

MICHIGAN BUSINESS TAX ACT (EXCERPT)
Act 36 of 2007

***** 208.1431 THIS SECTION IS REPEALED BY ACT 39 OF 2011 EFFECTIVE WHEN CONDITIONS APPLIED BY ENACTING SECTION 1 OF ACT 39 OF 2011 ARE MET: See enacting section 1 of Act 39 of 2011 *****

***** 208.1431.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2012 *****

208.1431.amended Business authorized under Michigan economic growth authority; tax credit; amount; certificate; attachment to annual return; statement; number of years; refund; effect of failure to meet requirements or removal of new jobs from state; statement as to number of new jobs created in state; limitation on total number of credits claimed in the first year; definitions.

Sec. 431. (1) Except as otherwise provided under this subsection, 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 claim a credit against the tax imposed by this act equal to the amount certified each year by the Michigan economic growth authority as follows:

(a) Except as otherwise provided under this subdivision, for an authorized business for the tax year, an amount not to exceed the payroll of the authorized business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate; beginning after April 28, 2008, for an authorized business for the tax year, an amount not to exceed the sum of the payroll and health care benefits of the authorized business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

(b) For an eligible business as determined under section 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount not to exceed 50% of the payroll of the authorized business attributable to employees who perform retained jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the tax year.

(c) For an eligible business as determined under section 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount not to exceed the payroll of the authorized business attributable to employees who perform retained jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the tax year.

(d) For an authorized business that is a qualified high-technology business, for a period of time not to exceed 7 years as determined by the Michigan economic growth authority, an amount not to exceed 200% of the sum of the payroll and health care benefits of the qualified high-technology business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, for the first 3 tax years of the credit, multiplied by the tax rate and, for each of the remaining tax years of the credit, an amount not to exceed 100% of the sum of the payroll and health care benefits of the qualified high-technology business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

(e) For an authorized business as determined under section 8(9) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount up to, but not to exceed 100% of, the sum of the payroll and health care benefits of the authorized business attributable to employees who perform retained jobs multiplied by a fraction, the numerator of which is the amount of new capital investment made at the facility and the denominator of which is the product of the number of retained jobs multiplied by \$100,000.00, and then multiplied by the tax rate for the tax year.

(f) For an authorized business as determined under section 8(11) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount not to exceed 100% of the sum of the payroll and health care benefits of the authorized business attributable to employees who perform new full-time jobs and retained jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the tax year.

(2) 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 annual return filed under this act on which a credit under this section is claimed.

(3) The certificate required by subsection (2) 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 department of treasury number assigned to the taxpayer.

(4) The Michigan economic growth authority may certify a credit under this section based on an agreement entered into prior to January 1, 2008 pursuant to section 37c of former 1975 PA 228. The number of years for which the credit may be claimed under this section shall equal the maximum number of years designated in the resolution reduced by the number of years for which a credit has been claimed or could have been claimed under section 37c of former 1975 PA 228.

(5) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability of the taxpayer shall be refunded.

(6) Except as otherwise provided under this subsection, a taxpayer that claims a credit under subsection (1) or section 37c or 37d of former 1975 PA 228, that has an agreement with the Michigan economic growth authority based on qualified new jobs as defined in section 3(q)(ii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803, and 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. Beginning after April 28, 2008, a taxpayer that claims a credit under subsection (1) and subsequently fails to meet the requirements of this section or any other conditions included in an agreement entered into with the Michigan economic growth authority in order to obtain a certificate for the credit claimed under this section or removes any of the qualified new jobs from this state during the term of the written agreement and for a period of years after the term of the written agreement, as determined by the Michigan economic growth authority, may have its credit reduced or terminated or have a percentage of the credit amount previously claimed under this section added back to the tax liability of the taxpayer in the tax year that the taxpayer fails to comply with this section or the agreement.

(7) If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer that 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. For compliance reporting purposes, a taxpayer that claims the credit under this section for health care benefits may report to the Michigan economic growth authority the aggregate cost of applicable employer-sponsored coverage applicable to employees who perform qualified new jobs and employees who perform retained jobs, as determined by the Michigan economic growth authority.

(8) A credit shall not be claimed by a taxpayer under this section if the taxpayer's initial certification as required in subsection (3) is issued after December 31, 2013.

(9) For the 2010 calendar year and each calendar year after 2010, the total amount of all credits allowed to be claimed in the first year of all new written agreements approved in that calendar year under this section shall not exceed \$95,000,000.00.

(10) For purposes of this section, taxpayer includes a person subject to the tax imposed under chapter 2A and a person subject to the tax imposed under chapter 2B.

(11) As used in this section:

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

(b) "Health care benefits" means, as determined by the Michigan economic growth authority, all costs paid for a self-funded health care benefit plan or for an expense-incurred hospital, medical, or surgical policy or certificate, nonprofit health care corporation certificate, or health maintenance organization contract. Health care benefit does not include accident-only, credit, dental, or disability income insurance; long-term care insurance; coverage issued as a supplement to liability insurance; coverage only for a specified disease or illness; worker's compensation or similar insurance; or automobile medical payment insurance.

(c) "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.

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

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

(i) 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) The average number of full-time jobs at a facility created by an eligible business up to 90 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 up to 90 days before becoming an authorized business, as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

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

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2008, Act 111, Imd. Eff. Apr. 28, 2008;—Am. 2009, Act 126, Imd. Eff. Oct. 27, 2009;—Am. 2011, Act 209, Eff. Jan. 1, 2012.

Compiler's note: Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

Popular name: MBT