

SENATE BILL NO. 269

February 4, 1999, Introduced by Senators SCHUETTE, GOUGEON,
MC MANUS, STEIL, STILLE, GOSCHKA, BENNETT and BULLARD and
referred to the Committee on Economic Development,
International Trade and Regulatory Affairs.

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 38d (MCL 208.38d), as added by 1996 PA 382.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 38d. (1) For tax years that begin after December 31,
2 1996 and before January 1, 2001, a qualified taxpayer may claim a
3 credit against the tax imposed by this act equal to 10% of the
4 cost of eligible investment paid or accrued by the qualified tax-
5 payer in the tax year.

6 (2) The maximum total credits claimed under this section for
7 all tax years by each taxpayer that claims a credit under this
8 section shall not exceed \$1,000,000.00.

9 (3) The credit allowed under this section shall be
10 calculated after application of all other credits allowed under
11 this act.

1 (4) If the credit allowed under this section for the tax
2 year and any unused carryforward of the credit allowed by this
3 section exceed the taxpayer's tax liability for the tax year,
4 that portion that exceeds the tax liability for the tax year
5 shall not be refunded but may be carried forward to offset tax
6 liability in subsequent tax years for 10 years or until used up,
7 whichever occurs first.

8 (5) If eligible investment is for the purchase of tangible
9 assets, if the cost of those assets will have been used to calcu-
10 late a credit under this section, and if the tangible assets are
11 sold or disposed of or transferred from eligible property to any
12 other location, add 10% of the federal basis used for determining
13 gain or loss as of the date of the sale, disposition, or transfer
14 to the taxpayer's tax liability for the tax year in which the
15 sale, disposition, or transfer occurs. THIS SUBSECTION DOES NOT
16 APPLY TO THE SALE, DISPOSITION, OR TRANSFER OF TANGIBLE ASSETS
17 THAT ARE SINGLE FAMILY RESIDENCES OR RESIDENTIAL CONDOMINIUM
18 UNITS.

19 (6) IF AN OWNER PAYS OR ACCRUES ELIGIBLE INVESTMENT IN THE
20 TAX YEAR ON ELIGIBLE PROPERTY THAT IS LEASED TO ANOTHER TAXPAYER
21 AND THE OWNER DOES NOT USE THAT ELIGIBLE INVESTMENT TO CLAIM A
22 CREDIT UNDER THIS SECTION, THE LESSEE MAY CLAIM A CREDIT EQUAL TO
23 THE PRESENT VALUE OF THE BASE RENT TO BE PAID BY A LESSEE OF ALL
24 OR ANY PART OF THE ELIGIBLE INVESTMENT MADE ON THE ELIGIBLE PROP-
25 ERTY IF THE LESSEE IS A QUALIFIED TAXPAYER DURING THE TERM OF THE
26 LEASE OR ANY RENEWALS OF THE LEASE. THIS SUBSECTION APPLIES ONLY
27 IF THE LEASE HAS A MINIMUM TERM OF 10 YEARS AND THE MAXIMUM

1 CREDIT AVAILABLE TO THE LESSEE DOES NOT EXCEED 10% OF THE COST OF
2 THE ELIGIBLE INVESTMENT THAT IS SUBJECT TO THE LEASE.

3 (7) IF THE OWNER OF THE ELIGIBLE PROPERTY IS A PARTNERSHIP,
4 LIMITED LIABILITY COMPANY, OR SUBCHAPTER S CORPORATION THAT HAS
5 NO TAX LIABILITY UNDER THIS ACT, THE AMOUNT CONSIDERED ACCRUED BY
6 THE QUALIFIED TAXPAYER IS THE PARTNER'S, MEMBER'S, OR
7 SHAREHOLDER'S PROPORTIONATE SHARE OF THE QUALIFIED INVESTMENT
8 PAID BY THE OWNER OR LESSEE OF THE ELIGIBLE PROPERTY.

9 (8) ~~-(6)-~~ An affiliated group as defined in this act, a con-
10 trolled group of corporations as defined in section 1563 of the
11 internal revenue code and further described in 26
12 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity
13 under common control as defined in the internal revenue code
14 shall consolidate the eligible investment of the members of the
15 affiliated group, member corporations of the controlled group, or
16 entities under common control for purposes of determining when
17 the maximum allowable credit limit under subsection (2) has been
18 reached.

19 (9) ~~-(7)-~~ The department shall develop procedures to imple-
20 ment this section.

21 (10) ~~-(8)-~~ As used in this section:

22 (a) "Eligible activity" means that term as defined in the
23 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
24 TO 125.2672.

25 (b) "Eligible investment" means demolition, construction,
26 restoration, alteration, renovation, or improvement of buildings
27 on eligible property and the addition of machinery, equipment,

1 and fixtures to eligible property after the date that eligible
2 activity on that eligible property has started pursuant to a
3 brownfield plan under the brownfield redevelopment financing act,
4 1996 PA 381, MCL 125.2651 TO 125.2672, if the costs of the eligi-
5 ble investment are not otherwise reimbursed to the taxpayer or
6 paid for on behalf of the taxpayer from any source other than the
7 taxpayer.

8 (c) "Eligible property" means property that is a facility as
9 that term is defined in section 20101 of part 201 ~~—(environmental~~
10 ~~remediation)—~~ of the natural resources and environmental protec-
11 tion act, ~~Act No. 451 of the Public Acts of 1994, being section~~
12 ~~324.20101 of the Michigan Compiled Laws—~~ 1994 PA 451, MCL
13 324.20101, or property that was a facility as defined in section
14 20101 of ~~Act No. 451 of the Public Acts of 1994—~~ THE NATURAL
15 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL
16 324.20101, prior to the completion of eligible activity pursuant
17 to a brownfield plan under the brownfield redevelopment financing
18 act, 1996 PA 381, MCL 125.2651 TO 125.2672, AND INCLUDES PARCELS
19 OF PROPERTY THAT ARE ADJACENT OR CONTIGUOUS TO THE FACILITY IF
20 THE DEVELOPMENT OF THE ADJACENT OR CONTIGUOUS PARCELS IS ESTI-
21 MATED TO INCREASE THE CAPTURED TAXABLE VALUE OF THE FACILITY FOR
22 WHICH THE ELIGIBLE ACTIVITIES ARE PROPOSED UNDER A BROWNFIELD
23 PLAN.

24 (d) "Qualified taxpayer" means a taxpayer that meets both of
25 the following criteria:

26 (i) Owns or leases an eligible property that is located
27 within a brownfield redevelopment zone designated pursuant to the

1 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
2 TO 125.2672, and on which eligible activity has started pursuant
3 to a brownfield plan under the brownfield redevelopment financing
4 act, 1996 PA 381, MCL 125.2651 TO 125.2672.

5 (ii) The taxpayer is not liable under section 20126 of part
6 201 of ~~Act No. 451 of the Public Acts of 1994, being section~~
7 ~~324.20126 of the Michigan Compiled Laws~~ THE NATURAL RESOURCES
8 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.20126, for
9 response activity at an eligible property to which the credit is
10 attributable.

11 (e) "Response activity" means that term as defined in the
12 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
13 TO 125.2672.