

HOUSE BILL No. 6474

September 18, 2008, Introduced by Reps. Meltzer, Sheen, Wenke, Robertson, Elsenheimer, Agema, Palmer, Steil and Pastor and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 415 (MCL 208.1415).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 415. (1) A taxpayer that meets the criteria under
2 subsection ~~(4)~~—(5) and that is a qualified start-up business that
3 does not have business income for 2 consecutive tax years may claim
4 a credit against the tax imposed under this act for the second of
5 those 2 consecutive tax years and each immediately following
6 consecutive tax year in which the taxpayer does not have business
7 income equal to the taxpayer's tax liability for the tax year in
8 which the taxpayer has no business income. If the taxpayer has
9 business income in any tax year after the credit under this section

1 is claimed, the taxpayer shall claim the credit under this section
2 for any following tax year only if the taxpayer subsequently has no
3 business income for 2 consecutive tax years. The taxpayer may claim
4 the credit for the second of those 2 consecutive tax years and each
5 immediately following consecutive tax year in which the taxpayer
6 does not have business income.

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

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

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

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

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

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

5 (5) For the tax year for which a credit under this section is
6 claimed, compensation, directors' fees, or distributive shares paid
7 by the taxpayer to any 1 of the following shall not exceed
8 \$135,000.00:

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

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

13 (c) A shareholder of an S corporation.

14 (d) A member of a limited liability corporation.

15 (e) An individual who is an owner.

16 (6) As used in this section:

17 (a) "Business income" means business income as defined in
18 section 105 excluding funds received from small business innovation
19 research grants and small business technology transfer programs
20 established under the small business innovation development act of
21 1982, Public Law 97-219, reauthorized under the small business
22 research and development enhancement act, Public Law 102-564, and
23 subsequently reauthorized under the small business reauthorization
24 act of 2000, Public Law 106-554.

25 (b) "Michigan economic development corporation" means the
26 public body corporate created under section 28 of article VII of
27 the state constitution of 1963 and the urban cooperation act of

1 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual
2 interlocal agreement effective April 5, 1999, as amended, between
3 local participating economic development corporations formed under
4 the economic development corporations act, 1974 PA 338, MCL
5 125.1601 to 125.1636, and the Michigan strategic fund.

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

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

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

12 (iii) ~~Research~~ **FOR TAX YEARS THAT BEGIN BEFORE JANUARY 1, 2009,**
13 **RESEARCH** and development expenses make up at least 15% of its
14 expenses in the tax year for which the credit under this section is
15 claimed.

16 (iv) Is not publicly traded.

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

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

23 (B) During the immediately preceding 7 years would have been
24 in 1 of the first 2 years of contribution liability under section
25 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,
26 MCL 421.19, if the qualified start-up business had employees and
27 was liable under the Michigan employment security act, 1936 (Ex

1 Sess) PA 1, MCL 421.1 to 421.75.

2 (C) During the immediately preceding 7 years would have been
3 in 1 of the first 2 years of contribution liability under section
4 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,
5 MCL 421.19, if the qualified start-up business had not assumed
6 successor liability under section 15(g) of the Michigan employment
7 security act, 1936 (Ex Sess) PA 1, MCL 421.15.

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

10 Enacting section 1. This amendatory act is effective January
11 1, 2009 and applies to all taxes levied after December 31, 2008.