INCOME TAX ACT OF 1967 (EXCERPT)
Act 281 of 1967
CHAPTER 15

206.671 Tax credit; requirements; determination of disqualification; reduction percentage; compensation paid by professional employer organization to officers of client and employees of professional employer; unitary business group; definitions.

Sec. 671.

(1) The credit provided in this section shall be taken before any other credit under this part and is available to any taxpayer, other than those taxpayers subject to the tax imposed under chapter 12 or 13, with gross receipts that do not exceed $20,000,000.00 and with adjusted business income minus the loss adjustment that does not exceed $1,300,000.00 as adjusted annually for inflation using the Detroit consumer price index, and subject to the following:

(a) A corporation or unitary business group is disqualified if either of the following occurs for the respective tax year:

(i) Compensation and directors' fees of a shareholder or officer exceed $180,000.00.

(ii) The sum of the following amounts exceeds $180,000.00:

(A) Compensation and directors' fees of a shareholder.

(B) The product of the percentage of outstanding ownership or of outstanding stock owned by that shareholder multiplied by the difference between the following:

(I) The sum of business income and, to the extent deducted in determining federal taxable income, a carryback or a carryover of a net operating loss or capital loss.

(II) The loss adjustment.

(b) Subject to the reduction percentage determined under subsection (3), the credit determined under this subsection shall be reduced by the following percentages in the following circumstances:

(i) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(ii)(A) and (B) is, more than $160,000.00 but less than $165,000.00, the credit is reduced by 20%.

(ii) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(ii)(A) and (B) is, $165,000.00 or more but less than $170,000.00, the credit is reduced by 40%.

(iii) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(ii)(A) and (B) is, $170,000.00 or more but less than $175,000.00, the credit is reduced by 60%.

(iv) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(ii)(A) and (B) is, $175,000.00 or more but not in excess of $180,000.00, the credit is reduced by 80%.

(2) For the purposes of determining disqualification under subsection (1), both of the following apply:

(a) An active shareholder's share of business income shall not be attributed to another active shareholder.

(b) If the taxpayer is a unitary business group, the amount of all items paid or allocable by all persons included in the unitary business group to any 1 individual who is a shareholder or officer of a single person included in the unitary business group shall be combined.

(3) The reduction percentage is the greater of the following:

(a) The reduction percentage based on the compensation and directors' fees of the shareholder or officer with the greatest amount of compensation and directors' fees.

(b) The reduction percentage based on the sum of the amounts in subsection (1)(a)(ii)(A) and (B) for the shareholder or officer with the greatest sum of the amounts in subsection (1)(a)(ii)(A) and (B).

(4) A taxpayer that qualifies under subsection (1) is allowed a credit against the tax imposed under this part. The credit under this subsection is the amount by which the tax imposed under this part exceeds 1.8% of adjusted business income.

(5) If gross receipts exceed $19,000,000.00, the credit shall be reduced by a fraction, the numerator of which is the amount of gross receipts over $19,000,000.00 and the denominator of which is $1,000,000.00. The credit shall not exceed 100% of the tax liability imposed under this part.

(6) For a taxpayer that reports for a tax year less than 12 months, the amounts specified in this section for gross receipts, adjusted business income, and share of business income shall be multiplied by a fraction, the numerator of which is the number of months in the tax year and the denominator of which is 12.

(7) Compensation paid by a professional employer organization to the officers of the client and to employees of the professional employer organization who are assigned or leased to and perform services for the client shall be included in determining eligibility of the client under this section.

(8) A disqualifier or reduction under subsection (1) applies to a taxpayer that is a unitary business group if a

disqualifier or reduction applies to any member of a unitary business group.

(9) As used in this section:

(a) "Active shareholder" means a shareholder who receives at least $10,000.00 in compensation, directors' fees, or dividends from the business, and who owns at least 5% of the outstanding stock or other ownership interest.

(b) "Adjusted business income" means business income as defined in section 603 with all of the following adjustments:

(i) Add compensation and directors' fees of active shareholders of a corporation.

(ii) Add, to the extent deducted in determining federal taxable income, a carryback or carryover of a net operating loss.

(iii) Add, to the extent deducted in determining federal taxable income, a carryback or carryover capital loss.

(iv) Add compensation and directors' fees of officers of a corporation.

(c) "Client" means an entity whose employment operations are managed by a professional employer organization.

(d) "Compensation" means all wages, salaries, fees, bonuses, commissions, and other payments made in the tax year on behalf of or for the benefit of employees, officers, or directors of the taxpayers. Compensation includes, but is not limited to, payments that are subject to or specifically exempt or excepted from withholding under sections 3401 to 3406 of the internal revenue code. Compensation also includes, on a cash or accrual basis consistent with the taxpayer's method of accounting for federal income tax purposes, payments to a pension, retirement, or profit sharing plan other than those payments attributable to unfunded accrued actuarial liabilities, and payments for insurance for which employees are the beneficiaries, including payments under health and welfare and noninsured benefit plans and payment of fees for the administration of health and welfare and noninsured benefit plans. Compensation does not include any of the following:

(i) Discounts on the price of the taxpayer's merchandise or services sold to the taxpayer's employees, officers, or directors that are not available to other customers.

(ii) Except as otherwise provided in this subdivision, payments to an independent contractor.

(iii) Payments to state and federal unemployment compensation funds.

(iv) The employer's portion of payments under the federal insurance contributions act, chapter 21 of subtitle C of the internal revenue code, 26 USC 3101 to 3128, the railroad retirement tax act, chapter 22 of subtitle C of the internal revenue code, 26 USC 3201 to 3233, and similar social insurance programs.

(v) Payments, including self-insurance payments, for worker's compensation insurance or federal employers' liability act insurance pursuant to 45 USC 51 to 60.

(e) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.

(f) "Loss adjustment" means the amount by which adjusted business income was less than zero in any of the 5 tax years immediately preceding the tax year for which eligibility for the credit under this section is being determined. In determining the loss adjustment for a tax year, a corporation is not required to use more of the taxpayer's total negative adjusted business income than the amount needed to qualify the corporation for the credit under this section. A corporation shall not be considered to have used any portion of the taxpayer's negative adjusted business income amount unless the portion used is necessary to qualify for the credit under this section. A corporation shall not reuse a negative adjusted business income amount used as a loss adjustment in a previous tax year or use a negative adjusted business income amount from a year in which the corporation did not receive the credit under this section.

(g) "Officer" means an officer of a corporation including all of the following:

(i) The chairperson of the board.

(ii) The president, vice president, secretary, or treasurer of the corporation or board.

(iii) Persons performing similar duties and responsibilities to persons described in subparagraphs (i) and (ii), that include, at a minimum, major decision making.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012 ;-- Am. 2011, Act 185, Eff. Jan. 1, 2012 ;-- Am. 2011, Act 313, Eff. Jan. 1, 2012 ;-- Am. 2014, Act 13, Imd. Eff. Feb. 25, 2014

Compiler's Notes: Enacting section 1 of Act 13 of 2014 provides:"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

206.673 Tax credit under former 1975 PA 228, or 2007 PA 36, MCL 208.1101 to 208.1601, or MCL 208.1403; effect of failure to comply with terms of agreement or movement, sale, transfer, or disposal of property.

Sec. 673.

(1) A taxpayer that has claimed a credit under former 1975 PA 228 or under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, that included a provision that allowed for a reduction in the credit amount, a termination of the credit, or a percentage of the credit amount previously claimed added back to the tax liability of that taxpayer under that act if the taxpayer failed to comply with any terms of the agreement or other conditions of that credit or if the taxpayer sells or otherwise moves the property for which a credit was claimed fewer than 5 years after the year in which the credit was originally claimed under former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, shall have a percentage, or the entire amount, of the credit amount previously claimed under former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, added back to the taxpayer's tax liability under this act in the year that the taxpayer failed to satisfy or breached the conditions of that credit set forth under former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(2) A taxpayer that has claimed a credit under section 35a of former 1975 PA 228 or under section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, for a tangible asset that the taxpayer has sold, transferred out of this state, or otherwise disposed of during the current tax year shall have an amount equal to the sum of the amounts calculated under subdivisions (a), (b), and (c) added back to the taxpayer's liability under this act for that same tax year:

(a) Calculate the gross proceeds or benefit derived from the sale or other disposition of tangible assets, other than mobile tangible assets, minus the gain, multiplied by the apportionment factor for the taxable year as prescribed in chapter 14, and plus the loss, multiplied by the apportionment factor for the taxable year as prescribed in chapter 14 from the sale or other disposition reflected in federal taxable income. This amount shall be multiplied by the rate at which the credit was used and to the extent the credit was used under either former 1975 PA 228 or section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, as applicable.

(b) Calculate the gross proceeds or benefit derived from the sale or other disposition of mobile tangible assets minus the gain and plus the loss from the sale or other disposition reflected in federal taxable income. This amount shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 14. The resulting amount shall then be multiplied by the rate at which the credit was used and to the extent the credit was used under either former 1975 PA 228 or section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, as applicable.

(c) Calculate the federal basis used for determining gain or loss as of the date of the transfer of tangible assets, other than mobile tangible assets, from this state. This amount shall be multiplied by the rate at which the credit was used and to the extent the credit was used under either former 1975 PA 228 or section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, as applicable. For purposes of this subdivision, transfer means removal from this state of tangible assets, other than mobile tangible assets, by means other than sale or other disposition.

History: Add. 2011, Act 181, Eff. Jan. 1, 2012 ;-- Am. 2014, Act 16, Imd. Eff. Feb. 25, 2014
Compiler's Notes: Enacting section 1 of Act 16 of 2014 provides:"Enacting section 1. This amendatory act is retroactive and effective for tax years beginning after December 31, 2011."

206.675 Flow-through entity members; tax credit for tax paid by the flow-through entity; refundable; reasonable proof.

Sec. 675.

(1) Except as otherwise provided under this section, for tax years beginning on and after January 1, 2021, a taxpayer who is either a member of a flow-through entity that elects to file a return and pay the tax imposed under part 4 or a direct or indirect member of another flow-through entity that elects to file a return and pay the tax imposed under part 4 may claim a credit against the tax imposed under this part in an amount equal to the member's allocated share of the tax as reported to the member by the flow-through entity pursuant to section 839(1)(d) for the tax year ending on or within the taxpayer's same tax year.

(2) 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 shall be refunded.

(3) For tax years ending in 2021 only, if the taxpayer claims a credit under this section and the annual return filed under this part on which the credit under this section is claimed results in a refund, any portion of that refund that is attributable to the credit claimed under this section is not subject to added interest under section 30(3) of 1941 PA 122, MCL 205.30.

(4) The department may require reasonable proof from the taxpayer related to the allocated share of the tax claimed for a credit under this section, the direct or indirect flow-through entities required to report under section 839(1)(d), or any other information required by the department for the administration of this section.

History: Add. 2021, Act 135, Imd. Eff. Dec. 21, 2021 ;-- Am. 2024, Act 216, Eff. Apr. 2, 2025
Compiler's Notes: Enacting section 1 of Act 135 of 2021 provides:"Enacting section 1. This amendatory act is retroactive and intended to apply retroactively effective for tax years beginning on and after January 1, 2021."

206.676 Rehabilitation of historic resource; tax credit; plan; certification; revocation of certificate or sale of historic resource; rules; report; definitions.

Sec. 676.

(1) Subject to the limitations under this section, a qualified taxpayer with a certificate of completed rehabilitation issued pursuant to subsection (4) after December 31, 2020 and before January 1, 2031 may credit against the tax imposed by this part the amount determined pursuant to subsection (2) for the qualified expenditures for the rehabilitation of a historic resource pursuant to the rehabilitation plan in the year in which the certificate of completed rehabilitation of the historic resource is issued. The qualified taxpayer shall initially claim a credit under this section within 5 years after the certificate of completed rehabilitation is issued pursuant to subsection (4). If the credit is not initially claimed within 5 years after the certificate is issued, the certificate is no longer valid and the qualified taxpayer is no longer eligible to claim a credit under this section for that rehabilitation plan. Only those expenditures that are paid or incurred during the time periods prescribed for the credit under section 47(a)(2) of the internal revenue code and any related treasury regulations shall be considered qualified expenditures.

(2) Subject to the limitations under this section, a qualified taxpayer that has claimed and received a credit for qualified expenditures under section 47(a)(2) of the internal revenue code or has entered into an agreement under subsection (10) may claim a credit under this section equal to 25% of the qualified expenditures that are eligible, or would have been eligible except that the qualified taxpayer entered into an agreement under subsection (10), for the credit under section 47(a)(2) of the internal revenue code or, if the qualified taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, 25% of the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code.

(3) To be eligible for the credit under this section, a person shall submit an application and a rehabilitation plan to the state historic preservation office. Completed applications must be considered in the order in which the office received the completed applications and approved or denied within 120 days of receipt of the completed applications. If the office determines that the application is complete and the rehabilitation plan meets the criteria for a credit under this section, the office shall issue a preapproval letter to the applicant that states that the rehabilitation plan qualifies for the credit under this section and the maximum total amount of the credit reserved for which a credit may be claimed when the project is complete and a certificate of completed rehabilitation is issued for qualified expenditures pursuant to that rehabilitation plan. If an application is denied under this subsection, the applicant may file an appeal in a form and manner as prescribed by the office or subsequently reapply for the same rehabilitation plan or for another rehabilitation plan, or both. Subject to the limitations under this section, the total of all credits reserved under preapproval letters for rehabilitation plans approved under this section and section 266a shall not exceed $5,000,000.00 per calendar year. To the extent the office receives applications for the rehabilitation of small nonresidential historic resources for credits in excess of $2,000,000.00, not less than $2,000,000.00 of the $5,000,000.00 each calendar year shall be approved for small nonresidential historic resources. To the extent the office receives applications for the rehabilitation of large nonresidential historic resources for credits in excess of $2,000,000.00, not less than $2,000,000.00 of the $5,000,000.00 each calendar year shall be approved for large nonresidential historic resources. To the extent the office receives applications for the rehabilitation of residential historic resources for credits in excess of $1,000,000.00, not less than $1,000,000.00 of the $5,000,000.00 each calendar year shall be approved for residential historic resources. The office shall not issue a preapproval letter or certificate of completed rehabilitation that authorizes a qualified taxpayer to claim a credit of more than $2,000,000.00 in a single tax year for the same historic resource. If, for any calendar year, the office issues preapproval letters and reserves the maximum amount of tax credits allowed under this section for that calendar year, the office shall notify all applicants who have submitted completed applications and rehabilitation plans then awaiting approval or submitted for approval after the calculation is made that no additional preapproval letters for rehabilitation plans will be issued during that calendar year. The office shall also notify those applicants of the priority number given to the owner's application and rehabilitation plan awaiting approval. The applications and plans will remain in priority status for 2 years from the date of the original application and plan and will be considered for approval and reservation of tax credits in the priority order

established in this subsection in the event that additional credits become available resulting from the rescission of approvals under this subsection or subsection (5) and at the beginning of the next calendar year. An applicant that has received a preapproval letter shall commence rehabilitation, if it has not previously begun, within 1 year after the issuance of the preapproval letter and complete the rehabilitation plan within 8 years after the issuance of the preapproval letter or the office will rescind the preapproval letter and reallocate the amount of the credit reserved for that rehabilitation plan. Upon completion of a rehabilitation plan for which a preapproval letter was issued, the applicant shall submit to the office documentation that the rehabilitation is complete and the completed rehabilitation of the historic resource meets the criteria under subsection (6) and either of the following:

(a) All of the following criteria:

(i) The historic resource contributes to the significance of the historic district in which it is located or is individually listed on the National Register of Historic Places or state register of historic sites.

(ii) Both the rehabilitation plan and completed rehabilitation of the historic resource meet the federal Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR part 67.

(iii) All rehabilitation work has been done to or within the walls, boundaries, or structures of the historic resource or to historic resources located within the property boundaries of the property.

(b) The applicant has received certification from the National Park Service that the historic resource's significance, the rehabilitation plan, and the completed rehabilitation qualify for the credit allowed under section 47(a)(2) of the internal revenue code.

(4) The office shall verify that the rehabilitation is complete and meets the criteria under subsection (3). However, if the applicant is eligible for the credit allowed under section 47(a)(2) of the internal revenue code, additional documentation that the rehabilitation is complete for the credit allowed under this section is not required. Within 120 days after receiving verification, in a form and manner as prescribed by the office, that the rehabilitation is complete and meets the requirements of subsection (3), the office shall issue a certificate of completed rehabilitation to the applicant that states the rehabilitation plan submitted by the applicant has been completed, the amount of qualified expenditures, and the total amount of the credit allowed to be claimed by a qualified taxpayer under this section. If the amount of qualified expenditures incurred exceeds the amount of the tax credits reserved by the preapproval letter issued under subsection (3), the applicant may submit a request to the office, in a form and manner as prescribed by the office, for the issuance and approval of a certificate of completed rehabilitation in excess of the amount initially authorized in the preapproval letter. If the office determines that less than $5,000,000.00 has been reserved under preapproval letters issued for the calendar year, after priority has been given to those notified under subsection (3), then the office may issue a certificate of completed rehabilitation in excess of the amount included in the preapproval letter.

(5) The office may inspect a historic resource at any time during the rehabilitation process and may revoke the preapproval letter or the certificate of completed rehabilitation if the rehabilitation was not undertaken as represented in the rehabilitation plan or if unapproved alterations to the completed rehabilitation are made within 5 years after the tax year in which the certificate of completed rehabilitation was issued. The office shall promptly notify the department of a revocation.

(6) Qualified expenditures for the rehabilitation of a historic resource may be used to calculate the credit under this section if the historic resource is 1 of the following during the tax year in which a credit under this section is claimed for those qualified expenditures:

(a) Individually listed on the National Register of Historic Places or state register of historic sites.

(b) A contributing resource located within a historic district listed on the National Register of Historic Places or the state register of historic sites.

(c) A contributing resource located within a historic district designated by a local unit pursuant to an ordinance adopted under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(7) A person that has been issued a certificate of completed rehabilitation under subsection (4) may assign all or any portion of the credit allowed under this section. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completed rehabilitation is issued pursuant to this section. Except as otherwise provided under this subsection, an assignee may subsequently assign the credit or any portion of the credit assigned under this subsection to 1 or more assignees. An assignment or subsequent reassignment of a credit shall be made in the year the certificate of completed rehabilitation is issued. A credit assignment or subsequent reassignment under this section shall be made on a form prescribed by the office. The office shall review and issue a completed assignment or reassignment certificate to the assignee or reassignee. If the qualified taxpayer assigns all or any portion of the credit allowed under this section to a partnership, limited liability company, or subchapter S corporation, then the assignees are its partners, members, or shareholders based on the partner's, member's, or shareholder's proportionate share of ownership or on an alternative method approved by the office. A credit amount assigned under this subsection may be claimed against the assignee's tax liability under this part or part 1. An assignee or subsequent reassignee shall attach a copy of the completed assignment certificate to the annual return required to be filed under this part for the

tax year in which the assignment or reassignment is made and the assignee or reassignee first claims the credit, which shall be the same tax year.

(8) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the qualified taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first. If a qualified taxpayer has an unused carryforward of a credit under this section, the amount otherwise added under subsection (9) to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under this section.

(9) Except as otherwise provided under subsection (10), if a certificate of completed rehabilitation is revoked under subsection (5) or a historic resource is sold or disposed of less than 5 years after the certificate of completed rehabilitation is issued, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the qualified taxpayer that received the certificate of completed rehabilitation and not the assignee in the year of the revocation:

(a) If the revocation is less than 1 year after the certificate of completed rehabilitation is issued, 100%.

(b) If the revocation is at least 1 year but less than 2 years after the certificate of completed rehabilitation is issued, 80%.

(c) If the revocation is at least 2 years but less than 3 years after the certificate of completed rehabilitation is issued, 60%.

(d) If the revocation is at least 3 years but less than 4 years after the certificate of completed rehabilitation is issued, 40%.

(e) If the revocation is at least 4 years but less than 5 years after the certificate of completed rehabilitation is issued, 20%.

(f) If the revocation is at least 5 years or more after the certificate of completed rehabilitation is issued, an addback to the qualified taxpayer tax liability is not required.

(10) Subsection (9) shall not apply if the qualified taxpayer enters into a written agreement with the office that will allow for the transfer or sale of the historic resource and provides the following:

(a) Reasonable assurance that subsequent to the transfer the property will remain a historic resource during the 5-year period after the certificate of completed rehabilitation is issued.

(b) A method that the department can recover an amount from the qualified taxpayer equal to the appropriate percentage of credit added back as described under subsection (9).

(c) An encumbrance on the title to the historic resource being sold or transferred, stating that the property must remain a historic resource throughout the 5-year period after the certificate of completed rehabilitation is issued.

(d) A provision for the payment by the qualified taxpayer of all legal and professional fees associated with the drafting, review, and recording of the written agreement required under this subsection.

(11) The office may impose a fee to cover the administrative cost of implementing the program under this section.

(12) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return required under this part, if applicable, on which the credit is claimed:

(a) Certificate of completed rehabilitation.

(b) Certification of historic significance related to the historic resource and the qualified expenditures used to claim a credit under this section.

(c) A completed assignment form if the qualified taxpayer or assignee has assigned any portion of a credit allowed under this section or if the qualified taxpayer is an assignee of any portion of a credit allowed under this section.

(13) The office may promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(14) The total of the credits claimed under this section and section 266a for a rehabilitation project shall not exceed 25% of the total qualified expenditures eligible for the credit under this section for that rehabilitation project.

(15) The office shall submit an economic impact report that includes, to the extent available, all of the following to the legislature annually for the immediately preceding state fiscal year:

(a) The fee schedule used by the office and the total amount of fees collected.

(b) A description of each rehabilitation project for which a preapproval letter is issued and for each certificate of completed rehabilitation issued. The description must include the total rehabilitation costs, labor hours generated, jobs added, payroll added, total capital investments, gain in property value after rehabilitation, and the amount of income tax and sales tax generated by the rehabilitation project.

(c) The location of each new and ongoing rehabilitation project.

(16) As used in this section:

(a) "Contributing resource" means a historic resource that contributes to the significance of the historic district in which it is located.

(b) "Detroit Consumer Price Index" means the most comprehensive index of consumer prices available for the

Detroit area from the United States Department of Labor, Bureau of Labor Statistics.

(c) "Historic district" means an area, or group of areas not necessarily having contiguous boundaries, that contains 1 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

(d) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within a historic district designated by the National Register of Historic Places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215; or that is individually listed on the state register of historic sites or National Register of Historic Places.

(e) "Large nonresidential historic resource" means a nonowner-occupied, income producing historic resource that has a rehabilitation plan with qualified expenditures of $2,000,000.00 or more.

(f) "Local unit" means a county, city, village, or township.

(g) "Long-term lease" means a lease term of at least 27.5 years for a residential resource or at least 31.5 years for a nonresidential resource.

(h) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

(i) "Qualified expenditures" means capital expenditures that qualify, or would qualify except that the qualified taxpayer entered into an agreement under subsection (10), for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the qualified taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the applicant is not eligible for the credit under section 47(a)(2) of the internal revenue code, the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code that were paid. Qualified expenditures do not include capital expenditures for nonhistoric additions to a historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.

(j) "Qualified taxpayer" means a person that is an assignee under this section or section 266a or that either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource that satisfies either of the following:

(i) For the rehabilitation of a historic resource that is not a residential historic resource, qualified expenditures equal to or greater than 10% of the state equalized valuation of the property. If the historic resource to be rehabilitated is a portion of a historic or nonhistoric resource, the state equalized valuation of only that portion of the property shall be used for purposes of this subdivision. If the assessor for the local tax collecting unit in which the historic resource is located determines the state equalized valuation of that portion, that assessor's determination shall be used for purposes of this subdivision. If the assessor does not determine that state equalized valuation of that portion, qualified expenditures, for purposes of this subdivision, shall be equal to or greater than 5% of the appraised value as determined by a certified appraiser. If the historic resource to be rehabilitated does not have a state equalized valuation, qualified expenditures for purposes of this subdivision shall be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.

(ii) For the rehabilitation of a residential historic resource, qualified expenditures equal to or greater than $1,000.00. The dollar amount established under this subparagraph must be annually adjusted for inflation using the Detroit Consumer Price Index.

(k) "Rehabilitation plan" means a plan for the rehabilitation of a historic resource that meets the federal Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitation of historic buildings under 36 CFR part 67.

(l) "Residential historic resource" means a non-income producing historic resource that is an owner-occupied dwelling.

(m) "Small nonresidential historic resource" means a nonowner-occupied, income producing historic resource that has a rehabilitation plan with qualified expenditures of less than $2,000,000.00.

(n) "State historic preservation office" or "office" means the state historic preservation office created by Executive Order No. 2007-53 and transferred to the Michigan strategic fund by Executive Reorganization Order No. 2019-3, MCL 125.1998.

History: Add. 2020, Act 343, Imd. Eff. Dec. 30, 2020

206.677 Research and development credit.

Sec. 677.

(1) Subject to the limitations under this section, for tax years beginning on and after January 1, 2025, a taxpayer that is an authorized business may claim a credit against the tax imposed under this part as follows:

(a) For an authorized business with 250 or more employees, an amount equal to the sum of 3% of the taxpayer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year up to the base amount and 10% of the taxpayer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year in excess of the base amount. The credit amount calculated under this subdivision must not exceed $2,000,000.00 per tax year per taxpayer.

(b) For an authorized business with less than 250 employees, an amount equal to the sum of 3% of the taxpayer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year up to the base amount and 15% of the taxpayer's qualifying research and development expenses incurred during the calendar year ending with or within the tax year in excess of the base amount. The credit amount calculated under this subdivision must not exceed $250,000.00 per tax year per taxpayer.

(2) Subject to the limitations under this section, a taxpayer that is an authorized business may claim an additional credit equal to 5% of the qualifying research and development expenses used to calculate the credit under subsection (1) that were incurred in collaboration with a research university in this state pursuant to a written agreement between the taxpayer and the research university. In order to claim the additional credit under this subsection, if requested by the department, the taxpayer must provide the department with a copy of the written agreement with the research university. The additional credit allowed under this subsection must not exceed $200,000.00 per tax year per taxpayer.

(3) To be eligible for a credit under this section, a taxpayer must submit, in a form and manner as prescribed by the department, a tentative claim for which a credit under this section is sought to the department on or before April 1, 2026 for tentative claims made for qualifying research and development expenses incurred during the 2025 calendar year and for tentative claims made for qualifying research and development expenses incurred for each calendar year after 2025 on or before March 15 after the calendar year ending with or within the tax year for which the taxpayer intends to submit a claim for the credit on the taxpayer's annual return required under this part. The tentative claim required under this subsection must include, at a minimum, all of the following information:

(a) If the credit is to be claimed under subsection (1)(a) or (b).

(b) The amount of qualifying research and development expenses incurred for which a credit is being claimed.

(c) If an additional credit is to be claimed under subsection (2) for collaboration with a research university.

(4) The department shall review all tentative claims submitted under subsection (3) and if the amount of tentative claims submitted exceeds the amount of credits allowed under subsection (5), the department shall publish a notice on its website notifying taxpayers of the adjustment to the tentative claims for that calendar year as required under subsection (5).

(5) The aggregate amount of credits allowed to be claimed by all taxpayers under this section and all employers under section 717 based on qualifying research and development expenses incurred in a single calendar year must not exceed $100,000,000.00. If the aggregate amount of tentative claims submitted under this section and section 717 exceeds $100,000,000.00, the department shall prorate the amount of credits allowed for each claimant as follows:

(a) If the aggregate amount of tentative claims submitted by all taxpayers qualifying under subsection (1)(b) and all employers qualifying under section 717(1)(b) does not exceed $25,000,000.00, the amount of credits claimed by each of those claimants must not be prorated. However, for taxpayers submitting a tentative claim for a credit under subsection (1)(a) or employers submitting a tentative claim for a credit under section 717(1)(a), the amount of tentative claims submitted must be prorated so that each claimant's allowed credits equal that claimant's pro rata share of the remaining amount of credits allowed to be claimed under this subsection and section 717(5).

(b) Except as provided in subdivision (c), if the aggregate amount of tentative claims submitted by all taxpayers qualifying under subsection (1)(b) and all employers qualifying under section 717(1)(b) exceeds $25,000,000.00, the amount of tentative claims submitted by each of those claimants must be prorated so that each claimant's allowed credits equal that claimant's pro rata share of $25,000,000.00, and the amount of tentative claims submitted by each taxpayer qualifying under subsection (1)(a) or employer qualifying under section 717(1)(a) must be prorated so that each claimant's allowed credits equal that claimant's pro rata share of $75,000,000.00.

(c) If the aggregate amount of tentative claims submitted by all taxpayers qualifying under subsection (1)(b) and all employers qualifying under section 717(1)(b) exceeds 25% of the aggregate amount of tentative claims submitted by all taxpayers under this section and employers under section 717, then the proration under subdivision (b) does not apply, and the amount of tentative claims submitted by each taxpayer under this section and employer under section 717 shall be prorated so that each claimant's allowed credits equal that claimant's pro rata share of $100,000,000.00.

(6) A taxpayer shall not assign or transfer all or any portion of a credit allowed under this section. A credit or any portion of a credit allowed under this section is not assignable or transferable either by agreement or by operation of law.

(7) A taxpayer shall, in a form and manner as prescribed by the department, file a claim for a credit under this section with the annual return required to be filed under this part for the same tax year for which a credit under this

section is claimed. The credits allowed under this section must be claimed after all allowable nonrefundable credits under this part. If the amount of the credits 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 for the tax year must be refunded.

(8) As used in this section:

(a) "Authorized business" means a taxpayer that has incurred during the calendar year ending with or within the tax year for which a credit is being claimed under this section qualifying research and development expenses in excess of the base amount.

(b) "Base amount" means the average annual amount of qualifying research and development expenses incurred during the 3 calendar years immediately preceding the calendar year ending with or within the tax year for which a credit is being claimed under this section. An authorized business with no prior qualifying research and development expenses has a base amount of zero. If qualifying research and development expenses were incurred in only 1 or 2 of the immediately preceding 3 calendar years, the average annual amount must be based on the number of calendar years during which qualifying research and development expenses were incurred.

(c) "Qualifying research and development expenses" means qualified research expenses as that term is defined in section 41(b) of the internal revenue code for research conducted in this state. Qualifying research and development expenses do not include qualified research expenses for research conducted outside of this state.

(d) "Research university" means a public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963 or an independent nonprofit college or university in this state.

History: Add. 2024, Act 186, Eff. Apr. 2, 2025