

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 6073

(As passed the House, September 24, 2002)

(As passed the Senate, September 26, 2002)

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
(MCL 208.1 to 208.145) by adding section 39f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 39F. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,
2 2002, AN ELIGIBLE TAXPAYER MAY CLAIM A CREDIT AGAINST THE TAX
3 IMPOSED BY THIS ACT EQUAL TO 6-1/2% OF THE EXCESS OF QUALIFIED
4 RESEARCH EXPENSES PAID IN THE TAX YEAR THAT RELATE TO THE ELIGI-
5 BLE TAXPAYER'S PHARMACEUTICAL BASED BUSINESS ACTIVITY IN THIS
6 STATE OVER THE AVERAGE QUALIFIED RESEARCH EXPENSES THAT RELATE TO
7 THE ELIGIBLE TAXPAYER'S PHARMACEUTICAL BASED BUSINESS ACTIVITY IN
8 THIS STATE PAID DURING THE 3 IMMEDIATELY PRECEDING TAX YEARS.
9 (2) THE AMOUNT OF A CREDIT FOR ANY TAX YEAR UNDER SUBSECTION
10 (1) SHALL NOT EXCEED 200% OF THE ELIGIBLE TAXPAYER'S AVERAGE
11 QUALIFIED RESEARCH EXPENSES THAT RELATE TO THE TAXPAYER'S

HB 6073, As Passed Senate, September 26, 2002

House Bill No. 6073

2

1 PHARMACEUTICAL BASED BUSINESS ACTIVITY IN THIS STATE FOR THE 3
2 IMMEDIATELY PRECEDING TAX YEARS.

3 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX
4 YEAR AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED UNDER THIS
5 SECTION EXCEED THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX
6 YEAR, THE EXCESS SHALL NOT BE REFUNDED BUT MAY BE CARRIED FORWARD
7 AS AN OFFSET TO THE TAX LIABILITY IN SUBSEQUENT TAX YEARS FOR 7
8 TAX YEARS OR UNTIL THE EXCESS CREDIT IS USED UP, WHICHEVER OCCURS
9 FIRST.

10 (4) A MEMBER OF AN AFFILIATED GROUP AS DEFINED IN THIS ACT,
11 A CONTROLLED GROUP OF CORPORATIONS AS DEFINED IN SECTION 1563 OF
12 THE INTERNAL REVENUE CODE AND FURTHER DESCRIBED IN 26 C.F.R.

13 1.414(b)-1 AND 1.414(c)-1 TO 1.414(c)-5, OR AN ENTITY UNDER
14 COMMON CONTROL AS DEFINED BY THE INTERNAL REVENUE CODE SHALL
15 DETERMINE THE CREDIT ALLOWED UNDER THIS SECTION ON A CONSOLIDATED
16 BASIS.

17 (5) AN ELIGIBLE TAXPAYER MAY ASSIGN ALL OR A PORTION OF A
18 CREDIT ALLOWED UNDER THIS SECTION. A CREDIT ASSIGNMENT UNDER
19 THIS SUBSECTION IS IRREVOCABLE AND SHALL BE MADE IN THE TAX YEAR
20 IN WHICH QUALIFIED RESEARCH EXPENSES ARE PAID. AN ELIGIBLE TAX-
21 PAYER MAY CLAIM A PORTION OF THE CREDIT AND ASSIGN A PORTION OF
22 THE REMAINING CREDIT AMOUNT. HOWEVER, THE ELIGIBLE TAXPAYER
23 SHALL NOT ASSIGN IN ANY TAX YEAR MORE THAN 40% OF THE TOTAL
24 AMOUNT OF THE CREDIT ALLOWED FOR THAT YEAR. IF THE ELIGIBLE TAX-
25 PAYER BOTH CLAIMS AND ASSIGNS PORTIONS OF THE CREDIT, THE ELIGI-
26 BLE TAXPAYER SHALL CLAIM THE PORTION IT CLAIMS IN THE TAX YEAR IN
27 WHICH THE QUALIFIED RESEARCH EXPENSES ARE PAID. AN ASSIGNEE

HB 6073, As Passed Senate, September 26, 2002

House Bill No. 6073

3

1 SHALL NOT SUBSEQUENTLY ASSIGN A CREDIT OR ANY PORTION OF A CREDIT
2 ASSIGNED UNDER THIS SUBSECTION. THE CREDIT ASSIGNMENT UNDER THIS
3 SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED BY THE DEPARTMENT.
4 THE ELIGIBLE TAXPAYER SHALL SEND A COPY OF THE COMPLETED ASSIGN-
5 MENT FORM TO THE DEPARTMENT IN THE TAX YEAR IN WHICH THE ASSIGN-
6 MENT IS MADE. THE ASSIGNEE SHALL ATTACH A COPY OF THE COMPLETED
7 ASSIGNMENT FORM TO ITS ANNUAL RETURN REQUIRED UNDER THIS ACT, FOR
8 THE TAX YEAR IN WHICH THE ASSIGNMENT IS MADE AND THE ASSIGNEE
9 FIRST CLAIMS A CREDIT, WHICH SHALL BE THE SAME TAX YEAR.

10 (6) THE TOTAL OF ALL CREDITS ALLOWED UNDER THIS SECTION
11 SHALL NOT EXCEED \$10,000,000.00 FOR ANY 1 TAX YEAR.

12 (7) AS USED IN THIS SECTION:

13 (A) "ELIGIBLE TAXPAYER" MEANS A COMPANY THAT MEETS ALL OF
14 THE FOLLOWING CRITERIA WITHIN 18 MONTHS AFTER THE EFFECTIVE DATE
15 OF THE AMENDATORY ACT THAT ADDED THIS SECTION:

16 (i) IS ENGAGED PRIMARILY IN MANUFACTURING, RESEARCH AND
17 DEVELOPMENT, AND SALE OF PHARMACEUTICALS.

18 (ii) HAS NOT LESS THAN 8,500 EMPLOYEES LOCATED IN THIS
19 STATE. THE PRIMARY PLACES OF EMPLOYMENT FOR ALL THE EMPLOYEES
20 REQUIRED UNDER THIS SUBPARAGRAPH SHALL BE LOCATED WITHIN A
21 100-MILE RADIUS OF EACH OTHER.

22 (iii) OF THE TOTAL NUMBER OF EMPLOYEES LOCATED IN THIS
23 STATE, HAS NOT LESS THAN 5,000 ENGAGED PRIMARILY IN RESEARCH AND
24 DEVELOPMENT OF PHARMACEUTICALS.

25 (B) "QUALIFIED RESEARCH EXPENSES" MEANS THAT TERM AS DEFINED
26 IN SECTION 41 OF THE INTERNAL REVENUE CODE.