

SENATE BILL No. 534

May 25, 2005, Introduced by Senators THOMAS, HARDIMAN, VAN WOERKOM and GARCIA and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 39e (MCL 208.39e), as amended by 2002 PA 622.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 39e. (1) A taxpayer may claim a credit against the tax
2 imposed by this act for 1 or more of the following as applicable:

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

4 (b) The credit allowed under subsection (6).

5 (2) For tax years that begin after December 31, 2002, a
6 taxpayer that is certified under the Michigan next energy authority
7 act, 2002 PA 593, MCL 207.821 to 207.827, as an eligible taxpayer
8 may claim a nonrefundable credit for the tax year equal to the
9 amount determined under subdivision (a) or (b), whichever is less:

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

5 (b) For tax years that begin after December 31, 2002, 10% of
6 the amount by which the taxpayer's adjusted qualified business
7 activity performed in this state outside of a renaissance zone for
8 the tax year exceeds the taxpayer's adjusted qualified business
9 activity performed in this state outside of a renaissance zone for
10 the 2001 tax year.

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

16 (4) An affiliated group as defined in this act, a controlled
17 group of corporations as defined in section 1563 of the internal
18 revenue code and further described in 26 ~~C.F.R.~~ **CFR** 1.414(b)-1
19 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
20 defined by the internal revenue code shall not take the credit
21 allowed under subsection (2) unless the qualified business activity
22 of the group or entities is consolidated.

23 (5) A taxpayer that claims a credit under subsection (2) shall
24 attach a copy of each of the following as issued pursuant to the
25 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to
26 207.827, to the annual return required under this act for each tax
27 year in which the taxpayer claims the credit allowed under

1 subsection (2):

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

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

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

8 (6) For tax years that begin after December 31, 2002, a
9 taxpayer that is a qualified alternative energy entity may claim a
10 credit for the taxpayer's qualified payroll amount. A taxpayer
11 shall claim the credit under this subsection after all allowable
12 nonrefundable credits under this act.

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

16 (8) Notwithstanding any other provision of this act and **EXCEPT**
17 **AS PROVIDED IN THIS SUBSECTION**, for tax years that begin after
18 December 31, 2002, a person whose apportioned or allocated gross
19 receipts are less than \$350,000.00 for the tax year need not file a
20 return or pay the tax as provided under this act. **FOR TAX YEARS**
21 **THAT BEGIN AFTER DECEMBER 31, 2005, IF A PERSON IS ENGAGED IN THE**
22 **PERSON'S FIRST OR SECOND YEAR OF BUSINESS ACTIVITY IN THIS STATE**
23 **AND THE PERSON'S APPORTIONED OR ALLOCATED GROSS RECEIPTS ARE LESS**
24 **THAN \$500,000.00 FOR THE TAX YEAR, THE PERSON NEED NOT FILE A**
25 **RETURN OR PAY THE TAX AS PROVIDED UNDER THIS ACT.**

26 (9) As used in this section:

27 (a) "Adjusted qualified business activity performed in this

1 state outside of a renaissance zone" means either of the following:

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

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

9 (A) Business income.

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

11 (C) The alternative energy business activity factor.

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

22 (c) "Alternative energy marine propulsion system",
23 "alternative energy system", "alternative energy vehicle", and
24 "alternative energy technology" mean those terms as defined in the
25 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to
26 207.827.

27 (d) "Alternative energy zone" means a renaissance zone

1 designated as an alternative energy zone by the board of the
2 Michigan strategic fund under section 8a of the Michigan
3 renaissance zone act, 1996 PA 376, MCL 125.2688a.

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

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

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

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

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

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

1 alternative energy zone.

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

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

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

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

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

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

25 (o) "Tax rate" means the rate imposed under sections 51, 51d,
26 and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51,
27 206.51d, and 206.51e, annualized as necessary, for the tax year in

1 which the qualified alternative energy entity claims a credit under
2 subsection (6).