

# HOUSE BILL No. 6109

May 4, 2010, Introduced by Reps. Meekhof, Amash, McMillin, Agema, DeShazor, Haveman, Paul Scott, Green, Meltzer, Walsh, Daley, Crawford, Lund, Rogers, Kowall and Booher and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
by amending section 415 (MCL 208.1415).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 415. (1) ~~A~~ **FOR THE 2008, 2009, AND 2010 TAX YEARS, A**  
2 taxpayer that meets the criteria under subsection (4) and that is a  
3 qualified start-up business that does not have business income for  
4 2 consecutive tax years may claim a credit against the tax imposed  
5 under this act for the second of those 2 consecutive tax years and  
6 each ~~THE~~ immediately following consecutive tax year in which the  
7 taxpayer does not have business income equal to the taxpayer's tax  
8 liability for the tax year in which the taxpayer has no business  
9 income. If the taxpayer has business income in any tax year after

1 the credit under this section is claimed, the taxpayer shall claim  
2 the credit under this section for ~~any~~**THE** following tax year only  
3 if the taxpayer subsequently has no business income for 2  
4 consecutive tax years. The taxpayer may claim the credit for the  
5 second of those 2 consecutive tax years and ~~each~~**THE** immediately  
6 following consecutive tax year in which the taxpayer does not have  
7 business income.

8 (2) A credit under this section shall not be claimed for more  
9 than a total of ~~5~~**3** tax years.

10 (3) A taxpayer that qualified to claim the credit under  
11 section 31a of former 1975 PA 228 may claim the credit under this  
12 section for a total of 5 years, reduced by the number of years the  
13 taxpayer was eligible to claim the credit under section 31a of  
14 former 1975 PA 228, **OR THROUGH THE 2010 TAX YEAR, WHICHEVER ENDS**  
15 **FIRST.**

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

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

26 (b) If the taxpayer has no business activity in this state for  
27 the second tax year after the last tax year for which a credit

1 under this section is claimed, 67% of the total of all credits  
2 claimed under this section.

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

7 (5) For the tax year for which a credit under this section is  
8 claimed, compensation, directors' fees, or distributive shares paid  
9 by the taxpayer to any 1 of the following shall not exceed  
10 \$135,000.00:

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

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

15 (c) A shareholder of ~~an~~ **A SUBCHAPTER** S corporation.

16 (d) A member of a limited liability corporation.

17 (e) An individual who is an owner.

18 (6) As used in this section:

19 (a) "Business income" means business income as defined in  
20 section 105 excluding funds received from small business innovation  
21 research grants and small business technology transfer programs  
22 established under the small business innovation development act of  
23 1982, Public Law 97-219, reauthorized under the small business  
24 research and development enhancement act, Public Law 102-564, and  
25 subsequently reauthorized under the small business reauthorization  
26 act of 2000, Public Law 106-554.

27 (b) "Michigan economic development corporation" means the

1 public body corporate created under section 28 of article VII of  
2 the state constitution of 1963 and the urban cooperation act of  
3 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual  
4 interlocal agreement effective April 5, 1999, as amended, between  
5 local participating economic development corporations formed under  
6 the economic development corporations act, 1974 PA 338, MCL  
7 125.1601 to 125.1636, and the Michigan strategic fund.

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

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

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

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

17 (iv) Is not publicly traded.

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

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

24 (B) During the immediately preceding 7 years would have been  
25 in 1 of the first 2 years of contribution liability under section  
26 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,  
27 MCL 421.19, if the qualified start-up business had employees and

1 was liable under the Michigan employment security act, 1936 (Ex  
2 Sess) PA 1, MCL 421.1 to 421.75.

3 (C) During the immediately preceding 7 years would have been  
4 in 1 of the first 2 years of contribution liability under section  
5 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,  
6 MCL 421.19, if the qualified start-up business had not assumed  
7 successor liability under section 15(g) of the Michigan employment  
8 security act, 1936 (Ex Sess) PA 1, MCL 421.15.

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

11 Enacting section 1. This amendatory act does not take effect  
12 unless all of the following bills of the 95th Legislature are  
13 enacted into law:

14 (a) House Bill No. 5249.

15 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 6104 (request no.  
16 04275'09).

17 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 6103 (request no.  
18 05669'09).

19 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 6105 (request no.  
20 05670'09).

21 (e) Senate Bill No. \_\_\_\_\_ or House Bill No. 6106 (request no.  
22 05671'09).

23 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. 6107 (request no.  
24 05672'09).

25 (g) Senate Bill No. \_\_\_\_\_ or House Bill No. 6112 (request no.  
26 05673'09).

27 (h) Senate Bill No. \_\_\_\_\_ or House Bill No. 6113 (request no.

1 05675'09\*).

2 (i) Senate Bill No.\_\_\_\_ or House Bill No. 6110(request no.  
3 05677'09).

4 (j) Senate Bill No.\_\_\_\_ or House Bill No. 6116(request no.  
5 05678'09).

6 (k) Senate Bill No.\_\_\_\_ or House Bill No. 6114(request no.  
7 05679'09).

8 (l) Senate Bill No.\_\_\_\_ or House Bill No. 6117(request no.  
9 05680'09).

10 (m) Senate Bill No.\_\_\_\_ or House Bill No. 6108(request no.  
11 05681'09).

12 (n) Senate Bill No.\_\_\_\_ or House Bill No. 6119(request no.  
13 05930'10).

14 (o) Senate Bill No.\_\_\_\_ or House Bill No. 6111(request no.  
15 05931'10).

16 (p) Senate Bill No.\_\_\_\_ or House Bill No. 6115(request no.  
17 05932'10).

18 (q) Senate Bill No.\_\_\_\_ or House Bill No. 6118(request no.  
19 05933'10).