

# HOUSE BILL No. 6111

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

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending sections 429 and 439 (MCL 208.1429 and 208.1439), section 429 as amended by 2009 PA 184.

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

1           Sec. 429. (1) ~~A~~ **FOR THE 2008, 2009, AND 2010 TAX YEARS, A**  
2 taxpayer may claim a credit against the tax imposed by this act for  
3 1 or more of the following as applicable:

4           (a) The credit allowed under subsection (2).

5           (b) The credit allowed under subsection (5).

6           (2) A taxpayer that is certified under the Michigan next  
7 energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an  
8 eligible taxpayer may claim a nonrefundable credit for the tax year

1 equal to the amount determined under subdivision (a) or (b),  
2 whichever is less:

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

7 (b) Ten percent of the amount by which the taxpayer's adjusted  
8 qualified business activity performed in this state outside of a  
9 renaissance zone for the tax year exceeds the taxpayer's adjusted  
10 qualified business activity performed in this state outside of a  
11 renaissance zone for the 2001 tax year under section 39e of former  
12 1975 PA 228.

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

18 (4) A taxpayer that claims a credit under subsection (2) shall  
19 attach a copy of each of the following as issued pursuant to the  
20 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to  
21 207.827, to the annual return required under this act for each tax  
22 year in which the taxpayer claims the credit allowed under  
23 subsection (2):

24 (a) The proof of certification that the taxpayer is an  
25 eligible taxpayer for the tax year.

26 (b) The proof of certification of the taxpayer's tax liability  
27 attributable to qualified business activity for the tax year.

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

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

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

10 (7) As used in this section:

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

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

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

20 (A) Business income.

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

22 (C) The alternative energy business activity factor.

23 (b) "Alternative energy business activity factor" means a  
24 fraction, the numerator of which is the ratio of the value of the  
25 taxpayer's property used for qualified business activity and  
26 located in this state outside of a renaissance zone for the year  
27 for which the factor is being calculated to the value of all of the

1 taxpayer's property located in this state for that year plus the  
2 ratio of the taxpayer's payroll for qualified business activity  
3 performed in this state outside of a renaissance zone for that year  
4 to all of the taxpayer's payroll in this state for that year and  
5 the denominator of which is 2.

6 (c) "Alternative energy marine propulsion system",  
7 "alternative energy system", "alternative energy vehicle", and  
8 "alternative energy technology" mean those terms as defined in the  
9 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to  
10 207.827.

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

15 (e) "Baseline tax liability attributable to qualified business  
16 activity" means the taxpayer's tax liability for the 2001 tax year  
17 under former 1975 PA 228 multiplied by the taxpayer's alternative  
18 energy business activity factor for the 2001 tax year under former  
19 1975 PA 228. A taxpayer with a 2001 tax year of less than 12 months  
20 under former 1975 PA 228 shall annualize the amount calculated  
21 under this subdivision as necessary to determine baseline tax  
22 liability attributable to qualified business activity that reflects  
23 a 12-month period.

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

27 (g) "Payroll" means total salaries and wages before deducting

1 any personal or dependency exemptions.

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

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

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

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

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

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

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

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

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

10           (o) "Tax rate" means the rate imposed under section 51 of the  
11 income tax act of 1967, 1967 PA 281, MCL 206.51, annualized as  
12 necessary, for the tax year in which the qualified alternative  
13 energy entity claims a credit under subsection (5).

14           Sec. 439. (1) ~~A~~**FOR THE 2008, 2009, AND 2010 TAX YEARS, A**  
15 taxpayer may claim a credit against the tax imposed by this act  
16 equal to \$1.00 per long ton of qualified low-grade hematite  
17 consumed in an industrial or manufacturing process that is the  
18 business activity of the taxpayer.

19           (2) If the credit allowed under this section for the tax year  
20 and any unused carryforward of the credit allowed under this  
21 section exceed the tax liability of the taxpayer for the tax year,  
22 the excess shall not be refunded, but may be carried forward as an  
23 offset to the tax liability in subsequent tax years for 5 tax years  
24 or until the excess credit is used up, whichever occurs first.

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

27           (4) As used in this section:

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

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

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

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

17 (a) House Bill No. 5249.

18 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 6104 (request no.  
19 04275'09).

20 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 6103 (request no.  
21 05669'09).

22 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 6105 (request no.  
23 05670'09).

24 (e) Senate Bill No. \_\_\_\_\_ or House Bill No. 6106 (request no.  
25 05671'09).

26 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. 6107 (request no.  
27 05672'09).

1 (g) Senate Bill No. \_\_\_\_\_ or House Bill No. 6112 (request no.  
2 05673'09).

3 (h) Senate Bill No. \_\_\_\_\_ or House Bill No. 6113 (request no.  
4 05675'09\*).

5 (i) Senate Bill No. \_\_\_\_\_ or House Bill No. 6109 (request no.  
6 05676'09).

7 (j) Senate Bill No. \_\_\_\_\_ or House Bill No. 6110 (request no.  
8 05677'09).

9 (k) Senate Bill No. \_\_\_\_\_ or House Bill No. 6116 (request no.  
10 05678'09).

11 (l) Senate Bill No. \_\_\_\_\_ or House Bill No. 6114 (request no.  
12 05679'09).

13 (m) Senate Bill No. \_\_\_\_\_ or House Bill No. 6117 (request no.  
14 05680'09).

15 (n) Senate Bill No. \_\_\_\_\_ or House Bill No. 6108 (request no.  
16 05681'09).

17 (o) Senate Bill No. \_\_\_\_\_ or House Bill No. 6119 (request no.  
18 05930'10).

19 (p) Senate Bill No. \_\_\_\_\_ or House Bill No. 6115 (request no.  
20 05932'10).

21 (q) Senate Bill No. \_\_\_\_\_ or House Bill No. 6118 (request no.  
22 05933'10).