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1447 Tax credit equal to 1.0% of taxpayer's compensation; "eligible taxpayer" defined.

Sec. 447. (1) An eligible taxpayer may claim a credit against the tax imposed by this act equal to 1.0% of the taxpayer's compensation in this state, not to exceed \$8,500,000.00.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that excess shall not be refunded and shall not be carried forward as an offset to the tax liability in subsequent tax years.

(3) A taxpayer that claims a credit under this section shall not claim a credit under section 449.

(4) As used in this section, "eligible taxpayer" means a taxpayer that meets all of the following conditions:

(a) Operates at least 17,000,000 square feet of enclosed retail space and 2,000,000 square feet of enclosed warehouse space in this state.

(b) Sells all of the following at retail:

(i) Fresh, frozen, or processed food, food products, or consumable necessities.

(ii) Prescriptions and over-the-counter medications.

(iii) Health and beauty care products.

(iv) Cosmetics.

(v) Pet products.

(vi) Carbonated beverages.

(vii) Beer, wine, or liquor.

(c) Sales of the items listed in subdivision (b) represent more than 35% of the taxpayer's total sales in the tax year.

(d) Maintains its headquarters operation in this state.

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 145, 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."

Enacting section 3 of Act 145 of 2007 provides:

"Enacting section 3. Sections 281 and 451 of the Michigan business tax act, 2007 PA 36, MCL 208.1281 and 208.1451, as added by this amendatory act, and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1445, 208.1447, 208.1515, and 208.1601, as amended by this amendatory act, take effect January 1, 2008 and apply to all business activity occurring after December 31, 2007."

Popular name: MBT

***** 208.1449 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1449 Tax credit equal to 0.125% of taxpayer's compensation.

Sec. 449. (1) An eligible taxpayer may claim a credit against the tax imposed by this act equal to 0.125% of the taxpayer's compensation in this state, not to exceed \$300,000.00.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that excess shall not be refunded and shall not be carried forward as an offset to the tax liability in subsequent tax years.

(3) As used in this section, "eligible taxpayer" means a taxpayer that meets all of the following:

(a) Operates at least 2,500,000 square feet of enclosed retail space and 1,400,000 square feet of enclosed warehouse, headquarters, and transportation services in this state.

(b) Sells all of the following at retail:

(i) Fresh, frozen, or processed food, food products, or consumable necessities.

(ii) Prescriptions and over-the-counter medications.

(iii) Health and beauty care products.

(iv) Cosmetics.

(v) Pet products.

(vi) Carbonated beverages.

(vii) Beer, wine, or liquor.

(c) Sales of the items listed in subdivision (b) represent more than 35% of the taxpayer's total sales in the tax year.

(d) The taxpayer maintains its headquarters operation 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

***** 208.1450 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1450 Research and development of qualified technology; tax credit; definitions.

Sec. 450. (1) Subject to section 450a, for tax years that begin on or after January 1, 2008 and end before January 1, 2016, a taxpayer that is engaged in research and development of a qualified technology may claim a credit against the tax imposed by this act equal to 3.9% of the compensation as defined in section 107 for services performed in a qualified facility, paid to the employees at the qualified facility in the tax year, if the taxpayer has entered into an agreement before April 1, 2007 with the Michigan economic growth authority that provides all of the following:

(a) The type and number of jobs at the qualified facility to which the agreement applies.

(b) The type of work to be performed by the employees performing the jobs provided under subdivision (a) by the taxpayer.

(c) Any other terms and conditions that the Michigan economic growth authority considers to be in the public interest.

(2) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion that exceeds the tax liability shall be refundable.

(3) The maximum amount of the credit allowed under this section that any 1 taxpayer may claim shall not exceed \$2,000,000.00 in a single tax year.

(4) As used in this section:

(a) "Michigan economic growth 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) "Motor vehicle" means a motor vehicle as defined in section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33, that is designed as a passenger vehicle, or sport utility vehicle, but does not include a motor home, bus, truck other than a pickup truck or van, or a vehicle designed to travel on less than 4 wheels.

(c) "Qualified city" means a city that meets both of the following criteria:

(i) Has a population of not less than 80,000 and not more than 82,000 as designated by the United States bureau of the census in the 2000 census.

(ii) Is located in a county that has a population of not less than 1,000,000 and not more than 1,300,000 as designated by the United States bureau of the census in the 2000 census.

(d) "Qualified facility" means a leased facility in a qualified city used for the research and development of a qualified technology.

(e) "Qualified technology" means a hybrid system the primary purpose of which is the propulsion of a motor vehicle.

(f) "Research and development" means "qualified research" as that term is defined in section 41(d) of the internal revenue code.

History: Add. 2007, Act 214, Eff. Jan. 1, 2008.

Popular name: MBT

***** 208.1450a THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1450a Tax credit under section 34 of former 1975 PA 228; tax credit under MCL 208.1450; tax credit under MCL 208.1405.

Sec. 450a. (1) A taxpayer that qualified to claim the credit under section 34 of former 1975 PA 228 may claim the credit under section 450 for the total number of years designated in the agreement, reduced by the number of years the taxpayer claimed the credit under section 34 of former 1975 PA 228, or until January 1, 2016, whichever occurs first.

(2) A taxpayer that claims a credit under section 450 is not prohibited from claiming a credit under section

405. However, the taxpayer shall not claim a credit under section 450 and section 405 based on the same research and development.

History: Add. 2007, Act 208, Eff. Jan. 1, 2008.

Popular name: MBT

***** 208.1451 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1451 Tax credit; excess amount; refund prohibited; definitions.

Sec. 451. (1) An eligible taxpayer may claim a credit against the tax imposed by this act equal to the following:

(a) If a surcharge is imposed and levied under section 281 for the same tax year for which the credit is claimed under this section, 30.5% of the taxpayer's expenses incurred during the tax year to comply with 1976 IL 1, MCL 445.571 to 445.576.

(b) If a surcharge is not imposed and levied under section 281 for the same tax year for which the credit is claimed under this section, 25% of the taxpayer's expenses incurred during the tax year to comply with 1976 IL 1, MCL 445.571 to 445.576.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that excess shall not be refunded and shall not be carried forward as an offset to the tax liability in subsequent tax years.

(3) As used in this section:

(a) "Beverage container" and "distributor" mean those terms as defined under 1976 IL 1, MCL 445.571 to 445.576.

(b) "Eligible taxpayer" means a distributor or manufacturer who originates a deposit on a beverage container in accordance with 1976 IL 1, MCL 445.571 to 445.576.

History: Add. 2007, Act 145, Eff. Jan. 1, 2008.

Compiler's note: Enacting section 3 of Act 145 of 2007 provides:

"Enacting section 3. Sections 281 and 451 of the Michigan business tax act, 2007 PA 36, MCL 208.1281 and 208.1451, as added by this amendatory act, and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1445, 208.1447, 208.1515, and 208.1601, as amended by this amendatory act, take effect January 1, 2008 and apply to all business activity occurring after December 31, 2007."

Popular name: MBT

***** 208.1453 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1453 Private equity fund manager; tax credit; definitions.

Sec. 453. (1) An eligible taxpayer may claim a credit against the tax imposed by this act equal to the eligible taxpayer's tax liability attributable to the activities as an eligible taxpayer for the tax year after claiming any other credits allowed under this act multiplied by a fraction, the numerator of which is the total activity of the private equity fund manager conducted in this state during the tax year and the denominator of which is the total activity of the private equity fund manager conducted everywhere during the tax year.

(2) For purposes of this section, the location of the activity of the private equity fund manager is based on the location of the office from which the fund manager conducts management activity for the eligible taxpayer.

(3) As used in this section:

(a) "Accredited investor" means that term as defined under section 2 of the securities act of 1933, 15 USC 77b.

(b) "Eligible taxpayer" means a taxpayer that is a private equity fund which serves as a conduit for the investment of private securities not listed on a public exchange by accredited investors or qualified purchasers at any time during which the investment is acquired or subsequently used to claim the credit under this section.

(c) "Private equity fund manager" means the person or persons responsible for the management of the investments of the eligible taxpayer.

(d) "Qualified purchaser" means that term as defined under section 2 of the investment company act of 1940, 15 USC 80a-2.

History: Add. 2007, Act 206, Eff. Jan. 1, 2008.

Popular name: MBT

***** 208.1455 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1455 Michigan film office; agreement with eligible production company; tax credit; requirements; application; form; fee; considerations; determination of compliance with terms of agreement; issuance of postproduction certificate of completion; confidentiality of information, records, or other data; availability of semiannual report on website; assignment of credit; submission of fraudulent or false information; annual report; definitions.

Sec. 455. (1) The Michigan film office, with the concurrence of the state treasurer, may enter into an agreement with an eligible production company providing the company with a credit against the tax imposed by this act as provided under this section. To qualify for the credit under this section, a company shall meet all of the following requirements:

(a) Spend at least \$50,000.00 in this state for the development, preproduction, production, or postproduction costs of a state certified qualified production.

(b) Enter into an agreement as provided in this section.

(c) Receive a postproduction certificate of completion from the office under subsection (5).

(d) Submit the postproduction certificate of completion issued by the office under subsection (5) to the department under subsection (8).

(e) Shall not be delinquent in a tax or other obligation owed to this state or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to this state.

(2) For direct production expenditures or qualified personnel expenditures made after February 29, 2008 and before the effective date of the amendatory act that added this language, an agreement under this section may provide for an eligible production company to claim a tax credit equal to 42% of direct production expenditures for a state certified qualified production in a core community, 40% of direct production expenditures for a state certified qualified production in part of this state other than a core community, and 30% for qualified personnel expenditures. For direct production expenditures or qualified personnel expenditures made on and after the effective date of the amendatory act that added this language, an agreement under this section may provide for an eligible production company to claim a tax credit as determined by the Michigan film office, with the concurrence of the state treasurer, of up to 42% for each separate direct production expenditure for a state certified qualified production in a core community, up to 40% for each separate direct production expenditure for a state certified qualified production in part of this state other than a core community, and up to 30% for each separate qualified personnel expenditure. A taxpayer shall not claim a credit under this section for any of the following:

(a) A direct expenditure, or qualified personnel expenditure, for which the company claims a credit under section 459.

(b) A direct expenditure, or qualified personnel expenditure, for which the company claims a credit under section 367 of the income tax act of 1967, 1967 PA 281, MCL 206.367.

(c) A direct expenditure, or qualified personnel expenditure, for which another taxpayer claims a credit under this section, a credit under section 459, or a credit under section 367 of the income tax act of 1967, 1967 PA 281, MCL 206.367.

(3) An eligible production company intending to produce a qualified production in this state, or that initiated production of a qualified production after February 29, 2008 and before April 8, 2008, may submit an application to enter into an agreement under this section to the Michigan film office. Except for a qualified production for which production was initiated after February 29, 2008 and before April 8, 2008, direct production expenditures and qualified personnel expenditures incurred prior to approval of an agreement under this section are not eligible for the credit under this section. The request shall be submitted in a form prescribed by the Michigan film office and shall be accompanied by a \$100.00 application fee and all of the information and records requested by the office. An application fee received by the office under this subsection shall be deposited in the Michigan film promotion fund. The office shall not process the application until it is complete. As part of the application, the company shall estimate direct production expenditures and qualified personnel expenditures for an identified qualified production. If the office, with the concurrence of the state treasurer, determines to enter into an agreement under this section, the agreement shall provide for all of the following:

(a) A requirement that the eligible production company commence work in this state on the identified qualified production within 90 days of the date of the agreement or else the agreement shall expire. However, upon request submitted by the company based on good cause, the office may extend the period for commencement of work in this state for up to an additional 90 days.

(b) A statement identifying the company and the qualified production that the company intends to produce in whole or in part in this state.

(c) A unique number assigned to the qualified production by the office.

(d) A requirement that the qualified production not depict obscene matter or an obscene performance.

(e) If the qualified production is a long-form narrative film production, a requirement that the qualified production include an acknowledgement that the qualified production was filmed in this state.

(f) A requirement that the company provide the office with the information and independent certification the office and the department deem necessary to verify direct production expenditures, qualified personnel expenditures, and eligibility for the credit under this section.

(g) If determined to be necessary by the office and the state treasurer, a provision for addressing expenditures in excess of those identified in the agreement.

(4) In determining whether to enter into an agreement under this section, the Michigan film office and the state treasurer shall consider all of the following:

(a) The potential that in the absence of the credit the qualified production will be produced in a location other than this state.

(b) The extent to which the qualified production may have the effect of promoting this state as a tourist destination.

(c) The extent to which the qualified production may have the effect of promoting economic development or job creation in this state.

(d) The extent to which the credit will attract private investment for the production of qualified productions in this state.

(e) The record of the eligible production company in completing commitments to engage in a qualified production.

(5) If the Michigan film office determines that an eligible production company has complied with the terms of an agreement entered into under this section, the office shall issue a postproduction certificate of completion to the company. The company shall submit a request to the office for a postproduction certificate of completion on a form prescribed by the office, along with any information or independent certification the office or the department deems necessary. The office shall process each request within 60 days after the request is complete. However, the office may request additional information or independent certification before issuing a postproduction certificate of completion and need not issue the postproduction certificate of completion until satisfied that direct production expenditures, qualified personnel expenditures, and eligibility are adequately established. The additional information requested may include a report of direct production expenditures and qualified personnel expenditures for the qualified production audited and certified by an independent certified public accountant. Each postproduction certificate of completion shall be signed by the Michigan film commissioner and shall include the following information:

(a) The name of the eligible production company.

(b) The name of the certified production produced in whole or in part in this state.

(c) The eligible production company's direct production expenditures and qualified personnel expenditures for the qualified production.

(d) The eligible production company's credit amount.

(e) The date of completion for the qualified production in this state.

(f) The unique number assigned to the qualified production project by the Michigan film office under subsection (3).

(g) The eligible production company's federal employer identification number or Michigan treasury number.

(h) Any independent certification required by the department or the Michigan film office.

(6) Information, records, or other data received, prepared, used, or retained by the Michigan film office under this section that are submitted by an eligible production company and considered by the taxpayer and acknowledged by the office as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Information, records, or other data shall only be considered confidential to the extent that the information or records describe the commercial and financial operations or intellectual property of the company, the information or records have not been publicly disseminated at any time, and disclosure of the information or records may put the company at a competitive disadvantage. For purposes of this subsection, information or records that describe commercial and financial operations do not include that portion of information or records that include any expenses that qualify under this section as qualified personnel expenditures or direct production expenditures and for which a credit may be claimed.

(7) The Michigan film office shall, on January 15 and July 15 in each year, make available on its website a

detailed semiannual report that includes, at a minimum, all of the following:

(a) The number of applications received for a credit under this section in the immediately preceding 6 months, including the name of the eligible production company that submitted the application and a brief description of the proposed qualified production, including the locations in this state to be used in the production and the proposed amount of money to be expended by the eligible production company to produce the qualified production in this state.

(b) The number of applications approved during the immediately preceding 6 months.

(c) The number of postproduction certificates of completion issued during the immediately preceding 6 months and the total amount of credits certified under those postproduction certificates of completion.

(8) An eligible production company shall submit a postproduction certificate of completion issued under subsection (5) to the department. The Michigan film office shall forward a copy of each postproduction certificate of completion issued pursuant to this subsection to the governor, the president of the Michigan strategic fund, the chairperson of the senate finance committee, the chairperson of the house tax policy committee, the director of the senate fiscal agency, and the director of the house fiscal agency. If the credit allowed under this section exceeds the tax liability of the company for the tax year or if the company claiming the credit does not have a tax liability under this act for the tax year, the department shall refund the excess or pay the amount of the credit to the company. The department shall, as soon as the information is available, annually report to the governor, the president of the Michigan strategic fund, the chairperson of the senate finance committee, the chairperson of the house tax policy committee, the director of the senate fiscal agency, and the director of the house fiscal agency the total amount of the credits certified under this section that exceed the taxpayer's tax liability for the most recent year that tax information is available and for which returns have cleared and been processed. The credit under this section shall be claimed after all other credits under this act.

(9) An eligible production company may assign all or a portion of a credit under this section to any assignee. An assignee may subsequently assign a credit or any portion of a credit assigned under this subsection to 1 or more assignees. A company may claim a portion of a credit and assign the remaining credit amount. A credit assignment under this subsection is irrevocable. The credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made and shall attach a copy of the form to the return on which the credit is claimed.

(10) The amount of the credit under this section shall be reduced by a credit application and redemption fee equal to 0.5% of the credit claimed, which shall be deducted from the credit otherwise payable to the taxpayer claiming the credit and be deposited by the department in the Michigan film promotion fund.

(11) A taxpayer that willfully submits information under this section that the taxpayer knows to be fraudulent or false shall, in addition to any other penalties provided by law, be liable for a civil penalty equal to the amount of the taxpayer's credit under this section. A penalty collected under this section shall be deposited in the Michigan film promotion fund.

(12) Not later than March 1 of each year after 2008, the Michigan film office shall submit to the governor, the president of the Michigan strategic fund, the chairperson of the senate finance committee, the chairperson of the house tax policy committee, the director of the senate fiscal agency, and the director of the house fiscal agency an annual report concerning the operation and effectiveness of the credit under this section. The requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, do not apply to disclosure of tax information required by this subsection. The report shall include all of the following:

(a) A brief assessment of the overall effectiveness of the credit under this section at attracting qualified productions to this state during the immediately preceding calendar year.

(b) The number of qualified productions for which the eligible production company applied for a tax credit under this section during the immediately preceding year, the names of the qualified productions produced in this state for which credits were begun or completed in the immediately preceding year, and the locations in this state that were used in the production of qualified productions in the immediately preceding calendar year.

(c) The amount of money spent by each eligible production company identified in subdivision (b) to produce each qualified production in this state and a breakdown of all production spending by all companies classified as goods, services, or salaries and wages in the immediately preceding calendar year.

(d) The number of below the line crew employed in this state by eligible production companies that qualified for the credit under this section in the immediately preceding calendar year, how many of those persons employed were residents of this state and not included in qualified personnel expenditures, and the total number of hours worked on the qualified production for which a credit is granted.

(e) For requests for postproduction certificates of completion submitted after January 2, 2011, the number

of above the line personnel employed in this state by the eligible production companies that qualified for the credit under this section in the immediately preceding calendar year and how many of those personnel employed were residents of this state. For purposes of this subdivision, above the line personnel means personnel who are not below the line crew.

(f) For requests for postproduction certificates of completion submitted after January 2, 2011, the number of persons employed in this state by the eligible production companies that qualified for the credit under this section in the immediately preceding calendar year that earned more than \$250,000.00 on a qualified production and how many of those persons were residents of this state.

(g) The value of all tax credit certificates of completion issued under this section in the immediately preceding calendar year.

(h) The amount known by the Michigan film office of other state and local assistance provided to eligible production companies in addition to the tax credit under this section.

(13) As used in this section:

(a) "Below the line crew" means that term as defined under section 459.

(b) "Core community" means a qualified local governmental unit as defined under section 2 of the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782.

(c) "Direct production expenditure" means a development, preproduction, production, or postproduction expenditure made in this state that is not a qualified personnel expenditure directly attributable to the production or distribution of a qualified production that is a transaction subject to taxation in this state, including, but not limited to, all of the following:

(i) Payments to vendors doing business in this state to purchase or use tangible personal property in producing or distributing the qualified production or to purchase services relating to the production or distribution of the qualified production, including all of the following:

(A) Expenditures for optioning or purchasing intellectual property including, but not limited to, books, scripts, music, or trademarks relating to the development or purchase of a script, story, scenario, screenplay, or format, including all expenditures generally associated with the optioning or purchase of intellectual property, including option money, agent fees, and attorney fees relating to the transaction, but not including deferrals, deferments, royalties, profit participation, or recourse or nonrecourse loans negotiated by the eligible production company to obtain the rights to the intellectual property.

(B) Production work, production equipment, production software, development work, postproduction work, postproduction equipment, postproduction software, set design, set construction, set operations, props, lighting, wardrobe, makeup, makeup accessories, photography, sound synchronization, special effects, visual effects, audio effects, film processing, music, sound mixing, editing, and related services and materials.

(C) Use of facilities or equipment, use of soundstages or studios, location fees, and related services and materials.

(D) Catering, food, lodging, and related services and materials.

(E) Use of vehicles, which may include chartered aircraft based in this state used for transportation in this state directly attributable to production of a qualified production, but may not include the chartering of aircraft for transportation outside of this state.

(F) Commercial airfare if purchased through a travel agency or travel company based in this state for travel to and from this state or within this state directly attributable to production or distribution of a qualified production.

(G) Insurance coverage or bonding if purchased from an insurance agent based in this state.

(H) Expenditures for distribution, including, but not limited to, both of the following:

(I) Preproduction, production, or postproduction costs relating to the creation of trailers, marketing videos, commercials, point-of-purchase videos, and content created on film or digital media, including, but not limited to, the duplication of films, videos, compact discs, digital video discs, and digital files or other digital media created for consumer consumption.

(II) Purchase of equipment relating to the duplication or market distribution of any content created or produced in this state.

(I) Other expenditures for production of a qualified production in accordance with generally accepted entertainment industry practices.

(ii) Payments and compensation, not to exceed \$2,000,000.00 for any 1 employee or contractual or salaried employee who performs services in this state for the production or distribution of a qualified production, including all of the following:

(A) Payment of wages, benefits, or fees for talent, management, or labor.

(B) Payment to a personal services corporation or professional employer organization for the services of a performing artist or crew member if the personal services corporation or professional employer organization

is subject to the tax levied under this act on the portion of the payment qualifying for the tax credit under this section and the payments received by the performing artist or crew member that are subject to taxation under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713, and are withheld and paid to this state in the amount provided under section 351 of the income tax act of 1967, 1967 PA 281, MCL 206.351.

(d) "Eligible production company" or "company" means an entity in the business of producing qualified productions, but does not include an entity that is more than 30% owned, affiliated, or controlled by an entity or individual who is in default on a loan made by this state, a loan guaranteed by this state, or a loan made or guaranteed by any other state.

(e) "Interactive website" means a website, the production costs of which exceed \$500,000.00 in an annual period and primarily includes interactive games, end user applications, animation, simulation, sound, graphics, story lines, or video created or repurposed for distribution over the internet. Interactive website does not include a website primarily used for institutional, private, industrial, retail, or wholesale marketing or promotional purposes, or which contains obscene matter or an obscene performance.

(f) "Michigan film office" or "office" means the Michigan film office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(g) "Michigan film promotion fund" means the fund created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(h) "Obscene matter or an obscene performance" means matter described in 1984 PA 343, MCL 752.361 to 752.374.

(i) "Postproduction expenditure" means a direct expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special or visual effects including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling, or addition of sound or visual effects. Postproduction expenditure includes direct expenditures for advertising, marketing, distribution, or related expenses.

(j) "Qualified personnel expenditure" means an expenditure made in this state directly attributable to the production or distribution of a qualified production that is a transaction subject to taxation in this state and is a payment or compensation payable to below the line crew for below the line crew members who were not residents of this state for at least 60 days before approval of the agreement for the qualified production under subsection (3), not to exceed \$2,000,000.00 for any 1 employee or contractual or salaried employee who performs service in this state for the production of a qualified production, including both of the following:

(i) Payment of wages, benefits, or fees.

(ii) Payment to a personal services corporation or professional employer organization for the services of a performing artist or crew member if the personal services corporation or professional employer organization is subject to the tax levied under this act on the portion of the payment qualifying for the tax credit under this section and the payments received by the performing artist or crew member that are subject to taxation under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713, and are withheld and paid to this state in the amount provided under section 351 of the income tax act of 1967, 1967 PA 281, MCL 206.351.

(k) "State certified qualified production" or "qualified production" means single media or multimedia entertainment content created in whole or in part in this state for distribution or exhibition to the general public in 2 or more states by any means and media in any digital media format, film, or video tape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website. Qualified production also includes any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in a production. Qualified production does not include any of the following:

(i) A production for which records are required to be maintained with respect to any performer in the production under 18 USC 2257.

(ii) A production that includes obscene matter or an obscene performance.

(iii) A production that primarily consists of televised news or current events.

(iv) A production that primarily consists of a live sporting event.

(v) A production that primarily consists of political advertising.

(vi) A radio program.

(vii) A weather show.

(viii) A financial market report.

(ix) A talk show.

(x) A game show.

(xi) A production that primarily markets a product or service other than a state certified qualified

production.

(xii) An awards show or other gala event production.

(xiii) A production with the primary purpose of fund-raising.

(xiv) A production that primarily is for employee training or in-house corporate advertising or other similar production.

(l) "Sound recording" means a recording of music, poetry, or spoken-word performance, but does not include the audio portions spoken and recorded as part of a motion picture, video, theatrical production, television news coverage, or athletic event.

(m) "State certified qualified production" means a qualified production for which a postproduction certificate of completion has been issued by the office under subsection (5).

History: Add. 2008, Act 77, Imd. Eff. Apr. 8, 2008;—Am. 2010, Act 312, Imd. Eff. Dec. 21, 2010;—Am. 2011, Act 39, Imd. Eff. May 25, 2011;—Am. 2011, Act 77, Eff. May 26, 2011.

Compiler's note: Enacting section 1 of Act 77 of 2011 provides:

"Enacting section 1. Sections 409, 455, and 510 of the Michigan business tax act, 2007 PA 36, MCL 208.1409, 208.1455, and 208.1510, as amended by this amendatory act, are retroactive and effective May 26, 2011. This provision is curative and is intended to express the original intent of the legislature concerning the application of 2011 PA 39."

Popular name: MBT

***** 208.1457 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1457 Qualified film and digital media infrastructure project; tax credit.

Sec. 457. (1) Until September 30, 2015, the Michigan film office, with the concurrence of the state treasurer, may enter into an agreement with a taxpayer providing the taxpayer with a credit against the tax imposed by this act for an investment in a qualified film and digital media infrastructure project, as provided under this section. To qualify for the credit under this section, a taxpayer shall meet all of the following requirements:

(a) Before January 1, 2009, invest and expend at least \$100,000.00 for a qualified film and digital media infrastructure project in this state; after December 31, 2008, invest and expend at least \$250,000.00 for a qualified film and digital media infrastructure project in this state.

(b) Enter into an agreement as provided in this section.

(c) Receive an investment expenditure certificate from the office under subsection (5).

(d) Submit the investment expenditure certificate issued by the office under subsection (5) to the department under subsection (7).

(e) Shall not be delinquent in a tax or other obligation owed to this state or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to this state.

(2) Before the effective date of the amendatory act that added this language, for investment expenditures made by a taxpayer for all qualified film and digital media infrastructure projects in this state, an agreement under this section may provide for the taxpayer to claim a tax credit equal to 25% of the taxpayer's base investment. On and after the effective date of the amendatory act that added this language, for investment expenditures made by a taxpayer for all qualified film and digital media infrastructure projects in this state, an agreement under this section may provide for the taxpayer to claim a tax credit of up to 25% of the taxpayer's base investment as determined by the Michigan film office, with the concurrence of the state treasurer. The credit under this section shall be reduced by any credit claimed by the taxpayer under section 437 for the same base investment. No more than \$20,000,000.00 in total credits under this section shall be authorized in a tax year. If all or a portion of a qualified film and digital media infrastructure project is a facility that may be used for purposes unrelated to production or postproduction activities, then the project is eligible for the credit only if the department determines that the facility will support and be necessary to secure production or postproduction activity for the production and postproduction facility and the taxpayer agrees to both of the following:

(a) The facility will be used as a state of the art production or postproduction facility or as support and component of the facility for the useful life of the facility.

(b) A credit will not be claimed under this section until the facility is complete.

(3) A taxpayer seeking a credit under this section may submit an application to enter into an agreement under this section to the Michigan film office. The application shall be submitted in a form prescribed by the Michigan film office and shall be accompanied by a \$100.00 application fee and all of the information and records requested by the office. An application fee received by the office under this subsection shall be deposited in the Michigan film promotion fund. The office shall not process the application until it is

complete. If the office, with the concurrence of the state treasurer, determines to enter into an agreement under this section, the agreement shall provide for all of the following:

(a) A requirement that construction on the qualified film and digital media infrastructure project commence within 180 days of the date of the agreement or else the agreement shall expire. However, upon request submitted by the taxpayer based on good cause, the office may extend the period for commencement of work for up to an additional 90 days.

(b) A unique number assigned to the qualified film and digital media infrastructure project.

(c) A detailed description of the qualified film and digital media infrastructure project.

(d) A detailed business plan and market analysis for the qualified film and digital media infrastructure project.

(e) A projected budget for the qualified film and digital media infrastructure project.

(f) Estimated start date and completion date for the qualified film and digital media infrastructure project.

(g) A requirement that the taxpayer not file a claim for the credit under this section until at least 25% of the base investment in the qualified film and digital media infrastructure project identified in the agreement has been expended.

(h) A requirement that the taxpayer provide the office with the information and independent certification the office and the department deem necessary to verify investment expenditures and eligibility for the credit under this section.

(i) A requirement that if the cost of tangible assets described in subsection (11)(a) was paid or accrued in a tax year beginning after December 31, 2007, the taxpayer shall repay an amount equal to 25% of the gross proceeds or benefit derived from the sale or other disposition of the tangible assets minus the gain, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3, and plus the loss, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3 from the sale or other disposition reflected in federal taxable income and minus the gain from the sale or other disposition added to the business income tax base in section 201.

(4) In determining whether to enter into an agreement under this section, the Michigan film office and the state treasurer shall consider all of the following:

(a) The potential that in the absence of the credit the qualified film and digital media infrastructure project will be constructed in a location other than this state.

(b) The extent to which the qualified film and digital media infrastructure project may have the effect of promoting economic development or job creation in this state.

(c) The extent to which the credit will attract private investment for the production of motion pictures, videos, television programs, and digital media in this state.

(d) The extent to which the credit will encourage the development of film, video, television, and digital media production and postproduction facilities in this state.

(5) If the Michigan film office determines that a taxpayer has complied with the terms of an agreement entered into under this section, the office shall issue an investment expenditure certificate to the taxpayer. The taxpayer shall submit a request to the office for an investment expenditure certificate on a form prescribed by the office, along with any information or independent certification the office or the department deems necessary. The office shall process each request within 60 days after the request is complete. However, the office may request additional information or independent certification before issuing an investment expenditure certificate and need not issue the investment expenditure certificate until satisfied that investment expenditures and eligibility are adequately established. The additional information requested may include a report of expenditures audited and certified by an independent certified public accountant. Each investment expenditure certificate shall be signed by the Michigan film commissioner and shall include the following information:

(a) The name of the taxpayer.

(b) A description of the qualified film and digital media infrastructure project.

(c) The taxpayer's eligible investment expenditures for the qualified film and digital media infrastructure project.

(d) The taxpayer's credit amount.

(e) The unique number assigned to the qualified film and digital media infrastructure project by the office under subsection (3).

(f) The taxpayer's federal employer identification number or Michigan treasury number.

(g) Any independent certification required by the department or the Michigan film office.

(6) Information, records, or other data received, prepared, used, or retained by the Michigan film office under this section that are submitted by an eligible production company and considered by the taxpayer and acknowledged by the office as confidential shall not be subject to the disclosure requirements of the freedom

of information act, 1976 PA 442, MCL 15.231 to 15.246. Information, records, or other data shall only be considered confidential to the extent that the information or records describe the commercial and financial operations or intellectual property of the company, the information or records have not been publicly disseminated at any time, and disclosure of the information or records may put the company at a competitive disadvantage.

(7) To claim a credit under this section, a taxpayer shall submit an investment expenditure certificate issued under subsection (5) to the department. If the credit allowed under this section exceeds the amount of taxes owed by the taxpayer under this act for a tax year, that portion of the credit that exceeds the tax liability of the taxpayer for the tax year shall not be refunded but may be carried forward to offset tax liability under this act in subsequent tax years for a period not to exceed 10 tax years or until used up, whichever occurs first.

(8) The credit under this section shall be claimed after all other credits under this act. A taxpayer eligible to claim a credit under this section may assign all or a portion of a credit under this section to any assignee. An assignee may subsequently assign a credit or any portion of a credit assigned under this subsection to 1 or more assignees. A taxpayer may claim a portion of a credit and assign the remaining credit amount. A credit assignment under this subsection is irrevocable. The credit assignment under this subsection shall be made on a form prescribed by the department. A taxpayer claiming a credit under this section shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made and shall attach a copy of the form to the return on which the credit is claimed.

(9) The amount of the credit under this section shall be reduced by a credit application and redemption fee equal to 0.5% of the credit claimed, which shall be deducted from the credit otherwise payable to the taxpayer claiming the credit and be deposited by the department in the Michigan film promotion fund.

(10) A taxpayer that willfully submits information under this section that the taxpayer knows to be fraudulent or false shall, in addition to any other penalties provided by law, be liable for a civil penalty equal to the amount of the taxpayer's credit under this section. A penalty collected under this section shall be deposited in the Michigan film production promotion fund.

(11) As used in this section:

(a) "Base investment" means the cost, including fabrication and installation, paid or accrued in the taxable year of tangible assets of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes, provided that the assets are physically located in this state for use in a business activity in this state and are not mobile tangible assets expended by a person in the development of a qualified film and digital media infrastructure project. Base investment does not include a direct production expenditure or qualified personnel expenditure eligible for a credit under section 455.

(b) "Michigan film office" or "office" means the Michigan film office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(c) "Michigan film promotion fund" means the fund created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(d) "Qualified film and digital media infrastructure project" means a film, video, television, or digital media production and postproduction facility located in this state, movable and immovable property and equipment related to the facility, and any other facility that is a necessary component of the primary facility. A qualified film and digital media infrastructure project does not include a movie theater or other commercial exhibition facility, a facility used to produce obscene matter or an obscene performance as described in 1984 PA 343, MCL 752.361 to 752.374, or a facility used for a production for which records are required to be maintained with respect to any performer in the production under 18 USC 2257.

History: Add. 2008, Act 86, Imd. Eff. Apr. 8, 2008;—Am. 2011, Act 77, Imd. Eff. July 12, 2011.

Compiler's note: Enacting section 1 of Act 77 of 2011 provides:

"Enacting section 1. Sections 409, 455, and 510 of the Michigan business tax act, 2007 PA 36, MCL 208.1409, 208.1455, and 208.1510, as amended by this amendatory act, are retroactive and effective May 26, 2011. This provision is curative and is intended to express the original intent of the legislature concerning the application of 2011 PA 39."

Popular name: MBT

***** 208.1459 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1459 Eligible production company; tax credit.

Sec. 459. (1) Until September 30, 2015, the Michigan film office, with the concurrence of the state treasurer, may enter into an agreement with an eligible production company providing the company with a credit against the tax imposed by this act for qualified job training expenditures, as provided under this

section. To qualify for the credit under this section, a company shall meet all of the following requirements:

(a) Make qualified job training expenditures for a state certified qualified production.

(b) After completion of the production of the state certified qualified production in this state, submit to the office an application in a form determined by the office with information regarding the qualified job training expenditures, including employment, salary, and related information required by the office.

(c) Receive a qualified job training expenditures certificate from the office under subsection (5).

(d) Submit the qualified job training expenditure certificate issued by the office under subsection (5) to the department under subsection (7).

(e) Shall not be delinquent in a tax or other obligation owed to this state or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to this state.

(2) Before the effective date of the amendatory act that added this language, for a qualified job training expenditure made by a company, the company may claim a tax credit equal to 50% of the qualified job training expenditure. On and after the effective date of the amendatory act that added this language, for a qualified job training expenditure made by a company, the company may claim a tax credit of up to 50% of the qualified job training expenditure as determined by the Michigan film office, with the concurrence of the state treasurer. A company shall not claim a credit under this section for any of the following:

(a) A direct expenditure, or qualified personnel expenditure, for which the company claims a credit under section 455.

(b) A direct expenditure, or qualified personnel expenditure, for which the company claims a credit under section 367 of the income tax act of 1967, 1967 PA 281, MCL 206.367.

(c) A direct expenditure, or qualified personnel expenditure, for which another taxpayer claims a credit under this section, a credit under section 455, or a credit under section 367 of the income tax act of 1967, 1967 PA 281, MCL 206.367.

(3) A taxpayer seeking a credit under this section may submit an application to enter into an agreement under this section to the Michigan film office. The application shall be submitted, prior to making qualified job training expenditures, in a form prescribed by the Michigan film office and shall be accompanied by a \$100.00 application fee and all of the information and records requested by the office. An application fee received by the office under this subsection shall be deposited in the Michigan film promotion fund. The office shall not process the application until it is complete. If the office, with the concurrence of the state treasurer, determines to enter into an agreement under this section, the agreement shall provide for all of the following:

(a) A unique number assigned to the state certified qualified production for which qualified job training expenditures were incurred by the company.

(b) A detailed description of the state certified qualified production and the qualified job training expenditures.

(c) A requirement that the company provide the office with the information and independent certification the office and the department deem necessary to verify qualified job training expenditures and eligibility for the credit under this section.

(4) In determining whether to authorize a credit under this section, the Michigan film office and the state treasurer shall consider all of the following:

(a) The extent to which the state certified qualified production and qualified job training expenditure may have the effect of promoting economic development or job creation in this state.

(b) The extent to which the credit may assist in attracting additional private investment for the production of motion pictures, videos, television programs, and digital media in this state.

(c) The extent to which the credit will encourage the development of film, video, television, and digital media production and postproduction expertise in this state.

(5) If the Michigan film office determines that a company has complied with the terms of an agreement entered into under this section, the office shall issue a qualified job training expenditure certificate to the company. The company shall submit a request to the office for a qualified job training expenditure certificate on a form prescribed by the office, along with any information or independent certification the office or the department deems necessary. The office shall process each request within 60 days after the request is complete. However, the office may request additional information or independent certification before issuing a certificate and need not issue the certificate until satisfied that qualified job training expenditures and eligibility are adequately established. The additional information requested may include a report of expenditures audited and certified by an independent certified public accountant. Each qualified job training expenditure certificate shall be signed by the Michigan film commissioner and shall include the following information:

(a) The name of the taxpayer.

- (b) A description of the state certified qualified production and the qualified job training expenditures.
- (c) The amount of the company's qualified job training expenditures for the state certified qualified production.
- (d) The date on which production of the state certified qualified production began in this state, the date on which production of the state certified qualified production ended in this state, the total number of production days in this state, and the approximate total crew size for the state certified qualified production.
- (e) The company's credit amount.
- (f) The unique number assigned to the state certified qualified production by the office under subsection (3).
- (g) The company's federal employer identification number or Michigan treasury number.
- (h) Any independent certification required by the department or the Michigan film office.
- (6) Information, records, or other data received, prepared, used, or retained by the Michigan film office under this section that are submitted by an eligible production company and considered by the taxpayer and acknowledged by the office as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Information, records, or other data shall only be considered confidential to the extent that the information or records describe the commercial and financial operations or intellectual property of the company, the information or records have not been publicly disseminated at any time, and disclosure of the information or records may put the company at a competitive disadvantage.
- (7) To claim a credit under this section, a company shall submit a qualified job training expenditure certificate issued under subsection (5) to the department. If the credit allowed under this section exceeds the amount of taxes owed by the company under this act for a tax year, that portion of the credit that exceeds the tax liability of the company for the tax year shall not be refunded but may be carried forward as a credit against tax liability under this act in subsequent tax years for a period not to exceed 10 tax years.
- (8) The credit under this section shall be claimed after all other credits under this act. The amount of the credit under this section shall be reduced by a credit application and redemption fee equal to 0.5% of the credit claimed, which shall be deducted from the credit otherwise payable to the taxpayer claiming the credit and be deposited by the department in the Michigan film promotion fund.
- (9) A taxpayer that willfully submits information under this section that the taxpayer knows to be fraudulent or false, shall, in addition to any other penalties provided by law, be liable for a civil penalty equal to the amount of the taxpayer's credit under this section. A penalty collected under this section shall be deposited in the Michigan film production promotion fund.
- (10) As used in this section:
- (a) "Below the line crew" means persons employed by an eligible production company for state certified qualified production expenditures made after production begins and before production is completed, including, but not limited to, a best boy, boom operator, camera loader, camera operator, assistant camera operator, compositor, dialogue editor, film editor, assistant film editor, focus puller, Foley operator, Foley editor, gaffer, grip, key grip, lighting crew, lighting board operator, lighting technician, music editor, sound editor, sound effects editor, sound mixer, steadicam operator, first assistant camera operator, second assistant camera operator, digital imaging technician, camera operator working with a director of photography, electric best boy, grip best boy, dolly grip, rigging grip, assistant key for makeup, assistant key for hair, assistant script supervisor, set construction foreperson, lead set dresser, assistant key for wardrobe, scenic foreperson, assistant propmaster, assistant audio mixer, assistant boom person, assistant key for special effects, and other similar personnel. Below the line crew does not include a producer, director, writer, actor, or other similar personnel.
- (b) "Eligible production company" means that term as defined in section 455.
- (c) "Michigan film office" or "office" means the Michigan film office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.
- (d) "Michigan film promotion fund" means the fund created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.
- (e) "Qualified job training expenditure" means salary and other expenditures paid by an eligible production company to provide qualified personnel with on-the-job training as a member of the below the line crew for a state certified qualified production that is intended to upgrade or enhance the skills of the qualified personnel and address deficiencies in skills among residents of this state as determined by the office.
- (f) "Qualified personnel" means a person who has resided in this state for not less than 12 months, who has legal status for employment, and who demonstrates sufficient prior experience or training in the film and digital media industry, as certified by the Michigan film office. Qualified personnel includes, but is not limited to, a person who has completed a training program at a Michigan proprietary school licensed by the

department of labor and economic growth that offers a program of instruction in film and video production and has been designated with a classification of instructional programs code of 50 by the department of labor and economic growth and a person in an advanced crew position that meets the residency requirements of this subdivision and is hired and mentored by a key or supervisor. Qualified personnel do not include a person with fewer than 1 or more than 4 film credits in the same below the line crew position for which the eligible production company claimed a credit under this section.

(g) "Qualified personnel expenditure" means that term as defined under section 455.

(h) "State certified qualified production" means that term as defined in section 455.

History: Add. 2008, Act 74, Imd. Eff. Apr. 8, 2008;—Am. 2011, Act 77, Imd. Eff. July 12, 2011.

Compiler's note: Enacting section 1 of Act 77 of 2011 provides:

"Enacting section 1. Sections 409, 455, and 510 of the Michigan business tax act, 2007 PA 36, MCL 208.1409, 208.1455, and 208.1510, as amended by this amendatory act, are retroactive and effective May 26, 2011. This provision is curative and is intended to express the original intent of the legislature concerning the application of 2011 PA 39."

Popular name: MBT

***** 208.1460 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1460 Service station owner; conversion or creation of fuel delivery systems to provide E85 fuel or qualified biodiesel blends; tax exemption; definitions.

Sec. 460. (1) For tax years that begin after December 31, 2008 and end before January 1, 2012, subject to the limitations provided under this section, a taxpayer that is an owner of a service station may claim a credit against the tax imposed by this act equal to 30% of the cost incurred during the tax year to convert existing fuel delivery systems to provide E85 fuel or qualified biodiesel blends and to create new fuel delivery systems designed to provide E85 fuel or qualified biodiesel blends, not to exceed \$20,000.00 per tax year per taxpayer.

(2) In determining the amount of the credit under subsection (1), a taxpayer shall not include any costs to convert existing fuel delivery systems to provide E85 fuel or qualified biodiesel blends or to create new fuel delivery systems designed to provide E85 fuel or qualified biodiesel blends for which the taxpayer received a grant under the service station matching grant program created under section 78 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2078.

(3) The total amount of all credits allowed under this section shall not exceed \$1,000,000.00 per calendar year. If the credit allowed under this section exceeds the liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(4) A taxpayer shall not claim a credit under this section unless the energy office has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the annual return filed under this act on which the credit under this section is claimed. The certificate required by this subsection shall state all of the following:

(a) The taxpayer is the owner of a service station and has converted existing fuel delivery systems to provide E85 fuel or qualified biodiesel blends or created new fuel delivery systems designed to provide E85 fuel or qualified biodiesel blends, or both, during the tax year for which this credit is sought.

(b) The amount of the costs incurred by the taxpayer during the designated tax year to convert existing fuel delivery systems to provide E85 fuel or qualified biodiesel blends and to create new fuel delivery systems designed to provide E85 fuel or qualified biodiesel blends and the amount of any grant awarded during the designated tax year to the taxpayer based on the same costs.

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

(5) A taxpayer that claims a credit under this section and subsequently stops using the fuel delivery systems to provide E85 fuel or qualified biodiesel blends or within 3 years of receiving this credit may, as determined by the Michigan strategic fund, have its credit reduced or terminated or have a percentage of the credit amount previously claimed under this section added back to the tax liability of the taxpayer in the year that the taxpayer stops using the fuel delivery systems to provide E85 fuel or qualified biodiesel blends.

(6) As used in this section:

(a) "Biodiesel" means a fuel composed of monoalkyl esters of long chain fatty acids derived from vegetable oils or animal fats, and, in accordance with standards specified by the American society for testing and materials, designated B100, and meeting the requirements of D-6751, as approved by the department of agriculture.

(b) "Biodiesel blend" means a fuel composed of a blend of biodiesel fuel with petroleum-based diesel fuel, suitable for use as a fuel in a compression-ignition internal combustion diesel engine.

(c) "E85 fuel" means a fuel blend containing between 70% and 85% denatured fuel ethanol and gasoline

suitable for use in a spark-ignition engine and that meets American society for testing and materials D-5798 specifications.

(d) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(e) "Qualified biodiesel blends" means any biodiesel blend that is blended on site utilizing on-demand bio-blending equipment that is installed after the effective date of the amendatory act that added this section.

History: Add. 2008, Act 335, Imd. Eff. Dec. 23, 2008.

Compiler's note: For transfer of powers and duties of Michigan strategic fund from Michigan strategic fund to department of energy, labor, and economic growth, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

Popular name: MBT

***** 208.1461 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1461 Tax credit by taxpayer other than regulated utility.

Sec. 461. For tax years beginning after December 31, 2008 and ending before January 1, 2011, a taxpayer other than a regulated utility may claim a credit under this act equal to 0.42% of the amount of the deduction claimed for the 2008 tax year for bonus depreciation under section 168(k) of the internal revenue code apportioned as the tax base is apportioned under this act. If the amount of the credit exceeds the liability of the taxpayer, the excess shall not be refunded but may be carried forward for 10 years or until used up, whichever occurs first.

History: Add. 2008, Act 434, Eff. Jan. 1, 2008.

Popular name: MBT

***** 208.1471 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1471 Dealer, distributor, manufacturer, or seller of cigarettes or tobacco products; tax credit.

Sec. 471. (1) For the taxpayer's first tax year that begins after December 31, 2010 only, a taxpayer that is a wholesale dealer, retail dealer, distributor, manufacturer, or seller that had receipts from the sale of cigarettes or tobacco products and paid the federal and state excise taxes on or for such cigarettes or tobacco products under subtitle E of the internal revenue code or other applicable state law during the 2008 and 2009 tax years may claim a credit against the tax imposed by this act equal to the sum of the following:

(a) The difference between the taxpayer's modified gross receipts tax liability for the 2008 tax year and the taxpayer's modified gross receipts tax liability if the taxpayer had been allowed to deduct 100% of the federal and state excise taxes on or for such cigarettes or tobacco products under subtitle E of the internal revenue code or other applicable state law under section 111(1)(aa)(ii) rather than 60%.

(b) The difference between the taxpayer's modified gross receipts tax liability for the 2009 tax year and the taxpayer's modified gross receipts tax liability if the taxpayer had been allowed to deduct 100% of the federal and state excise taxes on or for such cigarettes or tobacco products under subtitle E of the internal revenue code or other applicable state law under section 111(1)(aa)(ii) rather than 75%.

(2) 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.

History: Add. 2010, Act 200, Imd. Eff. Oct. 5, 2010.