

HOUSE BILL No. 5200

December 6, 2011, Introduced by Reps. Cavanagh, Ananich, Hammel, Darany, Townsend, Geiss, Lindberg, Stanley, Kandrevas, Hovey-Wright, Talabi, Bauer and Santana and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.713) by adding section 672.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 672. (1) FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1,
2 2012, A QUALIFIED TAXPAYER MAY CLAIM A CREDIT AGAINST THE TAX
3 IMPOSED BY THIS ACT FOR EACH QUALIFIED EMPLOYEE DURING THE TAX YEAR
4 OF AN AMOUNT EQUAL TO 20% OF THE COMPENSATION PAID BY THE QUALIFIED
5 TAXPAYER TO THE QUALIFIED EMPLOYEE DURING THE TAX YEAR OR
6 \$3,000.00, WHICHEVER IS LESS.

7 (2) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX YEAR
8 AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED UNDER THIS
9 SECTION EXCEED THE TAX LIABILITY OF THE QUALIFIED TAXPAYER FOR THE
10 TAX YEAR, THE EXCESS SHALL NOT BE REFUNDED, BUT MAY BE CARRIED
11 FORWARD AS AN OFFSET TO THE TAX LIABILITY IN SUBSEQUENT TAX YEARS

1 FOR 5 TAX YEARS OR UNTIL THE EXCESS CREDIT IS USED UP, WHICHEVER
2 OCCURS FIRST.

3 (3) IF A TAXPAYER TERMINATES THE EMPLOYMENT OF A QUALIFIED
4 EMPLOYEE FOR WHICH A CREDIT UNDER THIS SECTION WAS CLAIMED WITHIN 1
5 YEAR AFTER THE TAXPAYER HIRED THAT EMPLOYEE, THE DEPARTMENT MAY
6 REDUCE, TERMINATE, OR HAVE A PERCENTAGE OF THE AMOUNT OF THE CREDIT
7 ALREADY CLAIMED UNDER THIS SECTION ADDED BACK TO THE TAX LIABILITY
8 OF THE TAXPAYER IN THE TAX YEAR THAT THE TAXPAYER TERMINATED THAT
9 EMPLOYEE.

10 (4) FOR PURPOSES OF THIS SECTION, TAXPAYER INCLUDES A
11 FINANCIAL INSTITUTION AND AN INSURANCE COMPANY.

12 (5) AS USED IN THIS SECTION:

13 (A) "COMPENSATION" MEANS ALL WAGES, SALARIES, FEES, BONUSES,
14 COMMISSIONS, AND OTHER PAYMENTS MADE IN THE TAX YEAR ON BEHALF OF
15 OR FOR THE BENEFIT OF EMPLOYEES, OFFICERS, OR DIRECTORS OF THE
16 TAXPAYERS. COMPENSATION INCLUDES, BUT IS NOT LIMITED TO, PAYMENTS
17 THAT ARE SUBJECT TO OR SPECIFICALLY EXEMPT OR EXCEPTED FROM
18 WITHHOLDING UNDER SECTIONS 3401 TO 3406 OF THE INTERNAL REVENUE
19 CODE. COMPENSATION ALSO INCLUDES, ON A CASH OR ACCRUAL BASIS
20 CONSISTENT WITH THE TAXPAYER'S METHOD OF ACCOUNTING FOR FEDERAL
21 INCOME TAX PURPOSES, PAYMENTS TO A PENSION, RETIREMENT, OR PROFIT
22 SHARING PLAN OTHER THAN THOSE PAYMENTS ATTRIBUTABLE TO UNFUNDED
23 ACCRUED ACTUARIAL LIABILITIES, AND PAYMENTS FOR INSURANCE FOR WHICH
24 EMPLOYEES ARE THE BENEFICIARIES, INCLUDING PAYMENTS UNDER HEALTH
25 AND WELFARE AND NONINSURED BENEFIT PLANS AND PAYMENT OF FEES FOR
26 THE ADMINISTRATION OF HEALTH AND WELFARE AND NONINSURED BENEFIT
27 PLANS. COMPENSATION DOES NOT INCLUDE ANY OF THE FOLLOWING:

1 (i) DISCOUNTS ON THE PRICE OF THE TAXPAYER'S MERCHANDISE OR
2 SERVICES SOLD TO THE TAXPAYER'S EMPLOYEES, OFFICERS, OR DIRECTORS
3 THAT ARE NOT AVAILABLE TO OTHER CUSTOMERS.

4 (ii) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, PAYMENTS
5 TO AN INDEPENDENT CONTRACTOR.

6 (iii) PAYMENTS TO STATE AND FEDERAL UNEMPLOYMENT COMPENSATION
7 FUNDS.

8 (iv) THE EMPLOYER'S PORTION OF PAYMENTS UNDER THE FEDERAL
9 INSURANCE CONTRIBUTIONS ACT, 26 USC 3101 TO 3128, THE RAILROAD
10 RETIREMENT TAX ACT, 26 USC 3201 TO 3241, AND SIMILAR SOCIAL
11 INSURANCE PROGRAMS.

12 (v) PAYMENTS, INCLUDING SELF-INSURANCE PAYMENTS, FOR WORKER'S
13 COMPENSATION INSURANCE OR FEDERAL EMPLOYERS' LIABILITY ACT
14 INSURANCE PURSUANT TO 45 USC 51 TO 60.

15 (B) "DEPENDENT" MEANS THAT TERM AS DEFINED IN SECTION 152 OF
16 THE INTERNAL REVENUE CODE.

17 (C) "FULL-TIME JOB" MEANS A JOB PERFORMED BY AN INDIVIDUAL FOR
18 35 HOURS OR MORE EACH WEEK AND WHOSE INCOME AND SOCIAL SECURITY
19 TAXES ARE WITHHELD FROM THE WAGES EARNED BY THAT INDIVIDUAL FOR
20 PERFORMING THE JOB.

21 (D) "QUALIFIED EMPLOYEE" MEANS ANY INDIVIDUAL WHO SATISFIES
22 EACH OF THE FOLLOWING:

23 (i) IS CURRENTLY UNEMPLOYED AND CERTIFIES BY SIGNED AFFIDAVIT
24 THAT HE OR SHE HAS NOT HELD A FULL-TIME JOB DURING THE IMMEDIATELY
25 PRECEDING 60-DAY PERIOD BEFORE THE DATE THAT HE OR SHE BEGAN
26 EMPLOYMENT WITH THE QUALIFIED TAXPAYER.

27 (ii) IS NOT EMPLOYED BY THE QUALIFIED TAXPAYER TO REPLACE

1 ANOTHER EMPLOYEE OF THAT QUALIFIED TAXPAYER UNLESS THAT OTHER
2 EMPLOYEE SEPARATED FROM EMPLOYMENT VOLUNTARILY OR FOR CAUSE.

3 (iii) IS NOT A RELATIVE OR DEPENDENT OF AN INDIVIDUAL WHO OWNS,
4 DIRECTLY OR INDIRECTLY, MORE THAN 50% IN VALUE OF THE OUTSTANDING
5 STOCK OF THE QUALIFIED TAXPAYER, OR IF THE QUALIFIED TAXPAYER IS AN
6 ENTITY OTHER THAN A CORPORATION, IS NOT A RELATIVE OR DEPENDENT TO
7 ANY INDIVIDUAL WHO OWNS, DIRECTLY OR INDIRECTLY, MORE THAN 50% OF
8 THE CAPITAL AND PROFITS INTERESTS IN THE ENTITY.

9 (E) "QUALIFIED TAXPAYER" MEANS A TAXPAYER THAT IS AN EMPLOYER
10 THAT EMPLOYS FEWER THAN 100 FULL-TIME EMPLOYEES.

11 (F) "RELATIVE" MEANS AN INDIVIDUAL WHO BEARS A RELATIONSHIP
12 DESCRIBED IN SECTION 152(D)(2)(A) THROUGH (H) OF THE INTERNAL
13 REVENUE CODE TO THE QUALIFIED EMPLOYER.