

Act No. 36
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2007**

Introduced by Senator Cassis

ENROLLED SENATE BILL No. 94

AN ACT to provide for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations.

The People of the State of Michigan enact:

CHAPTER 1

Sec. 101. (1) This act shall be known and may be cited as the "Michigan business tax act".

(2) It is the intent of the legislature that the tax levied under this act and the various credits available under this act will serve to improve the economic condition of this state, foster continued and diverse economic growth in this state, and enable this state to compete fairly and effectively in the world marketplace for economic development opportunities that will provide for and protect the health, safety, and welfare of the citizens of this state, now and in the future.

Sec. 103. A term used in this act and not defined differently shall have the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes in effect for the tax year unless a different meaning is clearly required. A reference in this act to the internal revenue code includes other provisions of the laws of the United States relating to federal income taxes.

Sec. 105. (1) "Business activity" means a transfer of legal or equitable title to or rental of property, whether real, personal, or mixed, tangible or intangible, or the performance of services, or a combination thereof, made or engaged in, or caused to be made or engaged in, whether in intrastate, interstate, or foreign commerce, with the object of gain, benefit, or advantage, whether direct or indirect, to the taxpayer or to others, but does not include the services rendered by an employee to his or her employer or services as a director of a corporation. Although an activity of a taxpayer may be incidental to another or to other of his or her business activities, each activity shall be considered to be business engaged in within the meaning of this act.

(2) "Business income" means that part of federal taxable income derived from business activity. For a partnership or S corporation, business income includes payments and items of income and expense that are attributable to business activity of the partnership or S corporation and separately reported to the partners or shareholders. For an organization that is a mutual or cooperative electric company exempt under section 501(c)(12) of the internal revenue code, business income equals the organization's excess or deficiency of revenues over expenses as reported to the federal government by those organizations exempt from the federal income tax under the internal revenue code, less capital credits paid to members of that organization, less income attributed to equity in another organization's net income, and less income

resulting from a charge approved by a state or federal regulatory agency that is restricted for a specified purpose and refundable if it is not used for the specified purpose. For a tax-exempt person, business income means only that part of federal taxable income derived from unrelated business activity.

Sec. 107. (1) “Client” means an entity whose employment operations are managed by a professional employer organization.

(2) “Compensation” means all wages, salaries, fees, bonuses, commissions, other payments made in the tax year on behalf of or for the benefit of employees, officers, or directors of the taxpayers, and any earnings that are net earnings from self-employment as defined under section 1402 of the internal revenue code of the taxpayer or a partner or limited liability company member of the taxpayer. 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 for a taxpayer licensed under article 25 or 26 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637, includes payments to an independent contractor licensed under article 25 or 26 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637. Compensation does not include any of the following:

(a) 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.

(b) Except as otherwise provided in this subsection, payments to an independent contractor.

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

(d) 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.

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

(3) “Corporation” means a taxpayer that is required or has elected to file as a corporation under the internal revenue code.

(4) “Department” means the department of treasury.

Sec. 109. (1) “Employee” means an employee as defined in section 3401(c) of the internal revenue code. A person from whom an employer is required to withhold for federal income tax purposes is prima facie considered an employee.

(2) “Employer” means an employer as defined in section 3401(d) of the internal revenue code. A person required to withhold for federal income tax purposes is prima facie considered an employer.

(3) “Federal taxable income” means taxable income as defined in section 63 of the internal revenue code.

(4) “Financial institution” means that term as defined under chapter 2B.

(5) “Foreign operating entity” means a United States person that satisfies each of the following:

(a) Would otherwise be a part of a unitary business group that has at least 1 person included in the unitary business group that is taxable in this state.

(b) Has substantial operations outside the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or a political subdivision of any of the foregoing.

(c) At least 80% of its income is active foreign business income as defined in section 861(c)(1)(B) of the internal revenue code.

Sec. 111. (1) “Gross receipts” means the entire amount received by the taxpayer from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others except for the following:

(a) Proceeds from sales by a principal that the taxpayer collects in an agency capacity solely on behalf of the principal and delivers to the principal.

(b) Amounts received by the taxpayer as an agent solely on behalf of the principal that are expended by the taxpayer for any of the following:

(i) The performance of a service by a third party for the benefit of the principal that is required by law to be performed by a licensed person.

(ii) The performance of a service by a third party for the benefit of the principal that the taxpayer has not undertaken a contractual duty to perform.

(iii) Principal and interest under a mortgage loan or land contract, lease or rental payments, or taxes, utilities, or insurance premiums relating to real or personal property owned or leased by the principal.

(iv) A capital asset of a type that is, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated cost recovery by the principal for federal income tax purposes, or for real property owned or leased by the principal.

(v) Property not described under subparagraph (iv) that is purchased by the taxpayer on behalf of the principal and that the taxpayer does not take title to or use in the course of performing its contractual business activities.

(vi) Fees, taxes, assessments, levies, fines, penalties, or other payments established by law that are paid to a governmental entity and that are the legal obligation of the principal.

(c) Amounts that are excluded from gross income of a foreign corporation engaged in the international operation of aircraft under section 883(a) of the internal revenue code.

(d) Amounts received by an advertising agency used to acquire advertising media time, space, production, or talent on behalf of another person.

(e) Notwithstanding any other provision of this section, amounts received by a taxpayer that manages real property owned by a third party that are deposited into a separate account kept in the name of that third party and that are not reimbursements to the taxpayer and are not indirect payments for management services that the taxpayer provides to that third party.

(f) Proceeds from the taxpayer's transfer of an account receivable if the sale that generated the account receivable was included in gross receipts for federal income tax purposes. This subdivision does not apply to a taxpayer that during the tax year both buys and sells any receivables.

(g) Proceeds from any of the following:

(i) The original issue of stock or equity instruments.

(ii) The original issue of debt instruments.

(h) Refunds from returned merchandise.

(i) Cash and in-kind discounts.

(j) Trade discounts.

(k) Federal, state, or local tax refunds.

(l) Security deposits.

(m) Payment of the principal portion of loans.

(n) Value of property received in a like-kind exchange.

(o) Proceeds from a sale, transaction, exchange, involuntary conversion, or other disposition of tangible, intangible, or real property that is a capital asset as defined in section 1221(a) of the internal revenue code or land that qualifies as property used in the trade or business as defined in section 1231(b) of the internal revenue code, less any gain from the disposition to the extent that gain is included in federal taxable income.

(p) The proceeds from a policy of insurance, a settlement of a claim, or a judgment in a civil action less any proceeds under this subdivision that are included in federal taxable income.

(q) For a sales finance company, as defined in section 2 of the motor vehicles sales finance act, 1950 (Ex Sess) PA 27, MCL 492.102, and directly or indirectly owned in whole or in part by a motor vehicle manufacturer as of January 1, 2008, amounts realized from the repayment, maturity, sale, or redemption of the principal of a loan, bond, or mutual fund, certificate of deposit, or similar marketable instrument.

(r) For a sales finance company, as defined in section 2 of the motor vehicles sales finance act, 1950 (Ex Sess) PA 27, MCL 492.102, and directly or indirectly owned in whole or in part by a motor vehicle manufacturer as of January 1, 2008, the principal amount received under a repurchase agreement or other transaction properly characterized as a loan.

(s) For a mortgage company, proceeds representing the principal balance of loans transferred or sold in the tax year. For purposes of this subdivision, "mortgage company" means a person that is licensed under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, or the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and has greater than 90% of its revenues, in the ordinary course of business, from the origination, sale, or servicing of residential mortgage loans.

(t) For a professional employer organization, any amount charged by a professional employer organization that represents the actual cost of wages and salaries, benefits, worker's compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer arrangement.

(u) Any invoiced items used to provide more favorable floor plan assistance to a person subject to the tax imposed under this act than to a person not subject to this tax and paid by a manufacturer, distributor, or supplier.

(2) "Insurance company" means an authorized insurer as defined in section 106 of the insurance code of 1956, 1956 PA 218, MCL 500.106.

(3) "Internal revenue code" means the United States internal revenue code of 1986 in effect on January 1, 2008 or, at the option of the taxpayer, in effect for the tax year.

(4) "Inventory" means, except as provided in subdivision (d), all of the following:

(a) The stock of goods held for resale in the regular course of trade of a retail or wholesale business, including electricity or natural gas purchased for resale.

(b) Finished goods, goods in process, and raw materials of a manufacturing business purchased from another person.

(c) For a person that is a new motor vehicle dealer licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, floor plan interest expenses for new motor vehicles. For purposes of this subdivision, "floor plan interest" means interest paid that finances any part of the person's purchase of new motor vehicle inventory from a manufacturer, distributor, or supplier. However, amounts attributable to any invoiced items used to provide more favorable floor plan assistance to a person subject to the tax imposed under this act than to a person not subject to this tax is considered interest paid by a manufacturer, distributor, or supplier.

(d) Inventory does not include either of the following:

(i) Personal property under lease or principally intended for lease rather than sale.

(ii) Property allowed a deduction or allowance for depreciation or depletion under the internal revenue code.

(5) "Officer" means an officer of a corporation other than a subchapter S corporation, including all of the following:

(a) The chairperson of the board.

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

(c) Persons performing similar duties to persons described in subdivisions (a) and (b).

Sec. 113. (1) "Partner" means a partner or member of a partnership.

(2) "Partnership" means a taxpayer that is required to or has elected to file as a partnership for federal income tax purposes.

(3) "Person" means an individual, firm, bank, financial institution, insurance company, limited partnership, limited liability partnership, copartnership, partnership, joint venture, association, corporation, subchapter S corporation, limited liability company, receiver, estate, trust, or any other group or combination of groups acting as a unit.

(4) "Professional employer organization" means an organization that provides the management and administration of the human resources of another entity by contractually assuming substantial employer rights and responsibilities through a professional employer agreement that establishes an employer relationship with the leased officers or employees assigned to the other entity by doing all of the following:

(a) Maintaining a right of direction and control of employees' work, although this responsibility may be shared with the other entity.

(b) Paying wages and employment taxes of the employees out of its own accounts.

(c) Reporting, collecting, and depositing state and federal employment taxes for the employees.

(d) Retaining a right to hire and fire employees.

(5) Professional employer organization is not a staffing company as that term is defined in subsection (6).

(6) "Purchases from other firms" means all of the following:

(a) Inventory acquired during the tax year, including freight, shipping, delivery, or engineering charges included in the original contract price for that inventory.

(b) Assets, including the costs of fabrication and installation, acquired during the tax year of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes.

(c) To the extent not included in inventory or depreciable property, materials and supplies, including repair parts and fuel.

(d) For a staffing company, compensation of personnel supplied to customers of staffing companies. As used in this subdivision:

(i) "Compensation" means that term as defined under section 107 plus all payroll tax and worker's compensation costs.

(ii) "Staffing company" means a taxpayer whose business activities are included in industry group 736 under the standard industrial classification code as compiled by the United States department of labor.

(e) For a person included in major groups 15, 16, and 17 under the standard industrial classification code as compiled by the United States department of labor that does not qualify for a credit under section 417, payments to subcontractors for a construction project under a contract specific to that project.

(7) "Revenue mile" means the transportation for a consideration of 1 net ton in weight or 1 passenger the distance of 1 mile.

Sec. 115. (1) "Sale" or "sales" means, except as provided in subdivision (e), the amounts received by the taxpayer as consideration from the following:

(a) The transfer of title to, or possession of, property that is stock in trade or other property of a kind that would properly be included in the inventory of the taxpayer if on hand at the close of the tax period or property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business. For intangible property, the amounts received shall be limited to any gain received from the disposition of that property.

(b) The performance of services that constitute business activities.

(c) The rental, lease, licensing, or use of tangible or intangible property, including interest, that constitutes business activity.

(d) Any combination of business activities described in subdivisions (a), (b), and (c).

(e) For taxpayers not engaged in any other business activities, sales include interest, dividends, and other income from investment assets and activities and from trading assets and activities.

(2) "Shareholder" means a person who owns outstanding stock in a business or is a member of a business entity that files as a corporation for federal income tax purposes. An individual is considered as the owner of the stock owned, directly or indirectly, by or for family members as defined by section 318(a)(1) of the internal revenue code.

(3) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or a political subdivision of any of the foregoing.

(4) "Subchapter S corporation" means a corporation electing taxation under subchapter S or chapter 1 of subtitle A of the internal revenue code, sections 1361 to 1379 of the internal revenue code.

Sec. 117. (1) "Tangible personal property" means that term as defined in section 2 of the use tax act, 1937 PA 94, MCL 205.92.

(2) "Tax" means the tax imposed under this act, including interest and penalties under this act, unless the term is given a more limited meaning in the context of this act or a provision of this act.

(3) "Tax-exempt person" means an organization that is exempt from federal income tax under section 501(a) of the internal revenue code, and a partnership, limited liability company, joint venture, unincorporated association, or other group or combination of organizations acting as a unit if all such organizations are exempt from federal income tax under section 501(a) of the internal revenue code and if all activities of the unit are exclusively related to the charitable, educational, or other purposes or functions that are the basis for the exemption of such organizations from federal income tax, except the following:

(a) An organization exempt under section 501(c)(12) or (16) of the internal revenue code.

(b) An organization exempt under section 501(c)(4) of the internal revenue code that would be exempt under section 501(c)(12) of the internal revenue code but for its failure to meet the requirement in section 501(c)(12) that 85% or more of its income must consist of amounts collected from members.

(4) "Tax year" means the calendar year, or the fiscal year ending during the calendar year, upon the basis of which the tax base of a taxpayer is computed under this act. If a return is made for a fractional part of a year, tax year means the period for which the return is made. Except for the first return required by this act, a taxpayer's tax year is for the same period as is covered by its federal income tax return. A taxpayer that has a 52- or 53-week tax year beginning not more than 7 days before December 31 of any year is considered to have a tax year beginning after December of that tax year.

(5) "Taxpayer" means a person or a unitary business group liable for a tax, interest, or penalty under this act.

(6) "Unitary business group" means a group of United States persons, other than a foreign operating entity, 1 of which owns or controls, directly or indirectly, more than 50% of the ownership interest with voting rights or ownership interests that confer comparable rights to voting rights of the other United States persons, and that has business activities or operations which result in a flow of value between or among persons included in the unitary business group or has business activities or operations that are integrated with, are dependent upon, or contribute to each other. For purposes of this subsection, flow of value is determined by reviewing the totality of facts and circumstances of business activities and operations.

(7) "United States person" means that term as defined in section 7701(a)(30) of the internal revenue code.

(8) "Unrelated business activity" means, for a tax-exempt person, business activity directly connected with an unrelated trade or business as defined in section 513 of the internal revenue code.

CHAPTER 2

Sec. 200. (1) Except as otherwise provided in this act or under subsection (2), a taxpayer has substantial nexus in this state and is subject to the tax imposed under this act if the taxpayer has a physical presence in this state for a period of more than 1 day during the tax year or if the taxpayer actively solicits sales in this state and has gross receipts of \$350,000.00 or more sourced to this state.

(2) For purposes of this section, “actively solicits” shall be defined by the department through written guidance that shall be applied prospectively.

(3) As used in this section, “physical presence” means any activity conducted by the taxpayer or on behalf of the taxpayer by the taxpayer’s employee, agent, or independent contractor acting in a representative capacity. Physical presence does not include the activities of professionals providing services in a professional capacity or other service providers if the activity is not significantly associated with the taxpayer’s ability to establish and maintain a market in this state.

Sec. 201. (1) Except as otherwise provided in this act, there is levied and imposed a business income tax on every taxpayer with business activity within this state unless prohibited by 15 USC 381 to 384. The business income tax is imposed on the business income tax base, after allocation or apportionment to this state, at the rate of 4.95%.

(2) The business income tax base means a taxpayer’s business income subject to the following adjustments, before allocation or apportionment, and the adjustment in subsection (4) after allocation or apportionment:

(a) Add interest income and dividends derived from obligations or securities of states other than this state, in the same amount that was excluded from federal taxable income, less the related portion of expenses not deducted in computing federal taxable income because of sections 265 and 291 of the internal revenue code.

(b) Add all taxes on or measured by net income and the tax imposed under this act to the extent the taxes were deducted in arriving at federal taxable income.

(c) Add any carryback or carryover of a net operating loss to the extent deducted in arriving at federal taxable income.

(d) To the extent included in federal taxable income, deduct dividends and royalties received from persons other than United States persons and foreign operating entities, including, but not limited to, amounts determined under section 78 of the internal revenue code or sections 951 to 964 of the internal revenue code.

(e) To the extent included in federal taxable income, add the loss or subtract the income from the business income tax base that is attributable to another entity whose business activities are taxable under this section or would be subject to the tax under this section if the business activities were in this state.

(f) Except as otherwise provided under this subdivision, to the extent deducted in arriving at federal taxable income, add any royalty, interest, or other expense paid to a person related to the taxpayer by ownership or control for the use of an intangible asset if the person is not included in the taxpayer’s unitary business group. The addition of any royalty, interest, or other expense described under this subdivision is not required to be added if the taxpayer can demonstrate that the transaction has a nontax business purpose other than avoidance of this tax, is conducted with arm’s-length pricing and rates and terms as applied in accordance with sections 482 and 1274(d) of the internal revenue code, and satisfies 1 of the following:

(i) Is a pass through of another transaction between a third party and the related person with comparable rates and terms.

(ii) Results in double taxation. For purposes of this subparagraph, double taxation exists if the transaction is subject to tax in another jurisdiction.

(iii) Is unreasonable as determined by the treasurer, and the taxpayer agrees that the addition would be unreasonable based on the taxpayer’s facts and circumstances.

(g) To the extent included in federal taxable income, deduct interest income derived from United States obligations.

(h) To the extent included in federal taxable income, deduct any earnings that are net earnings from self-employment as defined under section 1402 of the internal revenue code of the taxpayer or a partner or limited liability company member of the taxpayer except to the extent that those net earnings represent a reasonable return on capital.

(3) For purposes of subsection (2), the business income of a unitary business group is the sum of the business income of each person, other than a foreign operating entity or a person subject to the tax imposed under chapter 2A or 2B, included in the unitary business group less any items of income and related deductions arising from transactions including dividends between persons included in the unitary business group.

(4) Deduct any available business loss incurred after December 31, 2007. As used in this subsection, “business loss” means a negative business income taxable amount after allocation or apportionment. The business loss shall be carried forward to the year immediately succeeding the loss year as an offset to the allocated or apportioned business income tax base, then successively to the next 9 taxable years following the loss year or until the loss is used up, whichever occurs first, but for not more than 10 taxable years after the loss year.

Sec. 203. (1) Except as otherwise provided in this act, there is levied and imposed a modified gross receipts tax on every taxpayer with nexus as determined under section 200. The modified gross receipts tax is imposed on the modified gross receipts tax base, after allocation or apportionment to this state at a rate of 0.80%.

(2) The tax levied and imposed under this section is upon the privilege of doing business and not upon income or property.

(3) The modified gross receipts tax base means a taxpayer's gross receipts less purchases from other firms before apportionment under this act. The modified gross receipts of a unitary business group is the sum of modified gross receipts of each person, other than a foreign operating entity or a person subject to the tax imposed under chapter 2A or 2B, included in the unitary business group less any modified gross receipts arising from transactions between persons included in the unitary business group.

(4) For the 2008 tax year, deduct 65% of any remaining business loss carryforward calculated under section 23b(h) of former 1975 PA 228 that was actually incurred in the 2006 or 2007 tax year to the extent not deducted in tax years beginning before January 1, 2008. A deduction under this subsection shall not include any business loss carryforward that was incurred before January 1, 2006. If the taxpayer is a unitary business group, the business loss carryforward under this subsection may only be deducted against the modified gross receipts tax base of that person included in the unitary business group calculated as if the person was not included in the unitary business group.

(5) Nothing in this act shall prohibit a taxpayer who qualifies for the credit under section 445 or a taxpayer who is a dealer of new or used personal watercraft from collecting the tax imposed under this section in addition to the sales price. The amount remitted to the department for the tax under this section shall not be less than the stated and collected amount.

Sec. 207. (1) Except as otherwise provided in this section, the following are exempt from the tax imposed by this act:

(a) The United States, this state, other states, and the agencies, political subdivisions, and enterprises of the United States, this state, and other states, including any grantor trust established by a municipality with the municipality as the grantor and exempt from federal income tax under the internal revenue code.

(b) A person who is exempt from federal income tax under the internal revenue code, and a partnership, limited liability company, joint venture, general partnership, limited partnership, unincorporated association, or other group or combination of entities acting as a unit if the activities of the entity are exclusively related to the charitable, educational, or other purpose or function that is the basis for the exemption under the internal revenue code from federal income taxation of the partners or members and if all of the partners or members of the entity are exempt from federal income tax under the internal revenue code, except the following:

(i) An organization included under section 501(c)(12) or 501(c)(16) of the internal revenue code.

(ii) An organization exempt under section 501(c)(4) of the internal revenue code that would be exempt under section 501(c)(12) of the internal revenue code except that it failed to meet the requirements in section 501(c)(12) that 85% or more of its income consist of amounts collected from members.

(iii) The tax base attributable to the activities giving rise to the unrelated taxable business income of an exempt person.

(c) A nonprofit cooperative housing corporation. As used in this subdivision, "nonprofit cooperative housing corporation" means a cooperative housing corporation that is engaged in providing housing services to its stockholders and members and that does not pay dividends or interest on stock or membership investment but that does distribute all earnings to its stockholders or members. The exemption under this subdivision does not apply to a business activity of a nonprofit cooperative housing corporation other than providing housing services to its stockholders and members.

(d) That portion of the tax base attributable to the production of agricultural goods by a person whose primary activity is the production of agricultural goods. "Production of agricultural goods" means commercial farming, including, but not limited to, cultivation of the soil; growing and harvesting of an agricultural, horticultural, or floricultural commodity; dairying; raising of livestock, bees, fish, fur-bearing animals, or poultry; or turf or tree farming, but does not include the marketing at retail of agricultural goods except for sales of nursery stock grown by the seller and sold to a nursery dealer licensed under section 9 of the insect pest and plant disease act, 1931 PA 189, MCL 286.209.

(e) Except as provided in subsection (2), a farmers' cooperative corporation organized within the limitations of section 98 of 1931 PA 327, MCL 450.98, that was at any time exempt under subdivision (b) because the corporation was exempt from federal income taxes under section 521 of the internal revenue code and that would continue to be exempt under section 521 of the internal revenue code except for either of the following activities:

(i) The corporation's repurchase from nonproducer customers of portions or components of commodities the corporation markets to those nonproducer customers and the corporation's subsequent manufacturing or marketing of the repurchased portions or components of the commodities.

(ii) The corporation's incidental or emergency purchases of commodities from nonproducers to facilitate the manufacturing or marketing of commodities purchased from producers.

(f) That portion of the tax base attributable to the direct and indirect marketing activities of a farmers' cooperative corporation organized within the limitations of section 98 of 1931 PA 327, MCL 450.98, if those marketing activities are provided on behalf of the members of that corporation and are related to the members' direct sales of their products to third parties or, for livestock, are related to the members' direct or indirect sales of that product to third parties. Marketing activities for a product that is not livestock are not exempt under this subdivision if the farmers' cooperative corporation takes physical possession of the product. As used in this subdivision, "marketing activities" means activities that include, but are not limited to, all of the following:

(i) Activities under the agricultural commodities marketing act, 1965 PA 232, MCL 290.651 to 290.674, and the agricultural marketing and bargaining act, 1972 PA 344, MCL 290.701 to 290.726.

(ii) Dissemination of market information.

(iii) Establishment of price and other terms of trade.

(iv) Promotion.

(v) Research relating to members' products.

(g) That portion of the tax base attributable to the services provided by an attorney-in-fact to a reciprocal insurer pursuant to chapter 72 of the insurance code of 1956, 1956 PA 218, MCL 500.7200 to 500.7234.

(h) That portion of the tax base attributable to a multiple employer welfare arrangement that provides dental benefits only and that has a certificate of authority under chapter 70 of the insurance code of 1956, 1956 PA 218, MCL 500.7001 to 500.7090.

(2) Subsection (1)(e) does not exempt a farmers' cooperative corporation if the total dollar value of the farmers' cooperative corporation's incidental and emergency purchases described in subsection (1)(e)(ii) are equal to or greater than 5% of the corporation's total purchases.

(3) Except as otherwise provided in this section, a farmers' cooperative corporation that is structured to allocate net earnings in the form of patronage dividends as defined in section 1388 of the internal revenue code to its farmer or farmer cooperative corporation patrons shall exclude from its adjusted tax base the revenue and expenses attributable to business transacted with its farmer or farmer cooperative corporation patrons.

(4) As used in subsection (1)(b), "exclusively" means that term as applied for purposes of section 501(c)(3) of the internal revenue code.

CHAPTER 2A

Sec. 235. (1) Each insurance company shall pay a tax determined under this chapter.

(2) The tax imposed by this chapter on each insurance company shall be a tax equal to 1.25% of gross direct premiums written on property or risk located or residing in this state. Direct premiums do not include any of the following:

(a) Premiums on policies not taken.

(b) Returned premiums on canceled policies.

(c) Receipts from the sale of annuities.

(d) Receipts on reinsurance premiums if the tax has been paid on the original premiums.

(e) The first \$190,000,000.00 of disability insurance premiums written in this state, other than credit insurance and disability income insurance premiums, of each insurance company subject to tax under this chapter. This exemption shall be reduced by \$2.00 for each \$1.00 by which the insurance company's gross direct premiums from insurance carrier services in this state and outside this state exceed \$280,000,000.00.

(3) The tax calculated under this chapter is in lieu of all other privilege or franchise fees or taxes imposed by this act or any other law of this state, except taxes on real and personal property, taxes collected under the general sales tax act, 1933 PA 167, MCL 205.1 to 205.78, and taxes collected under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, and except as otherwise provided in the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

Sec. 237. (1) An insurance company may claim a credit against the tax imposed under this chapter in the following amounts:

(a) Amounts paid to the Michigan worker's compensation placement facility pursuant to chapter 23 of the insurance code of 1956, 1956 PA 218, MCL 500.2301 to 500.2352.

(b) Amounts paid to the Michigan basic property insurance association pursuant to chapter 29 of the insurance code of 1956, 1956 PA 218, MCL 500.2901 to 500.2954.

(c) Amounts paid to the Michigan automobile insurance placement facility pursuant to chapter 33 of the insurance code of 1956, 1956 PA 218, MCL 500.3301 to 500.3390.

(d) Amounts paid to the property and casualty guaranty association pursuant to chapter 79 of the insurance code of 1956, 1956 PA 218, MCL 500.7901 to 500.7949.

(e) Amounts paid to the Michigan life and health guaranty association pursuant to chapter 77 of the insurance code of 1956, 1956 PA 218, MCL 500.7701 to 500.7780.

(2) The assessments of an insurance company from the immediately preceding tax year shall be used in calculating the credits allowed under this section for each tax year.

Sec. 239. (1) An insurance company shall be allowed a credit against the tax imposed under this chapter in an amount equal to 50% of the examination fees paid by the insurance company during the tax year pursuant to section 224 of the insurance code of 1956, 1956 PA 218, MCL 500.224.

(2) An insurance company that does not make any of the payments described under section 237(1)(a) through (d) may claim a credit against the tax imposed under this act as provided under section 403(2), not to exceed 65% of the insurance company's tax liability for the tax year after claiming the other credits allowed by this chapter.

Sec. 241. (1) For amounts paid pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, an insurance company subject to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may claim a credit against the tax imposed under this chapter for the tax year in an amount equal to the amount paid during that tax year by the insurance company pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, as certified by the director of the bureau of worker's disability compensation pursuant to section 391(6) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.391.

(2) An insurance company claiming a credit under this section may claim a portion of the credit allowed under this section equal to the payments made during a calendar quarter pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, against the estimated tax payments made under section 501. Any credit in excess of an estimated payment shall be refunded to the insurance company on a quarterly basis within 60 calendar days after receipt of a properly completed estimated tax return. Any subsequent increase or decrease in the amount claimed for payments made by the insurance company shall be reflected in the amount of the credit taken for the calendar quarter in which the amount of the adjustment is finalized.

(3) The credit under this section is in addition to any other credits the insurance company is eligible for under this act.

(4) Any amount of the credit under this section that is in excess of the tax liability of the insurance company for the tax year shall be refunded, without interest, by the department to the insurance company within 60 calendar days of receipt of a properly completed annual return required under this act.

Sec. 243. (1) An insurance company is subject to the tax imposed by this chapter or by section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, if applicable, whichever is greater.

(2) The tax year of an insurance company is the calendar year.

(3) Notwithstanding section 505, an insurance company shall file the annual return required under this act before March 2 after the end of the tax year, and an automatic extension under section 505(4) is not available.

(4) For the purpose of calculating an estimated payment required by section 501, the greater of the amount of tax imposed on an insurance company under this chapter or under section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, shall be considered the insurance company's tax liability for the immediately preceding tax year.

(5) The requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, that prohibit an employee or authorized representative of, a former employee or authorized representative of, or anyone connected with the department from divulging any facts or information obtained in connection with the administration of a tax, do not apply to disclosure of a tax return required by this section.

CHAPTER 2B

Sec. 261. As used in this chapter:

(a) "Billing address" means the location indicated in the books and records of the financial institution on the first day of the tax year or on a later date in the tax year when the customer relationship began as the address where any notice, statement, or bill relating to a customer's account is mailed.

(b) "Borrower is located in this state" or "credit card holder is located in this state" means a borrower, other than a credit card holder, that is engaged in a trade or business which maintains its commercial domicile in this state, or a borrower that is not engaged in a trade or business or a credit card holder whose billing address is in this state.

(c) "Commercial domicile" means the headquarters of the trade or business, that is the place from which the trade or business is principally managed and directed, or if a financial institution is organized under the laws of a foreign country, of the commonwealth of Puerto Rico, or any territory or possession of the United States, such financial

institution's commercial domicile shall be deemed for the purposes of this chapter to be the state of the United States or the District of Columbia from which such financial institution's trade or business in the United States is principally managed and directed. It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of such employees are performed, as of the last day of the tax year.

(d) "Credit card" means a credit, travel, or entertainment card.

(e) "Credit card issuer's reimbursement fee" means the fee a financial institution receives from a merchant's bank because 1 of the persons to whom the financial institution has issued a credit card has charged merchandise or services to the credit card.

(f) "Financial institution" means any of the following:

(i) A bank holding company, a national bank, a state chartered bank, an office of thrift supervision chartered bank or thrift institution, or a savings and loan holding company other than a diversified savings and loan holding company as defined in 12 USC 1467a(a)(F).

(ii) Any person, other than a person subject to the tax imposed under chapter 2A, who is directly or indirectly owned by an entity described in subparagraph (i) and is a member of the unitary business group.

(iii) A unitary business group of entities described in subparagraph (i) or (ii), or both.

(g) "Gross business" means the sum of the following less transactions between those entities included in a unitary business group:

(i) Fees, commissions, or other compensation for financial services.

(ii) Net gains, not less than zero, from the sale of loans and other intangibles.

(iii) Net gains, not less than zero, from trading in stocks, bonds, or other securities.

(iv) Interest charged to customers for carrying debit balances of margin accounts.

(v) Interest and dividends received.

(vi) Any other gross proceeds resulting from the operation as a financial institution.

(h) "Loan" means any extension of credit resulting from direct negotiations between the financial institution and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under section 595 of the internal revenue code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, non-interest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment conduit, or other mortgage-backed or asset-backed security, and other similar items.

(i) "Loan secured by real property" means that 50% or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(j) "Merchant discount" means the fee or negotiated discount charged to a merchant by the financial institution for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the credit card holder.

(k) "Michigan obligations" means a bond, note, or other obligation issued by a governmental unit described in section 3 of the shared credit rating act, 1985 PA 227, MCL 141.1053.

(l) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(m) "Principal base of operation", with respect to transportation property, means the place of more or less permanent nature from which said property is regularly directed or controlled. With respect to an employee, the principal base of operations means the place of more or less permanent nature from which the employee regularly does any of the following:

(i) Starts his or her work and to which he or she customarily returns in order to receive instructions from his or her employer.

(ii) Communicates with his or her customers or other persons.

(iii) Performs any other functions necessary to the exercise of his or her trade or profession at some other point or points.

(n) “Real property owned” and “tangible personal property owned” mean real and tangible personal property respectively on which the financial institution may claim depreciation for federal income tax purposes or to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal properties do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(o) “Regular place of business” means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than 1 regular place of business and 1 such regular place of business is in this state and 1 such regular place of business is outside this state, such asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, such policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.

(p) “Rolling stock” means railroad freight or passenger cars, locomotives, or other rail cars.

(q) “Syndication” means an extension of credit in which 2 or more persons finance the credit and each person is at risk only up to a specified percentage of the total extension of the credit or up to a specified dollar amount.

(r) “Transportation property” means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, or trailers.

(s) “United States obligations” means all obligations of the United States exempt from taxation under 31 USC 3124(a) or exempt under the United States constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States constitution or any statute of the United States.

Sec. 263. (1) Every financial institution with nexus in this state as determined under section 200 is subject to a franchise tax. The franchise tax is imposed upon the tax base of the financial institution as determined under section 265 after allocation or apportionment to this state, at the rate of 0.235%.

(2) The tax under this chapter is in lieu of the tax levied and imposed under chapter 2 of this act.

Sec. 265. (1) For a financial institution, tax base means the financial institution’s net capital. Net capital means equity capital as computed in accordance with generally accepted accounting principles less goodwill arising from purchase accounting adjustments for transactions that occurred after July 1, 2007, and the book value of United States obligations and Michigan obligations. If the financial institution does not maintain its books and records in accordance with generally accepted accounting principles, net capital shall be computed in accordance with the books and records used by the financial institution, so long as the method fairly reflects the financial institution’s net capital for purposes of the tax levied by this chapter. Net capital does not include up to 125% of the minimum regulatory capitalization requirements of a person subject to the tax imposed under chapter 2A.

(2) Net capital shall be determined by adding the financial institution’s net capital as of the close of the current tax year and preceding 4 tax years and dividing the resulting sum by 5. If a financial institution has not been in existence for a period of 5 tax years, net capital shall be determined by adding together the financial institution’s net capital for the number of tax years the financial institution has been in existence and dividing the resulting sum by the number of years the financial institution has been in existence. For purposes of this section, a partial year shall be treated as a full year.

(3) For purposes of this section, each of the following applies:

(a) A change in identity, form, or place of organization of 1 financial institution shall be treated as if a single financial institution had been in existence for the entire tax year in which the change occurred and each tax year after the change.

(b) The combination of 2 or more financial institutions into 1 shall be treated as if the constituent financial institutions had been a single financial institution in existence for the entire tax year in which the combination occurred and each tax year after the combination, and the book values and deductions for United States obligations and Michigan obligations of the constituent institutions shall be combined. A combination shall include any acquisition required to be accounted for by the surviving financial institution in accordance with generally accepted accounting principles or a statutory merger or consolidation.

Sec. 267. (1) Except as otherwise provided under this chapter, the tax base of a financial institution whose business activities are confined solely to this state shall be allocated to this state. The tax base of a financial institution whose business activities are subject to tax both within and outside this state shall be apportioned to this state by multiplying the tax base by the gross business factor.

(2) A financial institution whose business activities are subject to tax both within and outside of this state is subject to tax in another state in either of the following circumstances:

(a) The financial institution is subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax or a tax of the type imposed under this act in that state.

(b) That state has jurisdiction to subject the financial institution to 1 or more of the taxes listed in subdivision (a) regardless of whether that state does or does not subject the financial institution to that tax.

(3) Except as otherwise provided in subsection (4), the gross business factor is a fraction, the numerator of which is the total gross business of the financial institution in this state during the tax year and the denominator of which is the total gross business of the financial institution everywhere during the tax year.

(4) Except as otherwise provided under this subsection, for a financial institution that is included in a unitary business group, gross business includes gross business in this state of every financial institution included in the unitary business group without regard to whether the financial institution has nexus in this state. Gross business between financial institutions included in a unitary business group must be eliminated in calculating the gross business factor.

Sec. 269. Gross business in this state of the financial institution is determined as follows:

(a) Receipts from credit card receivables including without limitation interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to credit card holders such as annual fees are in this state if the billing address of the credit card holder is located in this state.

(b) Credit card issuer's reimbursement fees are in this state if the billing address of the credit card holder is located in this state.

(c) Receipts from merchant discounts are in this state if the commercial domicile of the merchant is in this state.

(d) Loan servicing fees are in this state under any of the following circumstances:

(i) For a loan secured by real property, if the real property for which the loan is secured is in this state.

(ii) For a loan secured by real property, if the real property for which the loan is secured is located both within and without this state and 1 or more other states and more than 50% of the fair market value of the real property is located in this state.

(iii) For a loan secured by real property, if more than 50% of the fair market value of the real property for which the loan is secured is not located within any 1 state but the borrower is located in this state.

(iv) For a loan not secured by real property, the borrower is located in this state.

(e) Receipts from services are in this state if the recipient of the services receives all of the benefit of the services in this state. If the recipient of the services receives some of the benefit of the services in this state, the receipts are included in the numerator of the apportionment factor in proportion to the extent that the recipient receives benefit of the services in this state.

(f) Receipts from investment assets and activities and trading assets and activities, including interest and dividends, are in this state if the financial institution's customer is in this state. If the location of the financial institution's customer cannot be determined, both of the following:

(i) Interest, dividends, and other income from investment assets and activities and from trading assets and activities, including, but not limited to, investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. Interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. The amount of receipts and other income from investment assets and activities is in this state if assets are assigned to a regular place of business of the taxpayer within this state.

(ii) The amount of receipts from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts otherwise sourced in this section, are in this state if the assets are assigned to a regular place of business of the taxpayer within this state.

(g) Interest charged to customers for carrying debit balances on margin accounts without deduction of any costs incurred in carrying the accounts is in this state if the customer is located in this state.

(h) Interest from loans secured by real property is in this state if the property is located in this state, if the property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located in this state, and if more than 50% of the fair market value of the real property is not located within any 1 state but the borrower is located in this state.

(i) Interest from loans not secured by real property is in this state if the borrower is located in this state.

(j) Net gains from the sale of loans secured by real property or mortgage service rights relating to real property are in this state if the property is in this state, if the property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located within this state, or if more than 50% of the fair market value of the real property is not located in any 1 state, but the borrower is located in this state.

(k) Net gains from the sale of loans not secured by real property or any other intangible assets are in this state if the depositor or borrower is located in this state.

(l) Receipts from the lease of real property are in this state if the property is located in this state.

(m) Receipts from the lease of tangible personal property are in this state if the property is located in this state when it is first placed in service by the lessee.

(n) Receipts from the lease of transportation tangible personal property are in this state if the property is used in this state or if the extent of use of the property within this state cannot be determined but the property has its principal base of operations within this state.

CHAPTER 3

Sec. 301. (1) Except as otherwise provided in this act, each tax base established under this act shall be apportioned in accordance with this chapter.

(2) Each tax base of a taxpayer whose business activities are confined solely to this state shall be allocated to this state. Each tax base of a taxpayer whose business activities are subject to tax both within and outside of this state shall be apportioned to this state by multiplying each tax base by the sales factor calculated under section 303.

(3) A taxpayer whose business activities are subject to tax both within and outside of this state is subject to tax in another state in either of the following circumstances:

(a) The taxpayer is subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax or a tax of the type imposed under this act in that state.

(b) That state has jurisdiction to subject the taxpayer to 1 or more of the taxes listed in subdivision (a) regardless of whether that state does or does not subject the taxpayer to that tax.

Sec. 303. (1) Except as otherwise provided in subsection (2) and section 311, the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax year and the denominator of which is the total sales of the taxpayer everywhere during the tax year.

(2) Except as otherwise provided under this subsection, for a taxpayer that is a unitary business group, sales include sales in this state of every person included in the unitary business group without regard to whether the person has nexus in this state. Sales between persons included in a unitary business group must be eliminated in calculating the sales factor.

Sec. 305. (1) Sales of the taxpayer in this state are determined as follows:

(a) Sales of tangible personal property are in this state if the property is shipped or delivered, or, in the case of electricity and gas, the contract requires the property to be shipped or delivered, to any purchaser within this state based on the ultimate destination at the point that the property comes to rest regardless of the free on board point or other conditions of the sales.

(b) Receipts from the sale, lease, rental, or licensing of real property are in this state if that property is located in this state.

(c) Receipts from the lease or rental of tangible personal property are sales in this state to the extent that the property is utilized in this state. The extent of utilization of tangible personal property in this state is determined by multiplying the receipts by a fraction, the numerator of which is the number of days of physical location of the property in this state during the lease or rental period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all lease or rental periods in the tax year. If the physical location of the property during the lease or rental period is unknown or cannot be determined, the tangible personal property is utilized in the state in which the property was located at the time the lease or rental payer obtained possession.

(d) Receipts from the lease or rental of mobile transportation property owned by the taxpayer are in this state to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of receipts that is to be included in the numerator of this state's sales factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of the fraction is the number of landings of the aircraft in this state and the denominator of the fraction is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the receipts are in this state if the property has its principal base of operations in this state.

(e) Royalties and other income received for the use of or for the privilege of using intangible property, including patents, know-how, formulas, designs, processes, patterns, copyrights, trade names, service names, franchises, licenses, contracts, customer lists, computer software, or similar items, are attributed to the state in which the property is used by the purchaser. If the property is used in more than 1 state, the royalties or other income shall be apportioned to this state pro rata according to the portion of use in this state. If the portion of use in this state cannot be determined, the royalties or other income shall be excluded from both the numerator and the denominator. Intangible property is used in this state if the purchaser uses the intangible property or the rights to the intangible property in the regular course of its business operations in this state, regardless of the location of the purchaser's customers.

(2) Sales from the performance of services are in this state and attributable to this state as follows:

(a) Except as otherwise provided in this section, all receipts from the performance of services are included in the numerator of the apportionment factor if the recipient of the services receives all of the benefit of the services in this state. If the recipient of the services receives some of the benefit of the services in this state, the receipts are included in the numerator of the apportionment factor in proportion to the extent that the recipient receives benefit of the services in this state.

(b) Sales derived from securities brokerage services attributable to this state are determined by multiplying the total dollar amount of receipts from securities brokerage services by a fraction, the numerator of which is the sales of securities brokerage services to customers within this state, and the denominator of which is the sales of securities brokerage services to all customers. Receipts from securities brokerage services include commissions on transactions, the spread earned on principal transactions in which the broker buys or sells from its account, total margin interest paid on behalf of brokerage accounts owned by the broker's customers, and fees and receipts of all kinds from the underwriting of securities. If receipts from brokerage services can be associated with a particular customer, but it is impractical to associate the receipts with the address of the customer, then the address of the customer shall be presumed to be the address of the branch office that generates the transactions for the customer.

(c) Sales of services that are derived directly or indirectly from the sale of management, distribution, administration, or securities brokerage services to, or on behalf of, a regulated investment company or its beneficial owners, including receipts derived directly or indirectly from trustees, sponsors, or participants of employee benefit plans that have accounts in a regulated investment company, shall be attributable to this state to the extent that the shareholders of the regulated investment company are domiciled within this state. For purposes of this subdivision, "domicile" means the shareholder's mailing address on the records of the regulated investment company. If the regulated investment company or the person providing management services to the regulated investment company has actual knowledge that the shareholder's primary residence or principal place of business is different than the shareholder's mailing address, then the shareholder's primary residence or principal place of business is the shareholder's domicile. A separate computation shall be made with respect to the receipts derived from each regulated investment company. The total amount of sales attributable to this state shall be equal to the total receipts received by each regulated investment company multiplied by a fraction determined as follows:

(i) The numerator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by the regulated investment company shareholders who have their domicile in this state.

(ii) The denominator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by all shareholders.

(iii) For purposes of the fraction, the year shall be the tax year of the regulated investment company that ends with or within the tax year of the taxpayer.

(3) Receipts from the origination of a loan or gains from the sale of a loan secured by residential real property is deemed a sale in this state only if 1 or more of the following apply:

(a) The real property is located in this state.

(b) The real property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located within this state.

(c) More than 50% of the real property is not located in any 1 state and the borrower is located in this state.

(4) Interest from loans secured by real property is in this state if the property is located within this state or if the property is located both within this state and 1 or more other states, if more than 50% of the fair market value of the real property is located within this state, or if more than 50% of the fair market value of the real property is not located within any 1 state, if the borrower is located in this state. The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.

(5) Interest from a loan not secured by real property is in this state if the borrower is located in this state.

(6) Gains from the sale of a loan not secured by real property, including income recorded under the coupon stripping rules of section 1286 of the internal revenue code, are in this state if the borrower is in this state.

(7) Receipts from credit card receivables, including interest, fees, and penalties from credit card receivables and receipts from fees charged to cardholders, such as annual fees, are in this state if the billing address of the card holder is in this state.

(8) Receipts from the sale of credit card or other receivables is in this state if the billing address of the customer is in this state. Credit card issuer's reimbursements fees are in this state if the billing address of the cardholder is in this state. Receipts from merchant discounts, computed net of any cardholder chargebacks, but not reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its cardholders, are in this state if the commercial domicile of the merchant is in this state.

(9) Loan servicing fees derived from loans of another secured by real property are in this state if the real property is located in this state, or the real property is located both within and outside of this state and 1 or more states if more than 50% of the fair market value of the real property is located in this state, or more than 50% of the fair market value of the real property is not located in any 1 state, and the borrower is located in this state. Loan servicing fees derived from loans of another not secured by real property are in this state if the borrower is located in this state. If the location of the security cannot be determined, then loan servicing fees for servicing either the secured or the unsecured loans of another are in this state if the lender to whom the loan servicing service is provided is located in this state.

(10) Receipts from the sale of securities and other assets from investment and trading activities, including, but not limited to, interest, dividends, and gains are in this state in either of the following circumstances:

(a) The person's customer is in this state.

(b) If the location of the person's customer cannot be determined, both of the following:

(i) Interest, dividends, and other income from investment assets and activities and from trading assets and activities, including, but not limited to, investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. Interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. The amount of receipts and other income from investment assets and activities is in this state if assets are assigned to a regular place of business of the taxpayer within this state.

(ii) The amount of receipts from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts otherwise sourced in this section, are in this state if the assets are assigned to a regular place of business of the taxpayer within this state.

(11) Receipts from transportation services rendered by a person subject to tax in another state are in this state and shall be attributable to this state as follows:

(a) Except as otherwise provided in subdivisions (b) through (e), receipts shall be proportioned based on the ratio that revenue miles of the person in this state bear to the revenue miles of the person everywhere.

(b) Receipts from maritime transportation services shall be attributable to this state as follows:

(i) 50% of those receipts that either originate or terminate in this state.

(ii) 100% of those receipts that both originate and terminate in this state.

(c) Receipts attributable to this state of a person whose business activity consists of the transportation both of property and of individuals shall be proportioned based on the total gross receipts for passenger miles and ton mile fractions, separately computed and individually weighted by the ratio of gross receipts from passenger transportation to total gross receipts from all transportation, and by the ratio of gross receipts from freight transportation to total gross receipts from all transportation, respectively.

(d) Receipts attributable to this state of a person whose business activity consists of the transportation of oil by pipeline shall be proportioned based on the ratio that the gross receipts for the barrel miles transported in this state bear to the gross receipts for the barrel miles transported by the person everywhere.

(e) Receipts attributable to this state of a person whose business activities consist of the transportation of gas by pipeline shall be proportioned based on the ratio that the gross receipts for the 1,000 cubic feet miles transported in this state bear to the gross receipts for the 1,000 cubic feet miles transported by the person everywhere.

(12) For purposes of subsection (11), if a taxpayer can show that revenue mile information is not available or cannot be obtained without unreasonable expense to the taxpayer, receipts attributable to this state shall be that portion of the revenue derived from transportation services everywhere performed that the miles of transportation services performed in this state bears to the miles of transportation services performed everywhere. If the department determines that the information required for the calculations under subsection (11) are not available or cannot be obtained without unreasonable expense to the taxpayer, the department may use other available information that in the opinion of the department will result in an equitable allocation of the taxpayer's receipts to this state.

(13) Except as provided in subsections (14) through (19), receipts from the sale of telecommunications service or mobile telecommunications service are in this state if the customer's place of primary use of the service is in this state. As used in this subsection, "place of primary use" means the customer's residential street address or primary business street address where the customer's use of the telecommunications service primarily occurs. For mobile telecommunications service, the customer's residential street address or primary business street address is the place of primary use only if it is within the licensed service area of the customer's home service provider.

(14) Receipts from the sale of telecommunications service sold on an individual call-by-call basis are in this state if either of the following applies:

- (a) The call both originates and terminates in this state.
- (b) The call either originates or terminates in this state and the service address is located in this state.

(15) Receipts from the sale of postpaid telecommunications service are in this state if the origination point of the telecommunication signal, as first identified by the service provider's telecommunication system or as identified by information received by the seller from its service provider if the system used to transport telecommunication signals is not the seller's, is located in this state.

(16) Receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service are in this state if the purchaser obtains the prepaid card or similar means of conveyance at a location in this state. Receipts from recharging a prepaid telecommunications service or mobile telecommunications service is in this state if the purchaser's billing information indicates a location in this state.

(17) Receipts from the sale of private communication services are in this state as follows:

- (a) 100% of the receipts from the sale of each channel termination point within this state.
- (b) 100% of the receipts from the sale of the total channel mileage between each termination point within this state.
- (c) 50% of the receipts from the sale of service segments for a channel between 2 customer channel termination points, 1 of which is located in this state and the other is located outside of this state, which segments are separately charged.
- (d) The receipts from the sale of service for segments with a channel termination point located in this state and in 2 or more other states or equivalent jurisdictions, and which segments are not separately billed, are in this state based on a percentage determined by dividing the number of customer channel termination points in this state by the total number of customer channel termination points.

(18) Receipts from the sale of billing services and ancillary services for telecommunications service are in this state based on the location of the purchaser's customers. If the location of the purchaser's customers is not known or cannot be determined, the sale of billing services and ancillary services for telecommunications service are in this state based on the location of the purchaser.

(19) Receipts to access a carrier's network or from the sale of telecommunication services for resale are in this state as follows:

- (a) 100% of the receipts from access fees attributable to intrastate telecommunications service that both originates and terminates in this state.
- (b) 50% of the receipts from access fees attributable to interstate telecommunications service if the interstate call either originates or terminates in this state.
- (c) 100% of the receipts from interstate end user access line charges, if the customer's service address is in this state. As used in this subdivision, "interstate end user access line charges" includes, but is not limited to, the surcharge approved by the federal communications commission and levied pursuant to 47 CFR 69.

(d) Gross receipts from sales of telecommunication services to other telecommunication service providers for resale shall be sourced to this state using the apportionment concepts used for non-resale receipts of telecommunications services if the information is readily available to make that determination. If the information is not readily available, then the taxpayer may use any other reasonable and consistent method.

(20) Terms used in subsections (13) through (19) have the same meaning as those terms defined in the streamlined sales and use tax agreement administered under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833.

(21) For purposes of this section, a borrower is considered located in this state if the borrower's billing address is in this state.

Sec. 307. (1) Notwithstanding sections 303 and 305, a spun off corporation that qualified to calculate its sales factor for 7 years under section 54 of former 1975 PA 228 may elect to calculate its sales factor under this section for an additional 4 years following those 7 years or 3 years if a taxpayer had an election approved under section 54(1)(e) of former 1975 PA 228. Prior to the end of the first year following the 7 years for which the taxpayer qualified under section 54 of former 1975 PA 228 and if the spun off corporation is not required to file amended returns under section 54(5)

of former 1975 PA 228, the spun off corporation may request, in writing, approval from the state treasurer for the election of the 4 additional years under this section. If the taxpayer had an election approved under section 54(1)(e) of former 1975 PA 228, the taxpayer is not required to seek approval under this section. The department shall approve the election under this subsection if the requirements of this section are met. The request shall include all of the following:

(a) A statement that the spun off corporation qualifies for the election under this section.

(b) A list of all corporations, limited liability companies, and any other business entities that the spun off corporation controlled at the time of the restructuring transaction.

(c) A commitment by the spun off corporation to invest at least an additional \$200,000,000.00 of capital investment in this state within the additional 4 years and maintain at least 80% of the number of full-time equivalent employees in this state based on the number of full-time equivalent employees in this state at the beginning of the additional 4-year period for all of the additional 4 years; a commitment by the spun off corporation to invest an additional \$400,000,000.00 in this state within the additional 4 years; or a commitment by the spun off corporation to invest a total of \$1,300,000,000.00 in this state within the 11-year period beginning with the year in which the restructuring transaction under which a spun off corporation qualified under this subsection was completed. The 4-year period under this subdivision begins with the eighth year following the tax year in which the restructuring transaction under which a spun off corporation qualified under this subsection was completed. For purposes of this subdivision, the number of full-time equivalent employees includes employees in all of the following circumstances:

(i) On temporary layoff.

(ii) On strike.

(iii) On a type of temporary leave other than the type under subparagraphs (i) and (ii).

(iv) Transferred by the spun off corporation to a related entity or to its immediately preceding former parent corporation.

(v) Transferred by the spun off corporation to another employer because of the sale of the spun off corporation's location in this state that was the work site of the employees.

(2) Prior to the end of the eleventh year following the restructuring transaction under which a spun off corporation qualified under subsection (1), a taxpayer that is a buyer of a plant located in this state that was included in the initial restructuring transaction under subsection (1) may elect to calculate its sales factor under subsection (3) and disregard sales by the taxpayer attributable to that plant to a former parent of a spun off corporation and the sales attributable to the plant shall be treated as sales by a spun off corporation. This election shall extend for a period of 4 years following the date that the plant was purchased reduced by the number of years for which the taxpayer calculated its sales factor pursuant to section 54(2) of former 1975 PA 228. On or before the due date for filing the buyer's first annual return under this act following the purchase of the plant, the buyer shall request, in writing, approval from the department for the election provided under this section and shall attach a statement that the buyer qualifies for the election under this section.

(3) A spun off corporation qualified under subsection (1) or (2) that makes an election and is approved under subsection (1) or (2) calculates its sales factor under section 54 of former 1975 PA 228 subject to both of the following:

(a) A purchaser in this state under section 52 of former 1975 PA 228 does not include a person that purchases from a seller that was included in the purchaser's combined or consolidated annual return under this act but, as a result of the restructuring transaction, ceased to be included in the purchaser's combined or consolidated annual return under this act. This subdivision applies only to sales that originate from a plant located in this state.

(b) Total sales under section 51 of former 1975 PA 228 do not include sales to a purchaser that was a member of a Michigan affiliated business group that had included the seller in the filing of a combined annual return under this act but, as a result of the restructuring transaction, ceased to include the seller. This subdivision applies only to sales that originate from a plant located in this state to a location in this state.

(4) At the end of the fourth tax year following an election under this section, if the spun off corporation that elected to calculate its sales factor under this section for the additional 4 years allowed under subsection (1) has failed to maintain the required number of employees or failed to pay or accrue the capital investment required under subsection (1)(c), the spun off corporation shall file amended annual returns under this act for the first through fourth tax years following the election under this section, regardless of the statute of limitations under section 27a of 1941 PA 122, MCL 205.27a, and pay any additional tax plus interest based on the sales factor as calculated under section 303. Interest shall be calculated from the due date of the annual return under this act or former 1975 PA 228 on which an exemption under this section was first claimed.

(5) The amount of the spun off corporation's investment commitments required under this section shall not be reduced by the amount of any qualifying investments in Michigan plants that are sold.

(6) A taxpayer whose assets were wholly owned either directly or indirectly by a taxpayer from whom a spun off corporation qualifies to apportion its tax base under this section and that ceased to be wholly owned on November 30, 2006 may annually elect on its originally filed tax return to apportion its tax base to this state using the same receipts factor reported on the combined tax return filed by its former parent company for the same taxable year.

(7) As used in this section:

(a) "Restructuring transaction" means a tax free distribution under section 355 of the internal revenue code and includes tax free transactions under section 355 of the internal revenue code that are commonly referred to as spin offs, split ups, split offs, or type D reorganizations.

(b) "Spun off corporation" means an entity treated as a controlled corporation under section 355 of the internal revenue code. Controlled corporation includes a corporate subsidiary created for the purpose of a restructuring transaction, a limited liability company, or an operational unit or division with business activities that were previously carried out as a part of the distributing corporation.

Sec. 309. (1) If the apportionment provisions of this act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the treasurer may require the following, with respect to all or a portion of the taxpayer's business activity, if reasonable:

(a) Separate accounting.

(b) The inclusion of 1 or more additional or alternative factors that will fairly represent the taxpayer's business activity in this state.

(c) The use of any other method to effectuate an equitable allocation and apportionment of the taxpayer's tax base.

(2) An alternate method may be used only if it is approved by the department.

(3) The apportionment provisions of this act shall be rebuttably presumed to fairly represent the business activity attributed to the taxpayer in this state, taken as a whole and without a separate examination of the specific elements of either tax base unless it can be demonstrated that the business activity attributed to the taxpayer in this state is out of all appropriate proportion to the actual business activity transacted in this state and leads to a grossly distorted result or would operate unconstitutionally to tax the extraterritorial activity of the taxpayer.

(4) The filing of a return or an amended return is not considered a petition for the purposes of subsection (1).

Sec. 311. All other receipts not otherwise sourced under this act shall be sourced based on where the benefit to the customer is received or, if where the benefit to the customer is received cannot be determined, to the customer's location.

CHAPTER 4

Sec. 400. For purposes of this chapter, taxpayer does not include a person subject to the tax imposed under chapter 2A or 2B unless specifically included in the section.

Sec. 401. Except as otherwise provided under this act, any unused carryforward for any credit under former 1975 PA 228 may be applied for the 2008 and 2009 tax years and any unused carryforward after 2009 shall be extinguished.

Sec. 403. (1) Notwithstanding any other provision in this act, the credits provided in this section shall be taken before any other credit under this act. The total combined credit allowed under this section shall not exceed 65% of the total tax liability imposed under this act.

(2) Subject to the limitation in subsection (1), a taxpayer may claim a credit against the tax imposed by this act equal to 0.370% of the taxpayer's compensation in this state. For purposes of this subsection, a taxpayer includes a person described in section 239(2) and subject to the tax imposed under chapter 2A. A professional employer organization shall not include payments by the professional employer organization to the officers and employees of a client of the professional employer organization whose employment operations are managed by the professional employer organization. A client may include payments by the professional employer organization to the officers and employees of the client whose employment operations are managed by the professional employer organization.

(3) Subject to the limitation in subsection (1), a taxpayer may claim a credit against the tax imposed by this act equal to 2.9% multiplied by the result of subtracting the sum of the amounts calculated under subdivisions (d), (e), and (f) from the sum of the amounts calculated under subdivisions (a), (b), and (c):

(a) Calculate the cost, including fabrication and installation, paid or accrued in the taxable year of tangible assets of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes, provided that the assets are physically located in this state for use in a business activity in this state and are not mobile tangible assets.

(b) Calculate the cost, including fabrication and installation, paid or accrued in the taxable year of mobile tangible assets of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes. This amount shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 3.

(c) For tangible assets, other than mobile tangible assets, purchased or acquired for use outside of this state in a tax year beginning after December 31, 2007 and subsequently transferred into this state and purchased or acquired for use in a business activity, calculate the federal basis used for determining gain or loss as of the date the tangible assets were physically located in this state for use in a business activity plus the cost of fabrication and installation of the tangible assets in this state.

(d) If the cost of tangible assets described in subdivision (a) was paid or accrued in a tax year beginning after December 31, 2007, or before December 31, 2007 to the extent the credit is used and at the rate at which the credit was used under former 1975 PA 228 or this act, calculate the gross proceeds or benefit derived from the sale or other disposition of the tangible assets minus the gain, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3, and plus the loss, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3 from the sale or other disposition reflected in federal taxable income and minus the gain from the sale or other disposition added to the business income tax base in section 201.

(e) If the cost of tangible assets described in subdivision (b) was paid or accrued in a tax year beginning after December 31, 2007, or before December 31, 2007 to the extent the credit is used and at the rate at which the credit was used under former 1975 PA 228 or this act, calculate the gross proceeds or benefit derived from the sale or other disposition of the tangible assets minus the gain and plus the loss from the sale or other disposition reflected in federal taxable income and minus the gain from the sale or other disposition added to the business income tax base in section 201. This amount shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 3.

(f) For assets purchased or acquired in a tax year beginning after December 31, 2007, or before December 31, 2007 to the extent the credit is used and at the rate at which the credit was used under former 1975 PA 228 or this act, that were eligible for a credit under subdivision (a) or (c) and that were transferred out of this state, calculate the federal basis used for determining gain or loss as of the date of the transfer.

(4) For a tax year in which the amount of the credit calculated under subsection (3) is negative, the absolute value of that amount is added to the taxpayer's tax liability for the tax year.

(5) A taxpayer that claims a credit under this section is not prohibited from claiming a credit under section 405. However, the taxpayer shall not claim a credit under this section and section 405 based on the same costs and expenses.

Sec. 405. A taxpayer may claim a credit against the tax imposed by this act equal to 1.90% of the taxpayer's research and development expenses in this state in the tax year. The credit under this section combined with the total combined credit allowed under section 403 shall not exceed 75% of the total tax liability imposed under this act. As used in this section, "research and development expenses" means that term as defined in section 41(b) of the internal revenue code.

Sec. 407. (1) For the 2008, 2009, and 2010 tax years, a qualified taxpayer that makes an eligible contribution in an eligible business may claim a credit against the tax imposed by the act equal to 30% of the taxpayer's eligible contribution, not to exceed \$300,000.00.

(2) Prior to making an eligible contribution, a qualified taxpayer shall submit an application to the authority for approval of the credit. The application shall include all of the following:

(a) An economic impact analysis, including all of the following:

(i) The impact on both the qualified taxpayer and eligible business.

(ii) The number of jobs created.

(b) A project and collaboration structure that includes:

(i) The structure of investment between the qualified taxpayer and eligible business.

(ii) Technology development roles and responsibilities.

(iii) A commercialization plan, including intellectual property structure.

(c) A technology summary, including a due diligence review by the qualified taxpayer.

(d) A financial summary.

(3) The authority shall develop criteria to competitively review applications, including criteria related to both of the following:

(a) Total cash investment by the qualified taxpayer.

(b) Total in-kind services provided by the qualified taxpayer.

(4) A qualified 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.

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

(a) The taxpayer is an eligible business.

(b) The amount of the credit under this section for the eligible business for the designated tax year, which shall be the year in which contribution is made.

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

(6) The authority shall not grant more than 20 credits under this section for any 1 year, based on an application and a competitive review criteria.

(7) A qualified taxpayer that receives a credit under this section and the eligible business to which a contribution is made shall enter into an agreement with the authority that requires the qualified taxpayer and the eligible business to comply with the relevant provisions of the application as determined by the authority for a period of 5 years. If the authority determines that there has not been compliance with the requirements of the terms of the agreement, the qualified taxpayer shall be liable for an amount equal to 125% of the total of all credits received under this section for all tax years.

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

(9) As used in this section:

(a) "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) "Eligible contribution" means the transfer of pecuniary interest in the form of cash of not less than \$350,000.00, for the purposes of research and development and technology innovation. An eligible contribution does not include contract research.

(c) "Eligible business" means a taxpayer engaged in research and development that together with any affiliates employs fewer than 50 full-time employees or has gross receipts of less than \$10,000,000.00 and has no prior financial interest in the qualified taxpayer and in which the qualified taxpayer has no prior financial interest.

(d) "Qualified taxpayer" means a taxpayer that meets all of the following criteria:

(i) Proposes to fund, support, and collaborate in the research and development and technology innovation with an eligible business located in this state.

(ii) Has not received a credit under this section in the past calendar year.

(e) "Research and development" means 1 of the following:

(i) Translational research conducted with the objective of attaining a specific benefit or to solve a practical problem.

(ii) Activity that seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specified problem, question, or issue, with high potential for commercial application to create jobs in this state.

Sec. 409. (1) For tax years that begin on or after January 1, 2008 and end before January 1, 2013, an eligible taxpayer may claim a credit against the tax imposed by this act equal to the amount of capital expenditures on infield renovation, grandstand and infrastructure upgrades, and any other construction and upgrades, subject to the following:

(a) For the 2008 through 2010 tax years, the credit shall not exceed \$1,700,000.00 or the taxpayer's tax liability under this act, whichever is less.

(b) For the 2011 tax year, the credit shall not exceed \$1,180,000.00 or the taxpayer's tax liability under this act, whichever is less.

(c) For the 2012 tax year, the credit shall not exceed \$650,000.00 or the taxpayer's tax liability under this act, whichever is less.

(2) An eligible taxpayer shall expend at least \$25,000,000.00 on capital expenditures before January 1, 2011.

(3) As used in this section:

(a) "Eligible taxpayer" means any of the following:

(i) A person who owns and operates a motorsports entertainment complex and has at least 2 days of motor sports events each calendar year which shall be comparable to NASCAR Nextel cup events held in 2007 or their successor events.

(ii) A person who is the lessee and operator of a motorsports entertainment complex or the lessee of the land on which a motorsports entertainment complex is located and operates that motorsports entertainment complex.

(iii) A person who operates and maintains a motorsports entertainment complex under an operation and management agreement.

(b) "Motorsports entertainment complex" means a closed-course motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

(i) Has at least 70,000 fixed seats for race patrons.

(ii) Has at least 6 scheduled days of motorsports events each calendar year.

(iii) Serves food and beverages at the motorsports entertainment complex during motorsports events each calendar year through concession outlets, which are staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly benefit from the concession outlets' sales.

(iv) Engages in tourism promotion.

(v) Has permanent exhibitions of motorsports history, events, or vehicles within the motorsports entertainment complex.

(c) "Motorsports event" means a motorsports race and its ancillary activities that have been sanctioned by a sanctioning body.

(d) "Sanctioning body" means the American motorcycle association (AMA); auto racing club of America (ARCA); championship auto racing teams (CART); grand American road racing association (GRAND AM); Indy racing league (IRL); national association for stock car auto racing (NASCAR); national hot rod association (NHRA); professional sports car racing (PSR); sports car club of America (SCCA); United States auto club (USAC); Michigan state promoters association; or any successor organization or any other nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events and grants rights to conduct the events, that has established and administers rules and regulations governing all participants involved in the events and all persons conducting the events, and that requires certain liability assurances, including insurance.

Sec. 410. (1) For tax years that begin on or after January 1, 2008 and end before January 1, 2013, an eligible taxpayer may claim a credit against the tax imposed by this act equal to the following:

(a) For the 2008 through 2010 tax years, 65% of the eligible taxpayer's total tax liability imposed under this act not to exceed \$1,700,000.00.

(b) For the 2011 tax year, 45% of the eligible taxpayer's total tax liability imposed under this act not to exceed \$1,180,000.00.

(c) For the 2012 tax year, 25% of the eligible taxpayer's total tax liability imposed under this act not to exceed \$650,000.00.

(2) As used in this section, "eligible taxpayer" means a taxpayer that satisfies each of the following:

(a) Is, collectively or individually, including through affiliated companies, an owner, operator, manager, licensee, lessee, or tenant of more than 1 facility or stadium, including grounds and ancillary facilities, that has a capacity of at least 14,000 patrons and is primarily used for professional sporting events or other entertainment.

(b) The owner, operator, manager, licensee, lessee, or tenant as described in subdivision (a) has made a capital investment of not less than \$250,000,000.00, collectively or individually, including through affiliated companies, into the construction cost of a facility or stadium for which the taxpayer qualifies for this credit.

(c) The owner, operator, manager, licensee, lessee, or tenant as described in subdivision (a) has not received proceeds from a state appropriation, a public bond issue from a local unit of government or public authority, or a state or local tax or fee to assist in the construction or debt retirement of the facility other than a state or local tax or fee from a public entity for road or infrastructure assistance.

Sec. 411. A taxpayer whose gross receipts allocated or apportioned to this state are greater than \$350,000.00 but less than \$700,000.00, may claim a credit against the tax imposed under this act equal to the tax liability after the credit under section 417 multiplied by a fraction the numerator of which is the difference between the person's allocated or apportioned gross receipts and \$700,000.00 and the denominator of which is \$350,000.00.

Sec. 413. (1) Subject to subsection (2), a taxpayer may claim a credit against the tax imposed by this act equal to the following:

(a) For property taxes levied after December 31, 2007, 35% of the amount paid for property taxes on eligible personal property in the tax year.

(b) Twenty-three percent of the amount paid for property taxes levied on eligible telephone personal property in the 2008 tax year and 13.5% of the amount paid for property taxes levied on eligible telephone personal property in subsequent tax years.

(c) For property taxes levied after December 31, 2007, 10% of the amount paid for property taxes on eligible natural gas pipeline property in the tax year.

(2) To qualify for the credit under subsection (1), the taxpayer shall file, if applicable, within the time prescribed each of the following:

(a) The statement of assessable personal property prepared pursuant to section 19 of the general property tax act, 1893 PA 206, MCL 211.19, identifying the eligible personal property or eligible natural gas pipeline property, or both, for which the credit under subsection (1) is claimed.

(b) The annual report filed under section 6 of 1905 PA 282, MCL 207.6, identifying the eligible telephone personal property for which the credit under subsection (1) is claimed.

(c) The assessment or bill issued to and paid by the taxpayer for the eligible personal property, eligible natural gas pipeline property, or eligible telephone property for which the credit under subsection (1) is claimed.

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

(4) As used in this section:

(a) "Eligible natural gas pipeline property" means natural gas pipelines that are classified as utility personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, and are subject to regulation under the natural gas act, 15 USC 717 to 717z.

(b) "Eligible personal property" means personal property that is classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, or in the case of personal property that is subject to 1974 PA 198, MCL 207.551 to 207.572, is situated on land classified as industrial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(c) "Eligible telephone personal property" means personal property of a telephone company subject to the tax levied under 1905 PA 282, MCL 207.1 to 207.21.

(d) "Property taxes" means any of the following:

(i) Taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(ii) Taxes levied under 1974 PA 198, MCL 207.551 to 207.572.

(iii) Taxes levied under the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

Sec. 415. (1) A taxpayer that meets the criteria under subsection (4) and that is a qualified start-up business that does not have business income for 2 consecutive tax years may claim a credit against the tax imposed under this act for the second of those 2 consecutive tax years and each immediately following consecutive tax year in which the taxpayer does not have business income equal to the taxpayer's tax liability for the tax year in which the taxpayer has no business income. If the taxpayer has business income in any tax year after the credit under this section is claimed, the taxpayer shall claim the credit under this section for any following tax year only if the taxpayer subsequently has no business income for 2 consecutive tax years. The taxpayer may claim the credit for the second of those 2 consecutive tax years and each immediately following consecutive tax year in which the taxpayer does not have business income.

(2) A credit under this section shall not be claimed for more than a total of 5 tax years.

(3) A taxpayer that qualified to claim the credit under section 31a of former 1975 PA 228 may claim the credit under this section for a total of 5 years, reduced by the number of years the taxpayer was eligible to claim the credit under section 31a of former 1975 PA 228.

(4) If a taxpayer that took the credit under this section or under former 1975 PA 228 has no business activity in this state and has any business activity outside of this state for any of the first 3 tax years after the last tax year for which it took the credit under this section, the taxpayer shall add to its tax liability the following amounts:

(a) If the taxpayer has no business activity in this state for the first tax year after the last tax year for which a credit under this section is claimed, 100% of the total of all credits claimed under this section.

(b) If the taxpayer has no business activity in this state for the second tax year after the last tax year for which a credit under this section is claimed, 67% of the total of all credits claimed under this section.

(c) If the taxpayer has no business activity for the third tax year after the last tax year for which a credit under this section is claimed, 33% of the total of all credits claimed under this section.

(5) For the tax year for which a credit under this section is claimed, compensation, directors' fees, or distributive shares paid by the taxpayer to any 1 of the following shall not exceed \$135,000.00:

(a) A shareholder or officer of a corporation other than an S corporation.

(b) A partner of a partnership or limited liability partnership.

(c) A shareholder of an S corporation.

(d) A member of a limited liability corporation.

(e) An individual who is an owner.

(6) As used in this section:

(a) "Business income" means business income as defined in section 105 excluding funds received from small business innovation research grants and small business technology transfer programs established under the small business innovation development act of 1982, Public Law 97-219, reauthorized under the small business research and development enhancement act, Public Law 102-564, and subsequently reauthorized under the small business reauthorization act of 2000, Public Law 106-554.

(b) “Michigan economic development corporation” means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, as amended, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

(c) “Qualified start-up business” means a business that meets all of the following criteria as certified annually by the Michigan economic development corporation:

(i) Has fewer than 25 full-time equivalent employees.

(ii) Has sales of less than \$1,000,000.00 in the tax year for which the credit under this section is claimed.

(iii) Research and development expenses make up at least 15% of its expenses in the tax year for which the credit under this section is claimed.

(iv) Is not publicly traded.

(v) Met 1 of the following criteria during 1 of the initial 2 consecutive tax years in which the qualified start-up business had no business income:

(A) During the immediately preceding 7 years was in 1 of the first 2 years of contribution liability under section 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19.

(B) During the immediately preceding 7 years would have been in 1 of the first 2 years of contribution liability under section 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19, if the qualified start-up business had employees and was liable under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(C) During the immediately preceding 7 years would have been in 1 of the first 2 years of contribution liability under section 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19, if the qualified start-up business had not assumed successor liability under section 15(g) of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.15.

(d) “Research and development” means qualified research as that term is defined in section 41(d) of the internal revenue code.

Sec. 417. (1) The credit provided in this section shall be taken after the credits under sections 403 and 405 and before any other credit under this act and is available to any taxpayer 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) An individual, a partnership, a limited liability company, or a subchapter S corporation is disqualified if the individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives more than \$180,000.00 as a distributive share of the adjusted business income minus the loss adjustment of the individual, the partnership, the limited liability company, or the subchapter S corporation.

(b) A corporation other than a subchapter S corporation is disqualified if either of the following occur 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 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, minus the loss adjustment.

(c) 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 an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors’ fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is more than \$160,000.00 but less than \$165,000.00, the credit is reduced by 20%.

(ii) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors’ fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$165,000.00 or more but less than \$170,000.00, the credit is reduced by 40%.

(iii) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$170,000.00 or more but less than \$175,000.00, the credit is reduced by 60%.

(iv) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(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), an active shareholder's share of business income shall not be attributed to another active shareholder.

(3) To determine the reduction percentage under subsection (1)(c), the following apply:

(a) The reduction percentage for a partnership, limited liability company, or subchapter S corporation is based on the distributive share of adjusted business income minus loss adjustment of the partner, member, or shareholder with the greatest distributive share of adjusted business income minus loss adjustment.

(b) The reduction percentage for a corporation other than a subchapter S corporation is the greater of the following:

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

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

(4) A taxpayer that qualifies under subsection (1) is allowed a credit against the tax imposed under this act. The credit under this subsection is the amount by which the tax imposed under this act 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 act.

(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) The department shall permit a taxpayer that elects to claim the credit allowed under this section based on the amount by which the tax imposed under this act exceeds the percentage of adjusted business income for the tax year as determined under subsection (4), and that is not required to reduce the credit pursuant to subsection (1) or (5), to file and pay the tax imposed by this act without computing the tax imposed under sections 201 and 203.

(8) Compensation paid by the 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.

(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 105 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 a carryover of a net operating loss.

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

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

(c) "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.

(d) "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 taxpayer is not required to use more of the taxpayer's total negative adjusted business income than the amount needed to qualify the taxpayer for the credit under this section. A taxpayer 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 taxpayer 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 taxpayer did not receive the credit under this section.

Sec. 419. (1) For tax years that begin after December 31, 2008, a taxpayer that has been issued a tax voucher certificate under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, or any taxpayer to which all or a portion of a tax voucher is transferred pursuant to the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, may use the tax voucher to pay a liability of the taxpayer due under this act.

(2) The total amount of all tax voucher certificates that shall be approved under this section, section 37e of former 1975 PA 228, and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, shall not exceed an amount sufficient to allow the Michigan early stage venture investment corporation to raise \$450,000,000.00 for the purposes authorized under the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263. The total amount of all tax voucher certificates under this section and section 37e of former 1975 PA 228 shall not exceed \$600,000,000.00.

(3) The department shall not approve a tax voucher certificate under section 23(2) of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, after December 31, 2015.

(4) For tax voucher certificates approved under subsection (2), the amount of tax voucher certificates approved by the department for use in any tax year shall not exceed 25% of the total amount of all tax voucher certificates approved by the department.

(5) Investors shall apply to the Michigan early stage venture investment corporation for approval of tax voucher certificates at the time and in the manner required under the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(6) The Michigan early stage venture investment corporation shall determine which investors are eligible for tax vouchers and the amount of the tax vouchers allowed to each investor as provided in the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(7) The tax voucher certificate, and any completed transfer form that was issued pursuant to the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, shall be attached to the taxpayer's annual return under this act. The department may prescribe and implement alternative methods of reporting and recording ownership, transfer, and utilization of tax voucher certificates that are not inconsistent with this act.

(8) A tax voucher shall be used to pay a liability of the taxpayer due under this act only in a tax year that begins after December 31, 2008. The amount of the tax voucher that may be used to pay a liability of the taxpayer due under this act in any tax year shall not exceed the lesser of the following:

- (a) The amount of the tax voucher stated on the tax voucher certificate held by the taxpayer.
- (b) The amount authorized to be used in the tax year under the terms of the tax voucher certificate.
- (c) The taxpayer's liability due under this act for the tax year for which the tax voucher is to be applied.

(9) The department shall administer transfers of tax voucher certificates or the transfer of the right to be issued and receive a tax voucher certificate as provided in the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, and shall take any action necessary to enforce and effectuate the permissible issuance and use of tax voucher certificates in a manner authorized under this section and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(10) If the amount of a tax voucher certificate held by a taxpayer or transferee exceeds the amount the taxpayer or transferee may use under subsection (8)(b) or (c) in a tax year, that excess may be used by the taxpayer or transferee to pay, subject to the limitations of subsection (8), any future liability of the taxpayer or transferee under this act.

(11) If a taxpayer requests, the department shall issue separate replacement tax voucher certificates, or replacement approval letters, evidencing the right of the holder to be issued and receive a tax voucher certificate in an aggregate amount equal to the amount of a tax voucher certificate or an approval letter presented by a taxpayer. Replacement tax voucher certificates may be used, and replacement approval letters may be issued, to evidence the right to be issued and receive a tax voucher certificate that will be used for 1 or more of the following purposes:

- (a) To pay any liability of the taxpayer under this act to the extent permitted in any tax year by subsection (8).
- (b) To pay any liability of the taxpayer under and to the extent allowed under section 270 of the income tax act of 1967, 1967 PA 281, MCL 206.270.
- (c) To be transferred to a taxpayer that may use the replacement tax voucher certificate to pay any liability under this act to the extent allowed under subsection (8).
- (d) To be transferred to a taxpayer that may use the tax voucher certificate to pay any liability under and to the extent allowed under section 270 of the income tax act of 1967, 1967 PA 281, MCL 206.270.

(12) As used in this section:

(a) "Investor" means that term as defined in the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(b) "Certificate" means the certificate issued under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253.

(c) "Transferee" means a taxpayer to whom a tax voucher certificate has been transferred under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, and this section.

Sec. 421. (1) A taxpayer that is not subject to the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, may claim a credit against the tax imposed by this act, subject to the applicable limitations under this section, equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during the tax year to all of the following:

(a) A public broadcast station as defined by 47 USC 397 that is not affiliated with an institution of higher education.

(b) A public library.

(c) An institution of higher learning located in this state or a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of an institution of higher learning.

(d) The Michigan colleges foundation.

(e) The Michigan housing and community development fund created in section 3 of the Michigan housing and community development fund act, 2004 PA 479, MCL 125.2823.

(2) The tax credit allowed under this section for a donation under subsection (1)(c) is allowed only if the donee corporation, fund, foundation, trust, or association is controlled or approved and reviewed by the governing board of the institution of higher learning that benefits from the charitable contributions. The nonprofit corporation, fund, foundation, trust, or association shall provide copies of its annual independently audited financial statements to the auditor general of this state and chairpersons of the appropriations committees of the senate and house of representatives.

(3) The credit allowed under this section for any tax year shall not exceed 5% of the tax liability of the taxpayer for that tax year as determined without regard to this section or \$5,000.00, whichever is less.

(4) If the amount of 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 not be refunded.

(5) As used in this section:

(a) "Institution of higher learning" means an educational institution located within this state meeting all of the following requirements:

(i) Maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(ii) Regularly offers education above the twelfth grade.

(iii) Awards associate, bachelor's, master's, or doctoral degrees or any combination of those degrees or higher education credits acceptable for those degrees granted by other institutions of higher learning.

(iv) Is recognized by the state board of education as an institution of higher learning and appears as an institution of higher learning in the annual publication of the department of education entitled "the directory of institutions of higher education".

(b) "Public library" means a public library as defined in section 2 of 1977 PA 89, MCL 397.552.

Sec. 422. (1) Subject to subsection (2), a taxpayer that makes charitable contributions of \$50,000.00 or more during the tax year to either of the following may claim a credit against the tax imposed by this act equal to 50% of the amount by which the aggregate amount of the charitable contributions to either of the following exceeds \$50,000.00:

(a) A municipality or a nonprofit corporation affiliated with a municipality and an art, historical, or zoological institute for the purpose of benefiting the art, historical, or zoological institute.

(b) An institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

(2) The credit allowed under this section for any tax year shall not exceed \$100,000.00.

(3) If the amount of 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 not be refunded.

Sec. 423. (1) A taxpayer that is an employer that is subject to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may claim a credit against the tax imposed by this act an amount equal to the amount paid during that tax year by the taxpayer pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, as certified by the director of the bureau of worker's disability compensation pursuant to section 391(6) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.391.

(2) A taxpayer that claims a credit under this section shall claim a portion of the credit allowed by this section equal to the payments made during a calendar quarter pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, against the estimated tax payments made under section 501. Any subsequent increase or decrease in the amount claimed for payments made by the insurer or self-insurer shall be reflected in the amount of the credit taken for the calendar quarter in which the amount of the adjustment is finalized.

(3) The credit under this section is in addition to any other credits the taxpayer is eligible for under this act.

(4) If the amount of 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.

Sec. 425. (1) Subject to the applicable limitations in this section, a taxpayer that does not claim a credit under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, may claim a credit against the tax imposed by this act equal to 50% of the amount the taxpayer contributed during the tax year to an endowment fund of a community foundation or an education foundation.

(2) The credit allowed by this section shall not exceed 5% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less.

(3) If the amount of 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 not be refunded.

(4) A taxpayer may claim a credit under this section for contributions to a community foundation made before the expiration of the 18-month period after a community foundation was incorporated or established during which the community foundation must build an endowment value of \$100,000.00 as provided in subsection (6)(a)(vii). If the community foundation does not reach the required \$100,000.00 endowment value during that 18-month period, contributions to the community foundation made after the date on which the 18-month period expires shall not be used to calculate a credit under this section. At any time after the expiration of the 18-month period under subsection (6)(a)(vii) that the community foundation has an endowment value of \$100,000.00, the community foundation may apply to the department for certification under this section.

(5) On or before July 1 of each year, the department shall report to the house of representatives committee on tax policy and the senate finance committee the total amount of tax credits claimed under this section and under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, for the immediately preceding tax year.

(6) As used in this section:

(a) "Community foundation" means an organization that applies for certification under subsection (4) on or before May 15 of the tax year for which the taxpayer is claiming the credit and that the department certifies for that tax year as meeting all of the following requirements:

(i) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.

(ii) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality or county.

(iii) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.

(iv) Is publicly supported as defined by the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(10). To maintain certification, the community foundation shall submit documentation to the department annually that demonstrates compliance with this subparagraph.

(v) Is not a supporting organization as an organization is described in section 509(a)(3) of the internal revenue code and in 26 CFR 1.509(a)-4 and 1.509(a)-5.

(vi) Meets the requirements for treatment as a single entity contained in 26 CFR 1.170A-9(e)(11).

(vii) Except as provided in subsection (4), is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit under this section is claimed and that has an endowment value of at least \$100,000.00 before the expiration of 18 months after the community foundation is incorporated or established.

(viii) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(ix) Provides evidence to the department that the community foundation has, before the expiration of 6 months after the community foundation is incorporated or established, and maintains continually during the tax year for which the credit under this section is claimed, at least 1 part-time or full-time employee.

(x) For community foundations that have an endowment value of \$1,000,000.00 or more only, the community foundation is subject to an annual independent financial audit and provides copies of that audit to the department not more than 3 months after the completion of the audit. For community foundations that have an endowment value of less than \$1,000,000.00, the community foundation is subject to an annual review and an audit every third year.

(xi) In addition to all other criteria listed in this subsection for a community foundation that is incorporated or established after January 9, 2001, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing certified community foundation.

(b) "Education foundation" means an organization that applies for certification on or before April 1 of the tax year for which the taxpayer is claiming the credit that annually submits documentation to the department that demonstrates

continued compliance with this subdivision, and that the department certifies for that tax year as meeting all of the following requirements:

- (i) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.
- (ii) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.
- (iii) All funds, gifts, and bequests are exclusively dedicated to a school district or public school academy.
- (iv) Is publicly supported as defined by the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(10).
- (v) Meets the requirements for treatment as a single entity contained in the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(11).
- (vi) Is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit is claimed.
- (vii) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.
- (viii) Is subject to a program review each year and an independent financial audit every 3 years and provides copies of the reviews and audits to the department not more than 3 months after the review or audit is completed.

Sec. 427. (1) A taxpayer that does not claim a credit under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, for a contribution to a shelter for homeless persons, food kitchen, food bank, or other entity, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent, may claim a credit against the tax imposed by this act equal to 50% of the cash amount the taxpayer contributed during the tax year to a shelter for homeless persons, food kitchen, food bank, or other entity, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent, if a contribution to that entity is tax deductible for the donor under the internal revenue code.

(2) The credit allowed by this section shall not exceed 5% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less.

(3) If the amount of 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 not be refunded.

(4) An entity described in subsection (1) may request that the department determine whether a contribution to that entity qualifies for the credit under this section. The department shall make a determination and respond to a request no later than 30 days after the department receives the request.

(5) On or before July 1 of each year, the department shall report to the house of representatives committee on tax policy and the senate committee on finance the total amount of tax credits claimed under this section, section 425, and section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, for the immediately preceding tax year.

Sec. 429. (1) A taxpayer may claim a credit against the tax imposed by this act for 1 or more of the following as applicable:

- (a) The credit allowed under subsection (2).
- (b) The credit allowed under subsection (5).

(2) A taxpayer that is certified under the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an eligible taxpayer may claim a nonrefundable credit for the tax year equal to the amount determined under subdivision (a) or (b), whichever is less:

(a) The amount by which the taxpayer's tax liability attributable to qualified business activity for the tax year exceeds the taxpayer's baseline tax liability attributable to qualified business activity.

(b) Ten percent of the amount by which the taxpayer's adjusted qualified business activity performed in this state outside of a renaissance zone for the tax year exceeds the taxpayer's adjusted qualified business activity performed in this state outside of a renaissance zone for the 2001 tax year under section 39e of former 1975 PA 228.

(3) For any tax year in which the eligible taxpayer's tax liability attributable to qualified business activity for the tax year does not exceed the taxpayer's baseline tax liability attributable to qualified business activity, the eligible taxpayer shall not claim the credit allowed under subsection (2).

(4) A taxpayer that claims a credit under subsection (2) shall attach a copy of each of the following as issued pursuant to the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827, to the annual return required under this act for each tax year in which the taxpayer claims the credit allowed under subsection (2):

- (a) The proof of certification that the taxpayer is an eligible taxpayer for the tax year.
- (b) The proof of certification of the taxpayer's tax liability attributable to qualified business activity for the tax year.

(c) The proof of certification of the taxpayer's baseline tax liability attributable to qualified business activity.

(5) A taxpayer that is a qualified alternative energy entity may claim a credit for the taxpayer's qualified payroll amount. A taxpayer shall claim the credit under this subsection after all allowable nonrefundable credits under this act.

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

(7) As used in this section:

(a) "Adjusted qualified business activity performed in this state outside of a renaissance zone" means either of the following:

(i) Except as provided in subparagraph (ii), the taxpayer's payroll for qualified business activity performed in this state outside of a renaissance zone.

(ii) For a partnership, limited liability company, S corporation, or individual, the amount determined under subparagraph (i) plus the product of the following as related to the taxpayer:

(A) Business income.

(B) The apportionment factor as determined under chapter 3.

(C) The alternative energy business activity factor.

(b) "Alternative energy business activity factor" means a fraction, the numerator of which is the ratio of the value of the taxpayer's property used for qualified business activity and located in this state outside of a renaissance zone for the year for which the factor is being calculated to the value of all of the taxpayer's property located in this state for that year plus the ratio of the taxpayer's payroll for qualified business activity performed in this state outside of a renaissance zone for that year to all of the taxpayer's payroll in this state for that year and the denominator of which is 2.

(c) "Alternative energy marine propulsion system", "alternative energy system", "alternative energy vehicle", and "alternative energy technology" mean those terms as defined in the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

(d) "Alternative energy zone" means a renaissance zone designated as an alternative energy zone by the board of the Michigan strategic fund under section 8a of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2688a.

(e) "Baseline tax liability attributable to qualified business activity" means the taxpayer's tax liability for the 2001 tax year under former 1975 PA 228 multiplied by the taxpayer's alternative energy business activity factor for the 2001 tax year under former 1975 PA 228. A taxpayer with a 2001 tax year of less than 12 months under former 1975 PA 228 shall annualize the amount calculated under this subdivision as necessary to determine baseline tax liability attributable to qualified business activity that reflects a 12-month period.

(f) "Eligible taxpayer" means a taxpayer that has proof of certification of qualified business activity under the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

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

(h) "Qualified alternative energy entity" means a taxpayer located in an alternative energy zone.

(i) "Qualified business activity" means research, development, or manufacturing of an alternative energy marine propulsion system, an alternative energy system, an alternative energy vehicle, alternative energy technology, or renewable fuel.

(j) "Qualified employee" means an individual who is employed by a qualified alternative energy entity, whose job responsibilities are related to the research, development, or manufacturing activities of the qualified alternative energy entity, and whose regular place of employment is within an alternative energy zone.

(k) "Qualified payroll amount" means an amount equal to payroll of the qualified alternative energy entity attributable to all qualified employees in the tax year of the qualified alternative energy entity for which the credit under subsection (6) is being claimed, multiplied by the tax rate for that tax year.

(l) "Renaissance zone" means a renaissance zone designated under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(m) "Renewable fuel" means 1 or more of the following:

(i) Biodiesel or biodiesel blends containing at least 20% biodiesel. As used in this subparagraph, "biodiesel" means a diesel fuel substitute consisting of methyl or ethyl esters produced from the transesterification of animal or vegetable fats with methanol or ethanol.

(ii) Biomass. As used in this subparagraph, "biomass" means residues from the wood and paper products industries, residues from food production and processing, trees and grasses grown specifically to be used as energy crops, and gaseous fuels produced from solid biomass, animal wastes, municipal waste, or landfills.

(n) "Tax liability attributable to qualified business activity" means the taxpayer's tax liability multiplied by the taxpayer's alternative energy business activity factor for the tax year.

(o) "Tax rate" means the rate imposed under section 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51e, annualized as necessary, for the tax year in which the qualified alternative energy entity claims a credit under subsection (6).

Sec. 431. (1) 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 or an eligible taxpayer 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) 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.

(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 eligible taxpayer 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 eligible taxpayer 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.

(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 or an eligible taxpayer.

(b) The amount of the credit under this section for the authorized business or eligible taxpayer 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) 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(n)(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.

(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.

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

(10) As used in this section:

(a) "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.

(b) "Eligible taxpayer" means an authorized business that meets the criteria under section 8(5) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808.

(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 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.

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

Sec. 433. (1) A taxpayer that is a business located and conducting business activity within a renaissance zone may claim a credit against the tax imposed by this act for the tax year to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, equal to the lesser of the following:

(a) The tax liability attributable to business activity conducted within a renaissance zone in the tax year.

(b) Ten percent of adjusted services performed in a designated renaissance zone.

(c) For a taxpayer located and conducting business activity in a renaissance zone before December 31, 2002, the product of the following:

(i) The credit claimed under section 39b of former 1975 PA 228 for the tax year ending in 2007.

(ii) The ratio of the taxpayer's payroll in this state in the tax year divided by the taxpayer's payroll in this state in its tax year ending in 2007 under former 1975 PA 228.

(iii) The ratio of the taxpayer's renaissance zone business activity factor for the tax year divided by the taxpayer's renaissance zone business activity factor for its tax year ending in 2007 under section 39b of former 1975 PA 228.

(2) Any portion of the taxpayer's tax liability that is attributable to illegal activity conducted in the renaissance zone shall not be used to calculate a credit under this section.

(3) The credit allowed under this section continues through the tax year in which the renaissance zone designation expires.

(4) If the amount of 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 not be refunded.

(5) A taxpayer that claims a credit under this section shall not employ, pay a speaker fee to, or provide any remuneration, compensation, or consideration to any person employed by the state, the state administrative board created in 1921 PA 2, MCL 17.1 to 17.3, or the renaissance zone review board created in 1996 PA 376, MCL 125.2681 to 125.2696, whose employment relates or related in any way to the authorization or enforcement of the credit allowed under this section for any year in which the taxpayer claims a credit under this section and for the 3 years after the last year that a credit is claimed.

(6) To be eligible for the credit allowed under this section, an otherwise qualified taxpayer shall file an annual return under this act in a format determined by the department.

(7) Any portion of the taxpayer's tax liability that is attributable to business activity related to the operation of a casino, and business activity that is associated or affiliated with the operation of a casino, including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used to calculate a credit under this section.

(8) As used in this section:

(a) "Adjusted services performed in a designated renaissance zone" means either of the following:

(i) Except as provided in subparagraph (ii), the sum of the taxpayer's payroll for services performed in a designated renaissance zone plus an amount equal to the amount deducted in arriving at federal taxable income for the tax year for depreciation, amortization, or immediate or accelerated write-off for tangible property exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, in the tax year or, for new property, in the immediately following tax year.

(ii) For a partnership, limited liability company, S corporation, or individual, the amount determined under subparagraph (i) plus the product of the following as related to the taxpayer if greater than zero:

(A) Business income.

(B) The ratio of the taxpayer's total sales in this state during the tax year divided by the taxpayer's total sales everywhere during the tax year.

(C) The renaissance zone business activity factor.

(b) "Casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(c) "New property" means property that has not been subject to, or exempt from, the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, and has not been subject to, or exempt from, ad valorem property taxes levied in another state, except that receiving an exemption as inventory property does not disqualify property.

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

(e) "Renaissance zone" means that term as defined in the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(f) "Renaissance zone business activity factor" means a fraction, the numerator of which is the ratio of the average value of the taxpayer's property located in a designated renaissance zone to the average value of the taxpayer's property in this state plus the ratio of the taxpayer's payroll for services performed in a designated renaissance zone to all of the taxpayer's payroll in this state and the denominator of which is 2.

(g) "Tax liability attributable to business activity conducted within a renaissance zone" means the taxpayer's tax liability multiplied by the renaissance zone business activity factor.

Sec. 435. (1) A qualified taxpayer with a rehabilitation plan certified after December 31, 2007 or a qualified taxpayer that has a rehabilitation plan certified before January 1, 2008 under section 39c of former 1975 PA 228 for the rehabilitation of an historic resource for which a certification of completed rehabilitation has been issued after the end of the taxpayer's last tax year may credit against the tax imposed by this act the amount determined pursuant to subsection (2) for the qualified expenditures for the rehabilitation of an historic resource pursuant to the rehabilitation plan in the year in which the certification of completed rehabilitation of the historic resource is issued provided that the certification of completed rehabilitation was issued not more than 5 years after the rehabilitation plan was certified by the Michigan historical center.

(2) The credit allowed under this section shall be 25% of the qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the 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 an historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, subject to both of the following:

(a) A taxpayer with qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code may not claim a credit under this section for those qualified expenditures unless the taxpayer has claimed and received a credit for those qualified expenditures under section 47(a)(2) of the internal revenue code.

(b) A credit under this section shall be reduced by the amount of a credit received by the taxpayer for the same qualified expenditures under section 47(a)(2) of the internal revenue code.

(3) To be eligible for the credit under this section, the taxpayer shall apply to and receive from the Michigan historical center certification that the historic significance, the rehabilitation plan, and the completed rehabilitation of the historic resource meet 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.

(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 taxpayer 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) If a qualified taxpayer is eligible for the credit allowed under section 47(a)(2) of the internal revenue code, the qualified taxpayer shall file for certification with the center to qualify for the credit allowed under section 47(a)(2) of the internal revenue code. If the qualified taxpayer has previously filed for certification with the center to qualify for the credit allowed under section 47(a)(2) of the internal revenue code, additional filing for the credit allowed under this section is not required.

(5) The center may inspect an historic resource at any time during the rehabilitation process and may revoke certification 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 during the 5 years after the tax year in which the credit was claimed. The center shall promptly notify the department of a revocation.

(6) Qualified expenditures for the rehabilitation of an historic resource may be used to calculate the credit under this section if the historic resource meets 1 of the criteria listed in subdivision (a) and 1 of the criteria listed in subdivision (b):

(a) The resource is 1 of the following during the tax year in which a credit under this section is claimed for those qualified expenditures:

(i) Individually listed on the national register of historic places or state register of historic sites.

(ii) A contributing resource located within an historic district listed on the national register of historic places or the state register of historic sites.

(iii) A contributing resource located within an 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.

(b) The resource meets 1 of the following criteria during the tax year in which a credit under this section is claimed for those qualified expenditures:

(i) The historic resource is located in a designated historic district in a local unit of government with an existing ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(ii) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and has a population of less than 5,000.

(iii) The historic resource is located in an unincorporated local unit of government.

(iv) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is located within the boundaries of an association that has been chartered under 1889 PA 39, MCL 455.51 to 455.72.

(7) If a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or any portion of a credit allowed under this section to its partners, members, or shareholders, based on the partner's, member's, or shareholder's proportionate share of ownership or based on an alternative method approved by the department. 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 credit amount. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned to the partner, member, or shareholder under this subsection. A credit amount assigned under this subsection may be claimed against the partner's, member's, or shareholder's tax liability under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. A credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer and assignees shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made and attach a copy of the completed assignment form to the annual return required to be filed under this act for that 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 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. An unused carryforward of a credit under section 39c of former 1975 PA 228 that was unused at the end of the last tax year for which former 1975 PA 228 was in effect may be claimed against the tax imposed under this act for the years the carryforward would have been available under section 39c of former 1975 PA 228.

(9) If the taxpayer sells an historic resource for which a credit was claimed under this section or under section 39c of former 1975 PA 228 less than 5 years after the year in which the credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the sale:

(a) If the sale is less than 1 year after the year in which the credit was claimed, 100%.

(b) If the sale is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.

(c) If the sale is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.

(d) If the sale is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.

(e) If the sale is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.

(f) If the sale is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(10) If a certification of completed rehabilitation is revoked under subsection (5) less than 5 years after the year in which a credit was claimed under this section or under section 39c of former 1975 PA 228, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the revocation:

(a) If the revocation is less than 1 year after the year in which the credit was claimed, 100%.

(b) If the revocation is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.

(c) If the revocation is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.

- (d) If the revocation is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.
- (e) If the revocation is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.
- (f) If the revocation is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(11) The department of history, arts, and libraries through the Michigan historical center 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 act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, if applicable, on which the credit is claimed:

- (a) Certification 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 has assigned any portion of a credit allowed under this section to a partner, member, or shareholder or if the taxpayer is an assignee of any portion of a credit allowed under this section.

(13) The department of history, arts, and libraries shall 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 266 of the income tax act of 1967, 1967 PA 281, MCL 206.266, 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 department of history, arts, and libraries through the Michigan historical center shall report all of the following to the legislature annually for the immediately preceding state fiscal year:

- (a) The fee schedule used by the center and the total amount of fees collected.
- (b) A description of each rehabilitation project certified.
- (c) The location of each new and ongoing rehabilitation project.

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

(17) As used in this section:

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

(b) "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.

(c) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within an 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, and includes all of the following:

(i) An owner-occupied personal residence or an historic resource located within the property boundaries of that personal residence.

(ii) An income-producing commercial, industrial, or residential resource or an historic resource located within the property boundaries of that resource.

(iii) A resource owned by a governmental body, nonprofit organization, or tax-exempt entity that is used primarily by a taxpayer lessee in a trade or business unrelated to the governmental body, nonprofit organization, or tax-exempt entity and that is subject to tax under this act.

(iv) A resource that is occupied or utilized by a governmental body, nonprofit organization, or tax-exempt entity pursuant to a long-term lease or lease with option to buy agreement.

(v) Any other resource that could benefit from rehabilitation.

(d) "Last tax year" means the taxpayer's tax year under former 1975 PA 228 that begins after December 31, 2006 and before January 1, 2008.

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

(f) "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.

(g) "Michigan historical center" or "center" means the state historic preservation office of the Michigan historical center of the department of history, arts, and libraries or its successor agency.

(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) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(j) "Qualified expenditures" means capital expenditures that qualify for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer 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 an historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code that were paid not more than 5 years after the certification of the rehabilitation plan that included those expenditures was approved by the center, and that were paid after December 31, 1998 for the rehabilitation of an historic resource. Qualified expenditures do not include capital expenditures for nonhistoric additions to an historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.

(k) "Qualified taxpayer" means a person that is an assignee under subsection (7) or 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 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 an 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.

(l) "Rehabilitation plan" means a plan for the rehabilitation of an 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.

Sec. 437. (1) Subject to the criteria under this section, a qualified taxpayer that has unused credits or has a preapproval letter issued after December 31, 2007 and before January 1, 2013, or a taxpayer that received a preapproval letter prior to January 1, 2008 under section 38g of former 1975 PA 228 and has not received a certificate of completion prior to the taxpayer's last tax year, provided that the project is completed not more than 5 years after the preapproval letter for the project is issued, or an assignee under subsection (20), (21), or (22) may claim a credit that has been approved under section 38g of former 1975 PA 228 or under subsection (2), (3), or (4) against the tax imposed by this act equal to either of the following:

(a) If the total of all credits for a project is \$1,000,000.00 or less, 10% of the cost of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property provided that the project does not exceed the amount stated in the preapproval letter. If eligible investment exceeds the amount of eligible investment in the preapproval letter for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(b) If the total of all credits for a project is more than \$1,000,000.00 but \$30,000,000.00 or less and, except as provided in subsection (6)(b), the project is located in a qualified local governmental unit, a percentage as determined by the Michigan economic growth authority not to exceed 10% of the cost of the qualified taxpayer's eligible investment as determined under subsection (9) paid or accrued by the qualified taxpayer on an eligible property. If eligible investment exceeds the amount of eligible investment in the preapproval letter for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(2) If the cost of a project will be \$2,000,000.00 or less, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project. The chairperson of the Michigan economic growth authority or his or her designee is authorized to approve an application or project under this subsection. Only the chairperson of the Michigan economic growth authority is authorized to deny an application or project under this subsection. A project shall be approved or denied not more than 45 days after receipt of the application. If the chairperson of the Michigan economic growth authority or his or her designee does not approve or deny the application within 45 days after the application is received by the Michigan economic growth authority, the application is considered approved as written. The total of all credits for all projects approved under this subsection shall not exceed \$10,000,000.00 in any calendar year. If the chairperson of the Michigan economic growth authority or his or her designee approves a project under this subsection, the chairperson of the Michigan economic growth authority or his or her designee shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection for the same project or for another project. If the authority approves a total of all credits for all projects under this subsection of less than \$10,000,000.00 in a calendar year, the authority may carry forward for 1 year only the difference between \$10,000,000.00 and the total of all credits for all projects under this subsection approved in the immediately preceding

calendar year. The Michigan economic growth authority shall develop and implement the use of the application form to be used for projects under this subsection. Before the Michigan economic growth authority substantially changes the form, the Michigan economic growth authority shall adopt the changes by resolution and give notice of the proposed resolution to the secretary of the senate, to the clerk of the house of representatives, and to each person who requested from the Michigan economic growth authority in writing or electronically to be notified regarding proposed resolutions. The notice and proposed resolution and all attachments shall be published on the Michigan economic growth authority's internet website. The Michigan economic growth authority shall hold a public hearing not sooner than 14 days and not later than 30 days after the date notice of a proposed resolution is given and offer an opportunity for persons to present data, views, questions, and arguments. The Michigan economic growth authority board members or 1 or more persons designated by the Michigan economic growth authority who have knowledge of the subject matter of the proposed resolution shall be present at the public hearing and shall participate in the discussion of the proposed resolution. The Michigan economic growth authority may act on the proposed resolution no sooner than 14 days after the public hearing. The Michigan economic growth authority shall produce a final decision document that describes the basis for its decision. The final resolution and all attachments and the decision document shall be provided to the secretary of the senate and to the clerk of the house of representatives and shall be published on the Michigan economic growth authority's internet website. The notice shall include all of the following:

(a) A copy of the proposed resolution and all attachments.

(b) A statement that any person may express any data, views, or arguments regarding the proposed resolution.

(c) The address to which written comments may be sent and the date by which comments must be mailed or electronically transmitted, which date shall not be restricted to only before the date of the public hearing.

(d) The date, time, and place of the public hearing.

(3) If the cost of a project will be for more than \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project. The chairperson of the Michigan economic growth authority or his or her designee is authorized to approve an application or project under this subsection. Only the chairperson of the Michigan economic growth authority is authorized to deny an application or project under this subsection. A project shall be approved or denied not more than 45 days after receipt of the application. If the chairperson of the Michigan economic growth authority or his or her designee does not approve or deny an application within 45 days after the application is received by the Michigan economic growth authority, the application is considered approved as written. The total of all credits for all projects approved under this subsection shall not exceed \$30,000,000.00 in any calendar year. If the authority approves a total of all credits for all projects under this subsection of less than \$30,000,000.00 in a calendar year, the authority may carry forward for 1 year only the difference between \$30,000,000.00 and the total of all credits for all projects approved under this subsection in the immediately preceding calendar year. The criteria in subsection (7) shall be used when approving projects under this subsection. When approving projects under this subsection, priority shall be given to projects on a facility. The total of all credits for an approved project under this subsection shall not exceed \$1,000,000.00. A taxpayer may apply under this subsection instead of subsection (4) for approval of a project that will be for more than \$10,000,000.00, but the total of all credits for that project shall not exceed \$1,000,000.00. If the chairperson of the Michigan economic growth authority or his or her designee approves a project under this subsection, the chairperson of the Michigan economic growth authority or his or her designee shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (4) for the same project or for another project.

(4) If the cost of a project will be for more than \$10,000,000.00 and, except as provided in subsection (6)(b), the project is located in a qualified local governmental unit, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project. An application under this subsection shall state whether the project is a multiphase project. The Michigan economic growth authority shall approve or deny the project not more than 65 days after receipt of the application. A project under this subsection shall not be approved without the concurrence of the state treasurer. If the Michigan economic growth authority does not approve or deny the application within 65 days after it receives the application, the Michigan economic growth authority shall send the application to the state treasurer. The state treasurer shall approve or deny the application within 5 days after receipt of the application. If the state treasurer does not deny the application within 5 days after receipt of the application, the application is considered approved. The Michigan economic growth authority shall approve a limited number of projects under this subsection during each calendar year as provided in subsection (6). The Michigan economic growth authority shall use the criteria in subsection (7) when approving projects under this subsection, when determining the total amount of eligible investment, and when determining the percentage of eligible investment for the project to be used to calculate a credit. The total of all credits for an approved project under this subsection shall not exceed the amount designated in the preapproval letter for that project. If the Michigan economic growth authority approves a project under this subsection, the Michigan economic growth authority shall issue a preapproval letter that states that the taxpayer is a qualified

taxpayer; the percentage of eligible investment for the project determined by the Michigan economic growth authority for purposes of subsection (1)(b); the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. The Michigan economic growth authority shall send a copy of the preapproval letter to the department. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (3) for the same project or for another project.

(5) If the project is on property that is functionally obsolete, the taxpayer shall include with the application an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(6) The Michigan economic growth authority may approve not more than 17 projects each calendar year under subsection (4), and the following limitations apply:

(a) Of the 17 projects allowed under this subsection, the total of all credits for each project may be more than \$10,000,000.00 but \$30,000,000.00 or less for up to 2 projects.

(b) Of the 17 projects allowed under this subsection, up to 3 projects may be approved for projects that are not in a qualified local governmental unit if the property is a facility for which eligible activities are identified in a brownfield plan or, for 1 of the 3 projects, if the property is not a facility but is functionally obsolete or blighted, property identified in a brownfield plan. For purposes of this subdivision, a facility includes a building or complex of buildings that was used by a state or federal agency and that is no longer being used for the purpose for which it was used by the state or federal agency.

(c) Of the 2 projects allowed under subdivision (a), 1 may be a project that also qualifies under subdivision (b).

(7) The Michigan economic growth authority shall review all applications for projects under subsection (4) and, if an application is approved, shall determine the maximum total of all credits for that project. Before approving a project for which the total of all credits will be more than \$10,000,000.00 but \$30,000,000.00 or less only, the Michigan economic growth authority shall determine that the project would not occur in this state without the tax credit offered under subsection (4). The Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (4), and the chairperson of the Michigan economic growth authority or his or her designee shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (2) or (3) or when considering an amendment to a project under subsection (9):

(a) The overall benefit to the public.

(b) The extent of reuse of vacant buildings and redevelopment of blighted property.

(c) Creation of jobs.

(d) Whether the eligible property is in an area of high unemployment.

(e) The level and extent of contamination alleviated by the qualified taxpayer's eligible activities to the extent known to the qualified taxpayer.

(f) The level of private sector contribution.

(g) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(h) If the qualified taxpayer is moving from another location in this state, whether the move will create a brownfield.

(i) Whether the financial statements of the qualified taxpayer indicate that it is financially sound and that the project is economically sound.

(j) Any other criteria that the Michigan economic growth authority or the chairperson of the Michigan economic growth authority, as applicable, considers appropriate for the determination of eligibility under subsection (3) or (4).

(8) A qualified taxpayer may apply for projects under this section for eligible investment on more than 1 eligible property in a tax year. Each project approved and each project for which a certificate of completion is issued under this section shall be for eligible investment on 1 eligible property.

(9) If, after a taxpayer's project has been approved and the taxpayer has received a preapproval letter but before the project is completed, the taxpayer determines that the project cannot be completed as preapproved, the taxpayer may petition the Michigan economic growth authority to amend the project. The total of eligible investment for the project as amended shall not exceed the amount allowed in the preapproval letter for that project.

(10) A project may be a multiphase project. If a project is a multiphase project, when each component of the multiphase project is completed, the taxpayer shall submit documentation that the component is complete, an accounting of the cost of the component, and the eligible investment for the component of each taxpayer eligible for a credit for the project of which the component is a part to the Michigan economic growth authority or the designee of the Michigan economic growth authority, who shall verify that the component is complete. When the completion of the component is

verified, a component completion certificate shall be issued to the qualified taxpayer which shall state that the taxpayer is a qualified taxpayer, the credit amount for the component, the qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer, and the project number. The taxpayer may assign all or part of the credit for a multiphase project as provided in this section after a component completion certificate for a component is issued. The qualified taxpayer may transfer ownership of or lease the completed component and assign a proportionate share of the credit for the entire project to the qualified taxpayer that is the new owner or lessee. A multiphase project shall not be divided into more than 20 components. A component is considered to be completed when a certificate of occupancy has been issued by the local municipality in which the project is located for all of the buildings or facilities that comprise the completed component and a component completion certificate is issued. A credit assigned based on a multiphase project shall be claimed by the assignee in the tax year in which the assignment is made. The total of all credits for a multiphase project shall not exceed the amount stated in the preapproval letter for the project under subsection (1). If all components of a multiphase project are not completed by 10 years after the date on which the preapproval letter for the project was issued, the qualified taxpayer that received the preapproval letter for the project shall pay to the state treasurer, as a penalty, an amount equal to the sum of all credits claimed and assigned for all components of the multiphase project and no credits based on that multiphase project shall be claimed after that date by the qualified taxpayer or any assignee of the qualified taxpayer. The penalty under this subsection is subject to interest on the amount of the credit claimed or assigned determined individually for each component at the rate in section 23(2) of 1941 PA 122, MCL 205.23, beginning on the date that the credit for that component was claimed or assigned. As used in this subsection, "proportionate share" means the same percentage of the total of all credits for the project that the qualified investment for the completed component is of the total qualified investment stated in the preapproval letter for the entire project.

(11) When a project under this section is completed, the taxpayer shall submit documentation that the project is completed, an accounting of the cost of the project, the eligible investment of each taxpayer if there is more than 1 taxpayer eligible for a credit for the project, and, if the taxpayer is not the owner or lessee of the eligible property on which the eligible investment was made at the time the project is completed, that the taxpayer was the owner or lessee of that eligible property when all eligible investment of the taxpayer was made. The chairperson of the Michigan economic growth authority or his or her designee, for projects approved under subsection (2) or (3), or the Michigan economic growth authority, for projects approved under subsection (4), shall verify that the project is completed. The Michigan economic growth authority shall conduct an on-site inspection as part of the verification process for projects approved under subsection (4). When the completion of the project is verified, a certificate of completion shall be issued to each qualified taxpayer that has made eligible investment on that eligible property. The certificate of completion shall state the total amount of all credits for the project and that total shall not exceed the maximum total of all credits listed in the preapproval letter for the project under subsection (2), (3), or (4) as applicable and shall state all of the following:

(a) That the taxpayer is a qualified taxpayer.

(b) The total cost of the project and the eligible investment of each qualified taxpayer.

(c) Each qualified taxpayer's credit amount.

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

(e) The project number.

(f) For a project approved under subsection (4) for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less, the total of all credits and the schedule on which the annual credit amount shall be claimed by the qualified taxpayer.

(g) For a multiphase project under subsection (10), the amount of each credit assigned and the amount of all credits claimed in each tax year before the year in which the project is completed.

(12) Except as otherwise provided in this section, qualified taxpayers shall claim credits under this section in the tax year in which the certificate of completion is issued. For a project approved under subsection (4) for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less, the qualified taxpayer shall claim 10% of its approved credit each year for 10 years. A credit assigned based on a multiphase project shall be claimed in the year in which the credit is assigned.

(13) The cost of eligible investment for leased machinery, equipment, or fixtures is the cost of that property had the property been purchased minus the lessor's estimate, made at the time the lease is entered into, of the market value the property will have at the end of the lease. A credit for property described in this subsection is allowed only if the cost of that property had the property been purchased and the lessor's estimate of the market value at the end of the lease are provided to the Michigan economic growth authority.

(14) Credits claimed by a lessee of eligible property are subject to the total of all credits limitation under this section.

(15) Each qualified taxpayer and assignee under subsection (20), (21), or (22) that claims a credit under this section shall attach a copy of the certificate of completion and, if the credit was assigned, a copy of the assignment form provided for under this section to the annual return filed under this act on which the credit under this section is claimed.

An assignee of a credit based on a multiphase project shall attach a copy of the assignment form provided for under this section and the component completion certificate provided for in subsection (10) to the annual return filed under this act on which the credit is claimed but is not required to file a copy of a certificate of completion.

(16) Except as otherwise provided in this subsection or subsection (10), (18), (20), (21), or (22), a credit under this section shall be claimed in the tax year in which the certificate of completion is issued to the qualified taxpayer. For a project described in subsection (11)(f) for which a schedule for claiming annual credit amounts is designated on the certificate of completion by the Michigan economic growth authority, the annual credit amount shall be claimed in the tax year specified on the certificate of completion.

(17) The credits approved under this section shall be calculated after application of all other credits allowed under this act. The credits under this section shall be calculated before the calculation of the credit under section 431.

(18) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed under this section exceed the qualified taxpayer's or assignee'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. Except as otherwise provided in this subsection, the maximum time allowed under the carryforward provisions under this subsection begins with the tax year in which the certificate of completion is issued to the qualified taxpayer. If the qualified taxpayer assigns all or any portion of its credit approved under this section, the maximum time allowed under the carryforward provisions for an assignee begins to run with the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. The maximum time allowed under the carryforward provisions for an annual credit amount for a credit allowed under subsection (4) begins to run in the tax year for which the annual credit amount is designated on the certificate of completion issued under this section. A credit carryforward available under section 38g of former 1975 PA 228 that is unused at the end of the last tax year may be claimed against the tax imposed under act for the years the carryforward would have been available under former 1975 PA 228.

(19) If a project or credit under this section is for the addition of personal property, if the cost of that personal property is used to calculate a credit under this section, and if the personal property is sold to a purchaser other than an assignee under subsection (20) or disposed of or transferred from eligible property to any other location, the qualified taxpayer that sold, disposed of, or transferred the personal property shall add the same percentage as determined under subsection (1) of the federal basis of the personal property used for determining gain or loss as of the date of the sale, disposition, or transfer to the qualified taxpayer's tax liability under this act after application of all credits under this act for the tax year in which the sale, disposition, or transfer occurs. If a qualified taxpayer has an unused carryforward of a credit under this section, the amount otherwise added under this subsection to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under subsection (18).

(20) For credits under this section for projects for which a certificate of completion is issued before January 1, 2006 and except as otherwise provided in this subsection, if a qualified taxpayer pays or accrues eligible investment on or to an eligible property that is leased for a minimum term of 10 years or sold to another taxpayer for use in a business activity, the qualified taxpayer may assign all or a portion of the credit under this section based on that eligible investment to the lessee or purchaser of that eligible property. A credit assignment under this subsection shall only be made to a taxpayer that when the assignment is complete will be a qualified taxpayer. All credit assignments under this subsection are irrevocable and, except for a credit based on a multiphase project, shall be made in the tax year in which the certificate of completion is issued, unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. Except as otherwise provided in this subsection, 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 the certificate of completion is issued or, for a credit assigned and claimed for a multiphase project before a certificate of completion is issued, the taxpayer shall claim the credit in the year in which the credit is assigned. If a qualified taxpayer assigns all or a portion of the credit and the eligible property is leased to more than 1 taxpayer, the qualified taxpayer shall determine the amount of credit assigned to each lessee. A lessee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. A purchaser may subsequently assign a credit or any portion of a credit assigned to the purchaser under this subsection to a lessee of the eligible property. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which the assignment is made. The assignee shall attach a copy of the completed assignment form to its annual return required to be filed under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than \$10,000,000.00 but \$30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(21) Except as otherwise provided in this subsection, for projects for which a certificate of completion is issued before January 1, 2006, and except as otherwise provided in this subsection, if a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or a portion of a credit under this section to its partners, members, or shareholders, based on their proportionate share of ownership of the partnership, limited liability company, or subchapter S corporation or based on an alternative method approved by the Michigan economic growth authority. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. Except as otherwise provided in this subsection, 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 completion is issued or for a credit assigned and claimed for a multiphase project, before the component completion certificate is issued, the taxpayer shall claim the credit in the year in which the credit is assigned. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which the assignment is made. A partner, member, or shareholder who is an assignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. A credit assignment based on a credit for a component of a multiphase project that is completed before January 1, 2006 shall be made under this subsection. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than \$10,000,000.00 but \$30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(22) For projects approved under section 38g of former 1975 PA 228 for which a certificate of completion is issued on and after January 1, 2006, a qualified taxpayer may assign all or a portion of a credit allowed under section 38g(2), (3), or (33) of former 1975 PA 228 under this subsection. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit 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 completion is issued pursuant to section 38g of former 1975 PA 228. An assignee may subsequently assign a credit or any portion of a credit assigned under this subsection to 1 or more assignees. An assignment under this subsection of a credit allowed under section 38g(2), (3), or (33) of former 1975 PA 228 shall not be made after 10 years after the first tax year in which that credit under section 38g(2), (3), or (33) of former 1975 PA 228 may be claimed. The credit assignment or a subsequent reassignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which an assignment or reassignment is made. An assignee or subsequent reassignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment or reassignment is made and the assignee or reassignee first claims a credit, which shall be the same tax year. A credit assignment based on a credit for a component of a multiphase project that is completed before January 1, 2006 shall be made under section 38g(18) of former 1975 PA 228. A credit assignment based on a credit for a component of a multiphase project that is completed on or after January 1, 2006 may be made under this section. In addition to all other procedures and requirements under this section, the following apply if the total of all credits for a project is more than \$10,000,000.00 but \$30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee, and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(23) A qualified taxpayer or assignee under subsection (20), (21), or (22) shall not claim a credit under subsection (1)(a) or (b) based on eligible investment on which a credit claimed under section 38d of former 1975 PA 228 was based.

(24) 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 38g of former 1975 PA 228. The number of years for which the credit under this subsection may be claimed under this act shall equal the maximum number of years designated in the agreement reduced by the number of years for which a credit had been claimed or could have been claimed under section 38g of former 1975 PA 228.

(25) An eligible taxpayer that claims a credit under this section is not prohibited from claiming a credit under section 431. However, the eligible taxpayer shall not claim a credit under this section and section 431 based on the same costs.

(26) Eligible investment attributable or related to the operation of a professional sports stadium, and eligible investment that is associated or affiliated with the operation of a professional sports stadium, including, but not limited to, the operation of a parking lot or retail store, shall not be used as a basis for a credit under this section. Professional sports stadium does not include a professional sports stadium that will no longer be used by a professional sports team on and after the date that an application related to that professional sports stadium is filed under this section.

(27) Eligible investment attributable or related to the operation of a casino, and eligible investment that is associated or affiliated with the operation of a casino, including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used as a basis for a credit under this section. As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(28) Eligible investment attributable or related to the construction of a new landfill or the expansion of an existing landfill regulated under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, shall not be used as a basis for a credit under this section.

(29) The Michigan economic growth authority annually shall prepare and submit to the house of representatives and senate committees responsible for tax policy and economic development issues a report on the credits under subsection (3). The report shall include, but is not limited to, all of the following:

(a) A listing of the projects under subsection (3) that were approved in the calendar year.

(b) The total amount of eligible investment for projects approved under subsection (3) in the calendar year.

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

(31) As used in this section:

(a) "Annual credit amount" means the maximum amount that a qualified taxpayer is eligible to claim each tax year for a project for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less, which shall be 10% of the qualified taxpayer's credit amount approved under subsection (3).

(b) "Authority" means a brownfield redevelopment authority created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(c) "Authorized business", "full-time job", "new capital investment", "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.

(d) "Blighted", "brownfield plan", "eligible activities", "facility", "functionally obsolete", "qualified local governmental unit", and "response activity" mean those terms as defined in the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(e) "Eligible investment" means demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property and the addition of machinery, equipment, and fixtures to eligible property after the date that eligible activities on that eligible property have started pursuant to a brownfield plan under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, and after the date that the preapproval letter is issued, if the costs of the eligible investment are not otherwise reimbursed to the taxpayer or paid for on behalf of the taxpayer from any source other than the taxpayer. The addition of leased machinery, equipment, or fixtures to eligible property by a lessee of the machinery, equipment, or fixtures is eligible investment if the lease of the machinery, equipment, or fixtures has a minimum term of 10 years or is for the expected useful life of the machinery, equipment, or fixtures, and if the owner of the machinery, equipment, or fixtures is not the qualified taxpayer with regard to that machinery, equipment, or fixtures.

(f) “Eligible property” means that term as defined in the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, except that, for purposes of subsection (2), all of the following apply:

(i) Eligible property means property identified under a brownfield plan that was used or is currently used for commercial, industrial, or residential purposes and that is 1 of the following:

(A) Property for which eligible activities are identified under the brownfield plan, is in a qualified local governmental unit, and is a facility, functionally obsolete, or blighted.

(B) Property that is not in a qualified local governmental unit but is within a downtown development district established under 1975 PA 197, MCL 125.1651 to 125.1681, and is functionally obsolete or blighted, and a component of the project on that eligible property is 1 or more of the following:

(I) Infrastructure improvements that directly benefit the eligible property.

(II) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(III) Lead or asbestos abatement.

(IV) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Property for which eligible activities are identified under the brownfield plan, is not in a qualified local governmental unit, and is a facility.

(ii) Eligible property includes parcels that are adjacent or contiguous to the eligible property if the development of the adjacent or contiguous parcels is estimated to increase the captured taxable value of the property or tax reverted property owned or under the control of a land bank fast track authority pursuant to the land bank fast track authority act, 2003 PA 258, MCL 124.751 to 124.774.

(iii) Eligible property includes, to the extent included in the brownfield plan, personal property located on the eligible property.

(iv) Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(g) “Last tax year” means the taxpayer’s tax year under former 1975 PA 228 that begins after December 31, 2006 and before January 1, 2008.

(h) “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.

(i) “Multiphase project” means a project approved under this section that has more than 1 component, each of which can be completed separately.

(j) “Personal property” means that term as defined in section 8 of the general property tax act, 1893 PA 206, MCL 211.8, except that personal property does not include either of the following:

(i) Personal property described in section 8(h), (i), or (j) of the general property tax act, 1893 PA 206, MCL 211.8.

(ii) Buildings described in section 14(6) of the general property tax act, 1893 PA 206, MCL 211.14.

(k) “Project” means the total of all eligible investment on an eligible property or, for purposes of subsection (6)(b), 1 of the following:

(i) All eligible investment on property not in a qualified local governmental unit that is a facility.

(ii) All eligible investment on property that is not a facility but is functionally obsolete or blighted.

(l) “Qualified local governmental unit” means that term as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(m) “Qualified taxpayer” means a taxpayer that meets both of the following criteria:

(i) Owns or leases eligible property.

(ii) Certifies that, except as otherwise provided in this subparagraph, the department of environmental quality has not sued or issued a unilateral order to the taxpayer pursuant to part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response activity on or to the eligible property, or expended any state funds for response activity on or to the eligible property and demanded reimbursement for those expenditures from the qualified taxpayer. However, if the taxpayer has completed all response activity required by part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, is in compliance with any deed restriction or administrative or judicial order related to the required response activity, and has reimbursed the state for all costs incurred by the state related to the required response activity, the taxpayer meets the criteria under this subparagraph.

Sec. 439. (1) A taxpayer may claim a credit against the tax imposed by this act equal to \$1.00 per long ton of qualified low-grade hematite consumed in an industrial or manufacturing process that is the business activity of the taxpayer.

(2) If the credit allowed under this section 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 5 tax years or until the excess credit is used up, whichever occurs first.

(3) The credit under this section shall be based on low-grade hematite consumed on and after January 1, 2000.

(4) As used in this section:

(a) "Consumed in an industrial or manufacturing process" means a process in which low-grade hematite is used as a raw material in the production of pig iron or steel.

(b) "Low-grade hematite" means any hematitic iron formation that is not of sufficient quality in its original mineral state to be mined and shipped for the production of pig iron or steel without first being drilled, blasted, crushed, and ground very fine to liberate the iron minerals and for which additional beneficiation and agglomeration are required to produce a product of sufficient quality to be used in the production of pig iron or steel.

(c) "Qualified low-grade hematite" means pellets produced from low-grade hematitic iron ore mined in the United States.

Sec. 441. (1) For the 2008, 2009, and 2010 tax years, except as otherwise provided under subsection (2), a taxpayer may claim the Michigan entrepreneurial credit equal to 100% of the eligible taxpayer's tax liability imposed by this act attributable to increased employment under subdivision (b) for 3 years if the taxpayer meets all of the following conditions:

(a) Had less than \$25,000,000.00 in gross receipts in the immediately preceding tax year. The \$25,000,000.00 amount shall be annually adjusted for inflation using the Detroit consumer price index.

(b) Has created in this state or transferred into this state not fewer than 20 new jobs in the immediately preceding tax year.

(c) Has made a capital investment in this state of not less than \$1,250,000.00 in the immediately preceding tax year. For purposes of determining eligibility under this subdivision, the capital investment shall not include the purchase of an existing plant or the purchase of existing equipment.

(d) Is not a retail establishment as described in major groups 52 through 59 and 70 under the standard industrial classification code as compiled by the United States department of labor. However, a restaurant that did not exist, as determined by the treasurer, in this state in the immediately preceding year before which the credit is claimed and that is not a franchise or a part of a unitary business group may qualify for the credit under this section.

(2) A taxpayer that is an eligible business as defined in section 407 and that received an eligible contribution as defined in section 407 for which a credit was claimed by another taxpayer may claim the Michigan entrepreneurial credit equal to 100% of the taxpayer's tax liability imposed by this act attributable to the increased employment under subdivision (b) for 3 years if the taxpayer meets all of the following conditions:

(a) Had less than \$25,000,000.00 in gross receipts in the immediately preceding tax year.

(b) Has increased the number of new jobs in this state by at least 20% from the immediately preceding tax year.

(3) An eligible taxpayer may claim the credit under this section on a form prescribed by the department.

(4) If the new jobs for which the taxpayer qualifies for this credit are relocated outside of this state within 5 years after claiming the credit under this section or if the taxpayer reduces the employment levels by more than 10% of the jobs for which the taxpayer qualifies for the credit under this section, that taxpayer is liable in an amount equal to the total of all credits received under this section. Any liability under this subsection shall be collected under 1941 PA 122, MCL 205.1 to 205.31.

(5) A taxpayer's liability attributable to the increased employment is the total liability of the taxpayer multiplied by a fraction the numerator of which is the payroll of the increased jobs of the facility meeting the requirements of this section and the denominator of which is the taxpayer's total payroll in this state.

(6) As used in this section:

(a) "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.

(b) "New jobs" means jobs that meet all of the following criteria:

(i) Did not exist in this state in the immediately preceding tax year.

(ii) Represent an overall increase in full-time equivalent jobs of the taxpayer in this state in the immediately preceding tax year.

(iii) Are not jobs into which employees transfer if the employees worked in this state for the taxpayer in other jobs prior to beginning the new jobs.

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

Sec. 445. (1) A taxpayer that is a new motor vehicle dealer licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, may claim a credit against the tax imposed by this act equal to 2% of the amount paid by the taxpayer to acquire new motor vehicle inventory in the tax year, not to exceed \$10,000.00.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that excess shall not be refunded and shall not be carried forward as an offset to the tax liability in subsequent tax years.

(3) As used in this section, "new motor vehicle inventory" means new motor vehicles or motor vehicle parts.

Sec. 447. (1) An eligible taxpayer may claim a credit against the tax imposed by this act equal to 0.535% of the taxpayer's compensation in this state, not to exceed \$4,500,000.00.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that excess shall not be refunded and shall not be carried forward as an offset to the tax liability in subsequent tax years.

(3) A taxpayer that claims a credit under this section shall not claim a credit under section 449.

(4) As used in this section, "eligible taxpayer" means a taxpayer that meets all of the following conditions:

(a) Operates at least 17,000,000 square feet of enclosed retail space and 2,000,000 square feet of enclosed warehouse space in this state.

(b) Sells all of the following at retail:

(i) Fresh, frozen, or processed food, food products, or consumable necessities.

(ii) Prescriptions and over-the-counter medications.

(iii) Health and beauty care products.

(iv) Cosmetics.

(v) Pet products.

(vi) Carbonated beverages.

(vii) Beer, wine, or liquor.

(c) Sales of the items listed in subdivision (b) represent more than 35% of the taxpayer's total sales in the tax year.

(d) Maintains its headquarters operation in this state.

Sec. 449. (1) An eligible taxpayer may claim a credit against the tax imposed by this act equal to 0.125% of the taxpayer's compensation in this state, not to exceed \$300,000.00.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that excess shall not be refunded and shall not be carried forward as an offset to the tax liability in subsequent tax years.

(3) As used in this section, "eligible taxpayer" means a taxpayer that meets all of the following:

(a) Operates at least 2,500,000 square feet of enclosed retail space and 1,400,000 square feet of enclosed warehouse, headquarters, and transportation services in this state.

(b) Sells all of the following at retail:

(i) Fresh, frozen, or processed food, food products, or consumable necessities.

(ii) Prescriptions and over-the-counter medications.

(iii) Health and beauty care products.

(iv) Cosmetics.

(v) Pet products.

(vi) Carbonated beverages.

(vii) Beer, wine, or liquor.

(c) Sales of the items listed in subdivision (b) represent more than 35% of the taxpayer's total sales in the tax year.

(d) The taxpayer maintains its headquarters operation in this state.

CHAPTER 5

Sec. 501. (1) A taxpayer that reasonably expects liability for the tax year to exceed \$800.00 shall file an estimated return and pay an estimated tax for each quarter of the taxpayer's tax year.

(2) For taxpayers on a calendar year basis, the quarterly returns and estimated payments shall be made by April 15, July 15, October 15, and January 15. Taxpayers not on a calendar year basis shall file quarterly returns and make estimated payments on the appropriate due date which in the taxpayer's fiscal year corresponds to the calendar year.

(3) The estimated payment made with each quarterly return of each tax year shall be for the estimated business income tax base and modified gross receipts tax base for the quarter or 25% of the estimated annual liability. The second, third, and fourth estimated payments in each tax year shall include adjustments, if necessary, to correct underpayments or overpayments from previous quarterly payments in the tax year to a revised estimate of the annual tax liability.

(4) The interest provided by this act shall not be assessed if any of the following occur:

(a) If the sum of the estimated payments equals at least 85% of the liability and the amount of each estimated payment reasonably approximates the tax liability incurred during the quarter for which the estimated payment was made.

(b) For the 2009 tax year and each subsequent tax year, if the preceding year's tax liability under this act was \$20,000.00 or less and if the taxpayer submitted 4 equal installments the sum of which equals the immediately preceding tax year's tax liability.

(5) Each estimated return shall be made on a form prescribed by the department and shall include an estimate of the annual tax liability and other information required by the state treasurer. The form prescribed under this subsection may be combined with any other tax reporting form prescribed by the department.

(6) With respect to a taxpayer filing an estimated tax return for the taxpayer's first tax year of less than 12 months, the amounts paid with each return shall be proportional to the number of payments made in the first tax year.

(7) Payments made under this section shall be a credit against the payment required with the annual tax return required in section 505.

(8) If the department considers it necessary to insure payment of the tax or to provide a more efficient administration of the tax, the department may require filing of the returns and payment of the tax for other than quarterly or annual periods.

(9) A taxpayer that elects under the internal revenue code to file an annual federal income tax return by March 1 in the year following the taxpayer's tax year and does not make a quarterly estimate or payment, or does not make a quarterly estimate or payment and files a tentative annual return with a tentative payment by January 15 in the year following the taxpayer's tax year and a final return by April 15 in the year following the taxpayer's tax year, has the same option in filing the estimated and annual returns required by this act.

Sec. 503. If a taxpayer's tax year to which this act applies ends before December 31, 2008 or if a taxpayer's first tax year is less than 12 months then a taxpayer subject to this act may elect to compute the tax imposed by this act for the portion of that tax year to which this act applies or that first tax year in accordance with 1 of the following methods:

(a) The tax may be computed as if this act were effective on the first day of the taxpayer's annual accounting period and the amount computed shall be multiplied by a fraction, the numerator of which is the number of months in the taxpayer's first tax year and the denominator of which is 12.

(b) The tax may be computed by determining the business income tax base and modified gross receipts tax base in the first tax year in accordance with an accounting method satisfactory to the department that reflects the actual business income tax base and modified gross receipts tax base attributable to the period.

Sec. 505. (1) An annual or final return shall be filed with the department in the form and content prescribed by the department by the last day of the fourth month after the end of the taxpayer's tax year. Any final liability shall be remitted with this return. A taxpayer, other than a taxpayer subject to the tax imposed under chapter 2A or 2B, whose apportioned or allocated gross receipts are less than \$350,000.00 does not need to file a return or pay the tax imposed under this act.

(2) If a taxpayer has apportioned or allocated gross receipts for a tax year of less than 12 months, the amount in subsection (1) 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.

(3) The department, upon application of the taxpayer and for good cause shown, may extend the date for filing the annual return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the

tax unpaid for the period of the extension. The treasurer shall require with the application payment of the estimated tax liability unpaid for the tax period covered by the extension.

(4) If a taxpayer is granted an extension of time within which to file the federal income tax return for any tax year, the filing of a copy of the request for extension together with a tentative return and payment of an estimated tax with the department by the due date provided in subsection (1) shall automatically extend the due date for the filing of an annual or final return under this act until the last day of the eighth month following the original due date of the return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension.

Sec. 507. (1) A taxpayer required to file a return under this act may be required to furnish a true and correct copy of any return or portion of any return filed under the provisions of the internal revenue code.

(2) A taxpayer shall file an amended return with the department showing any alteration in or modification of a federal income tax return that affects its business income tax base or modified gross receipts tax base under this act. The amended return shall be filed within 120 days after the final determination by the internal revenue service.

Sec. 509. (1) At the request of the department, a taxpayer required by the internal revenue code to file or submit an information return of income paid to others shall, to the extent the information is applicable to residents of this state, at the same time file or submit the information in the form and content prescribed to the department.

(2) At the request of the department, a voluntary association, joint venture, partnership, estate, or trust shall file a copy of any tax return or portion of any tax return that was filed under the provisions of the internal revenue code. The department may prescribe alternate forms of returns.

Sec. 511. A unitary business group shall file a combined return that includes each United States person, other than a foreign operating entity, that is included in the unitary business group. Each United States person included in a unitary business group or included in a combined return shall be treated as a single person and all transactions between those persons included in the unitary business group shall be eliminated from the business income tax base, modified gross receipts tax base, and the apportionment formula under this act. If a United States person included in a unitary business group or included in a combined return is subject to the tax under chapter 2A or 2B, any business income attributable to that person shall be eliminated from the business income tax base, any modified gross receipts attributable to that person shall be eliminated from the modified gross receipts tax base, and any sales attributable to that person shall be eliminated from the apportionment formula under this act.

Sec. 513. (1) The tax imposed by this act shall be administered by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to 205.31, and this act. If a conflict exists between 1941 PA 122, MCL 205.1 to 205.31, and this act, the provisions of this act apply.

(2) The department shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The department shall prescribe forms for use by taxpayers and may promulgate rules in conformity with this act for the maintenance by taxpayers of records, books, and accounts, and for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this act, the making of returns, and the ascertainment, assessment, and collection of the tax imposed under this act.

(4) The tax imposed by this act is in addition to all other taxes for which the taxpayer may be liable.

(5) The department shall prepare and publish statistics from the records kept to administer the tax imposed by this act that detail the distribution of tax receipts by type of business, legal form of organization, sources of tax base, timing of tax receipts, and types of deductions. The statistics shall not result in the disclosure of information regarding any specific taxpayer.

Sec. 515. (1) In fiscal year 2007-2008, \$136,000,000.00 of the revenue collected under this act shall be distributed to the school aid fund and the balance shall be deposited into the general fund. In fiscal year 2008-2009, \$479,000,000.00 of the revenue collected under this act shall be distributed to the school aid fund and the balance shall be deposited into the general fund. For each fiscal year after the 2008-2009 fiscal year, that amount from the immediately preceding fiscal year as adjusted by an amount equal to the growth in the United States consumer price index in the immediately preceding year shall be distributed to the school aid fund and the balance shall be deposited into the general fund.

(2) As used in this section, "United States consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics.

Sec. 517. There is appropriated to the department for the 2006-2007 state fiscal year the sum of \$1,000,000.00 to begin implementing the requirements of this act. Any portion of this amount under this section that is not expended in the 2006-2007 state fiscal year shall not lapse to the general fund but shall be carried forward in a work project account

that is in compliance with section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a, for the following state fiscal year.

Sec. 519. If a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired determines that any provision of this act that provides a deduction, credit, or exemption with respect to employment, persons, services, investment, or any other activity that is limited only to this state is unconstitutional or applies to employment, persons, services, investment, or any other activity outside of this state, that credit, deduction, or exemption shall be severed and shall not be in effect for any other tax year for which the final order shall apply, and the remaining provisions of this act shall remain in effect.

Sec. 601. (1) For the 2008 fiscal year, except as otherwise provided under subsection (4), if total net cash payments from the tax imposed under this act plus any net cash payments from former 1975 PA 228 less any net cash payments made by insurance companies under either act exceed \$2,398,000,000.00, 50% of that excess shall be refunded in the immediately succeeding fiscal year as provided in subsection (5) and the remaining 50% shall be deposited into the countercyclical budget and economic stabilization fund pursuant to section 353 of the management and budget act, 1984 PA 431, MCL 18.1353.

(2) For the 2009 fiscal year, except as otherwise provided under subsection (4), if total net cash payments from the tax imposed under this act, excluding any revenue collected pursuant to chapter 2A, exceed the fiscal year 2009 base, 50% of that excess shall be refunded in the immediately succeeding fiscal year as provided in subsection (5) and the remaining 50% shall be deposited into the countercyclical budget and economic stabilization fund pursuant to section 353 of the management and budget act, 1984 PA 431, MCL 18.1353. To calculate the fiscal year 2009 base, multiply \$2,398,000,000.00 by 1.01 and then multiply this product by 2009 fiscal year Michigan personal income divided by 2008 fiscal year Michigan personal income.

(3) For the 2010 fiscal year, except as otherwise provided under subsection (4), if total net cash payments from the tax imposed under this act, excluding any revenue collected pursuant to chapter 2A, exceed the fiscal year 2010 base, 50% of that excess shall be refunded in the immediately succeeding fiscal year as provided in subsection (5) and the remaining 50% shall be deposited into the countercyclical budget and economic stabilization fund pursuant to section 353 of the management and budget act, 1984 PA 431, MCL 18.1353. To calculate the fiscal year 2010 base, multiply \$2,398,000,000.00 by 1.0201 and then multiply this product by 2010 fiscal year Michigan personal income divided by 2008 fiscal year Michigan personal income.

(4) If the amount of the total net cash payments collected from the tax imposed under this act, excluding any revenue collected pursuant to chapter 2A, exceeds the amount described in the applicable subsection by less than \$5,000,000.00, then all of that excess shall be deposited into the countercyclical budget and economic stabilization fund pursuant to section 353 of the management and budget act, 1984 PA 431, MCL 18.1353.

(5) The refund available under subsection (1), (2), or (3) shall be applied pro rata to the taxpayers that made positive net cash payments during the fiscal year. The taxpayer's pro rata share shall be the total amount to be refunded under subsection (1), (2), or (3) multiplied by a fraction the numerator of which is the positive net payments made by the taxpayer during the fiscal year and the denominator of which is the sum of the positive net cash payments made by all taxpayers during the fiscal year.

(6) As used in this section:

(a) "Fiscal year" means the state fiscal year that commences October 1 and continues through September 30.

(b) "Fiscal year Michigan personal income" is the average of the 4 quarterly values for the fiscal year, as published by the United States bureau of economic analysis. Fiscal year personal income for subsection (2) is calculated using the personal income totals published in December 2009. Fiscal year personal income for subsection (3) is calculated using the personal income totals published in December 2010.

(c) "Net cash payments" for the fiscal year are equal to cash annual and estimated payments made during the fiscal year less refunds paid during the fiscal year. Refunds paid under this section are not used to reduce net cash payments for purposes of calculating refunds paid out under this section.

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

Enacting section 2. This act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) House Bill No. 4369.
- (b) House Bill No. 4370.
- (c) House Bill No. 4371.
- (d) House Bill No. 4372.

This act is ordered to take immediate effect.

Carol Morey-Viventi

Secretary of the Senate

Richard J. Bevan

Clerk of the House of Representatives

Approved

.....
Governor