

# HOUSE BILL No. 4972

June 16, 2005, Introduced by Reps. Steil, Sheen and Drolet and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
(MCL 208.1 to 208.145) by adding section 35d.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 35D. (1) FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1,  
2        2006, A TAXPAYER THAT IS AN INDUSTRIAL PROCESSOR OR A RESEARCH AND  
3        DEVELOPMENT COMPANY MAY CLAIM A CREDIT EQUAL TO 35% OF THE PROPERTY  
4        TAXES PAID IN THE TAX YEAR BY THE TAXPAYER ON TANGIBLE PERSONAL  
5        PROPERTY USED FOR INDUSTRIAL PROCESSING, INCLUDING RESEARCH OR  
6        EXPERIMENTAL ACTIVITIES. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION  
7        (9)(A), TANGIBLE PERSONAL PROPERTY USED BY AN INDUSTRIAL PROCESSOR  
8        OR RESEARCH AND DEVELOPMENT COMPANY FOR INDUSTRIAL PROCESSING  
9        INCLUDES PROPERTY DESCRIBED IN SECTION 4T(4) OF THE GENERAL SALES  
10       TAX ACT, 1933 PA 167, MCL 205.54T, AND EXCLUDES PROPERTY DESCRIBED

1 IN SECTION 4T(5) OF THE GENERAL SALES TAX ACT, 1933 PA 167, MCL  
2 205.54T.

3 (2) PERSONAL PROPERTY TAXES PAID ON ANY TANGIBLE PERSONAL  
4 PROPERTY, INCLUDING PROPERTY USED FOR INDUSTRIAL PROCESSING OR  
5 RESEARCH OR EXPERIMENTAL ACTIVITIES, THAT HAS AS ITS PRIMARY  
6 PURPOSE THE SUPPORT OF SALES AT RETAIL OF TANGIBLE PERSONAL  
7 PROPERTY, OTHER THAN SALES TO EMPLOYEES, OR OTHER COMMERCIAL  
8 ACTIVITIES SHALL NOT BE USED IN THE CALCULATION OF THE CREDIT UNDER  
9 SUBSECTIONS (4) TO (6).

10 (3) TO QUALIFY FOR THE CREDIT UNDER THIS SECTION FOR AN ITEM  
11 OF TANGIBLE PERSONAL PROPERTY, A TAXPAYER THAT IS OTHERWISE  
12 ELIGIBLE TO CLAIM THE CREDIT ALLOWED UNDER THIS SECTION SHALL FILE  
13 WITHIN THE TIME REQUIRED THE STATEMENT OF PERSONAL PROPERTY  
14 DESCRIBED IN SECTION 19 OF THE GENERAL PROPERTY TAX ACT, 1893 PA  
15 206, MCL 211.19, FOR THAT ITEM OF TANGIBLE PERSONAL PROPERTY USED  
16 FOR INDUSTRIAL PROCESSING OR FOR A RESEARCH OR EXPERIMENTAL  
17 ACTIVITY FOR THE LOCATION AT WHICH THE TANGIBLE PERSONAL PROPERTY  
18 THAT IS THE BASIS OF THE CREDIT ALLOWED UNDER THIS SECTION IS  
19 LOCATED. TAXPAYERS SHALL CLAIM AND CALCULATE THE CREDIT IN THE  
20 MANNER PRESCRIBED IN SUBSECTIONS (4) TO (6).

21 (4) FOR A TAXPAYER THAT IS AN INDUSTRIAL PROCESSOR WHOSE ONLY  
22 SIGNIFICANT BUSINESS ACTIVITY IS INDUSTRIAL PROCESSING AND  
23 ACTIVITIES THAT SUPPORT ITS INDUSTRIAL PROCESSING, THE AMOUNT OF  
24 PERSONAL PROPERTY TAXES USED TO CALCULATE THE CREDIT ALLOWED UNDER  
25 SUBSECTION (1) SHALL BE 90% OF THE PERSONAL PROPERTY TAXES PAID AND  
26 REPORTED ON PERSONAL PROPERTY BY THE INDUSTRIAL PROCESSOR.

27 (5) A TAXPAYER THAT IS AN INDUSTRIAL PROCESSOR THAT IS NOT

1 SUBJECT TO SUBSECTION (4) OR (6) SHALL COMPLETE AND FILE WITHIN THE  
2 TIME REQUIRED BY SECTION 19 OF THE GENERAL PROPERTY TAX ACT, 1893  
3 PA 206, MCL 211.19, STATEMENTS OF PERSONAL PROPERTY SEPARATELY FOR  
4 BOTH THE PROPERTY USED FOR INDUSTRIAL PROCESSING AND PROPERTY USED  
5 FOR OTHER PURPOSES AND SHALL CLAIM THE CREDIT AS PROVIDED IN  
6 SUBSECTION (1) ON PERSONAL PROPERTY USED FOR INDUSTRIAL PROCESSING  
7 AND SEPARATELY REPORTED AS REQUIRED BY THIS SUBSECTION.

8 (6) A TAXPAYER THAT IS A RESEARCH AND DEVELOPMENT COMPANY  
9 SHALL COMPLETE AND FILE WITHIN THE TIME REQUIRED THE STATEMENT OF  
10 PERSONAL PROPERTY DESCRIBED IN SECTION 19 OF THE GENERAL PROPERTY  
11 TAX ACT, 1893 PA 206, MCL 211.19, SEPARATELY FOR THE PROPERTY USED  
12 FOR RESEARCH OR EXPERIMENTAL ACTIVITIES AND THE PROPERTY USED FOR  
13 OTHER PURPOSES AND SHALL CALCULATE THE CREDIT ALLOWED UNDER  
14 SUBSECTION (1) BASED ON TAXES PAID FOR RESEARCH OR EXPERIMENTAL  
15 PROPERTY AND SEPARATELY REPORTED AS REQUIRED IN THIS SUBSECTION.

16 (7) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE TAX  
17 LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THE EXCESS SHALL BE  
18 REFUNDED TO THE TAXPAYER. THE STATE TREASURER SHALL ESTABLISH A  
19 RESERVE ACCOUNT IN THE DEPARTMENT TO FUND AND PROVIDE FOR PAYMENT  
20 OF THE AMOUNT OF REFUNDS FOR CREDITS UNDER THIS SECTION THAT ARE  
21 ATTRIBUTABLE TO THE FISCAL YEARS ENDING IN THE TAX YEARS FOR WHICH  
22 CREDITS ARE CLAIMED.

23 (8) AN AFFILIATED GROUP AS DEFINED IN THIS ACT, A CONTROLLED  
24 GROUP OF CORPORATIONS AS DEFINED IN SECTION 1563 OF THE INTERNAL  
25 REVENUE CODE AND FURTHER DESCRIBED IN 26 CFR 1.414(B)-1 AND  
26 1.414(C)-1 TO 1.414(C)-5, OR AN ENTITY UNDER COMMON CONTROL AS  
27 DEFINED BY THE INTERNAL REVENUE CODE SHALL NOT CLAIM THE CREDIT

1 ALLOWED BY THIS SECTION AS A RESEARCH AND DEVELOPMENT COMPANY  
2 UNLESS THE BUSINESS ACTIVITIES OF THE ENTITIES ARE CONSOLIDATED FOR  
3 THE PURPOSE OF DETERMINING WHETHER THE TAXPAYER IS A RESEARCH AND  
4 DEVELOPMENT COMPANY. FOR PURPOSES OF THIS SUBSECTION, BUSINESS  
5 ACTIVITIES INCLUDE ALL ACTIVITIES WITHIN AND OUTSIDE OF THIS STATE.

6 (9) AS USED IN THIS SECTION:

7 (A) "INDUSTRIAL PROCESSING" MEANS THAT TERM AS DEFINED IN  
8 SECTION 4T(7)(A) OF THE GENERAL SALES TAX ACT, 1933 PA 167, MCL  
9 205.54T, AND DESCRIBED IN SECTION 4T(3) OF THE GENERAL SALES TAX  
10 ACT, 1933 PA 167, MCL 205.54T, AND EXCLUDES THOSE ACTIVITIES  
11 DESCRIBED IN SECTION 4T(6) OF THE GENERAL SALES TAX ACT, 1933 PA  
12 167, MCL 205.54T, EXCEPT THAT FOR PURPOSES OF THIS SECTION,  
13 INDUSTRIAL PROCESSING INCLUDES TANGIBLE PERSONAL PROPERTY USED FOR  
14 THE RECEIVING AND STORAGE OF MATERIALS PURCHASED BY AN INDUSTRIAL  
15 PROCESSOR OR USED AT A FIXED LOCATION FOR THE PRESERVATION,  
16 MAINTENANCE, WAREHOUSING, OR SHIPPING OF A FINISHED GOOD.

17 (B) "INDUSTRIAL PROCESSOR" MEANS THAT TERM AS DEFINED IN  
18 SECTION 4T(7)(B) OF THE GENERAL SALES TAX ACT, 1933 PA 167, MCL  
19 205.54T, BUT DOES NOT INCLUDE A PUBLIC UTILITY.

20 (C) "PROPERTY TAXES" MEANS A TAX LEVIED UNDER ANY OF THE  
21 FOLLOWING ACTS:

22 (i) THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO  
23 211.157.

24 (ii) 1974 PA 198, MCL 207.551 TO 207.572.

25 (iii) THE OBSOLETE PROPERTY REHABILITATION ACT, 2000 PA 146, MCL  
26 125.2781 TO 125.2797.

27 (D) "RESEARCH OR EXPERIMENTAL ACTIVITIES" MEANS THAT TERM AS

1   DEFINED IN SECTION 4T(7)(E) OF THE GENERAL SALES TAX ACT, 1933 PA  
2   167, MCL 205.54T.

3           (E) "RESEARCH AND DEVELOPMENT COMPANY" MEANS A TAXPAYER THAT  
4   IS EXCLUSIVELY PERFORMING RESEARCH OR EXPERIMENTAL ACTIVITIES.