

Act No. 251
Public Acts of 2003
Approved by the Governor
December 23, 2003
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December 29, 2003
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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Senators Sanborn, Kuipers, McManus, George, Bishop, Birkholz, Sikkema, Cropsey, Gilbert, Brown, Van Woerkom, Toy, Jelinek, Hardiman, Johnson, Hammerstrom, Allen, Barcia, Basham, Cherry, Clarke, Garcia, Goschka, Olshove, Prusi, Schauer and Stamas

ENROLLED SENATE BILL No. 821

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 37c (MCL 208.37c), as amended by 2000 PA 429.

The People of the State of Michigan enact:

Sec. 37c. (1) For tax years beginning after December 31, 1994 and for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, a taxpayer that is an authorized business may credit against the tax imposed by section 31 the amount certified each year by the Michigan economic growth authority.

(2) The credit allowed under subsection (1) for an authorized business for the tax year as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, shall not exceed the payroll of the authorized business attributable to employees who perform qualified new jobs multiplied by the tax rate.

(3) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the return filed under this act on which a credit under this section is claimed.

(4) The certificate required by subsection (3) shall state all of the following:

(a) The taxpayer is an authorized business.

(b) The amount of the credit under this section for the authorized business for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.

(d) For a taxpayer that claims a credit allowed under subsection (10), the taxpayer is a distressed business.

(5) If the credit allowed under subsection (1) exceeds the tax liability of the taxpayer for the tax year, the excess shall be refunded to the taxpayer.

(6) A taxpayer that claims a credit under subsection (1) or section 37d that has an agreement with the Michigan economic growth authority based on qualified new jobs as defined in section 3(j)(ii) of the Michigan economic growth

authority act, 1995 PA 24, MCL 207.803, that removes from this state 51% or more of those qualified new jobs within 3 years after the first year in which the taxpayer claims a credit described in this subsection shall pay to the department no later than 12 months after those qualified new jobs are removed from the state an amount equal to the total of all credits described in this subsection that were claimed by the taxpayer.

(7) If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer who claims the credit under this section get a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same number of new jobs used to calculate the credit under this section, the taxpayer shall get the statement and attach that statement to its annual return under this act on which the credit under this section is claimed.

(8) For a credit allowed under subsection (1), an affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 CFR 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall claim only 1 credit for each tax year for each expansion or location evidenced by a written agreement whether or not a combined or consolidated return is filed.

(9) A credit shall not be claimed by a taxpayer under subsection (1) if the taxpayer's initial certification as required in subsection (3) is issued after December 31, 2009.

(10) In addition to the credit allowed under subsection (1), for tax years that begin after December 31, 2003 and before January 1, 2007, a taxpayer that is an authorized business and is a distressed business, with an initial certification under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, issued after December 31, 2003 and before January 1, 2005 may claim a credit equal to the sum of the following:

(a) Up to 50% of the tax paid in the tax year under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, based on qualified new jobs as defined in section 3(k)(iii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(b) Up to 25% of the tax paid in the tax year under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, based on all jobs other than qualified new jobs as defined in section 3(k)(iii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(11) An authorized business that is a distressed business shall apply to the Michigan economic growth authority, which shall determine the percentage under subsection (10) for that authorized business. The Michigan economic growth authority shall issue a certificate to the authorized business stating the percentage amount and the tax years to which that percentage applies not more than 30 days after receipt of an application under this subsection.

(12) If the credit allowed under subsection (10) for the tax year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 10 tax years or until the excess credit is used up, whichever occurs first.

(13) As used in this section:

(a) "Authority" or "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(b) "Authorized business", "facility", "full-time job", "qualified high-technology business", and "written agreement" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Payroll" means the total salaries and wages before deducting any personal or dependency exemptions.

(d) "Qualified new jobs" means 1 or more of the following:

(i) For a credit allowed under subsection (1), the average number of full-time jobs at a facility of an authorized business for a tax year in excess of the average number of full-time jobs the authorized business maintained in this state prior to the expansion or location as that is determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(ii) After July 1, 2000 for a credit allowed under subsection (1), the average number of full-time jobs at a facility created by an eligible business within 120 days before becoming an authorized business, that is in excess of the average number of full-time jobs that the business maintained in this state 120 days before becoming an authorized business, as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(iii) For credits allowed under subsection (10), that term as defined in section 3(k)(iii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(e) "Tax rate" means the rate imposed under sections 51, 51d, and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51, 206.51d, and 206.51e, for the tax year in which the tax year of the taxpayer for which the credit is being computed begins.

Enacting section 1. This act does not take effect unless House Bill No. 5255 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved _____

Governor