

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1037**

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending sections 111, 201, and 305 (MCL 208.1111, 208.1201, and
208.1305), section 111 as amended by 2011 PA 305, section 201 as
amended by 2009 PA 135, and section 305 as amended by 2007 PA 205.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 111. (1) "Gross receipts" means the entire amount
2 received by the taxpayer as determined by using the taxpayer's
3 method of accounting used for federal income tax purposes, less any
4 amount deducted as bad debt for federal income tax purposes that
5 corresponds to items of gross receipts included in the modified
6 gross receipts tax base for the current tax year or a past tax year
7 phased in over a 5-year period starting with 50% of that amount in

1 the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax
2 year, 75% in the 2011 tax year, and 100% in the 2012 tax year and
3 each tax year thereafter, from any activity whether in intrastate,
4 interstate, or foreign commerce carried on for direct or indirect
5 gain, benefit, or advantage to the taxpayer or to others except for
6 the following:

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

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

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

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

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

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

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

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

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

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

14 (e) Amounts received by a newspaper to acquire advertising
15 space not owned by that newspaper in another newspaper on behalf of
16 another person. This subdivision does not apply to any
17 consideration received by the taxpayer for acquiring that
18 advertising space.

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

25 (g) Proceeds from the taxpayer's transfer of an account
26 receivable if the sale that generated the account receivable was
27 included in gross receipts for federal income tax purposes. This

1 subdivision does not apply to a taxpayer that during the tax year
2 both buys and sells any receivables.

3 (h) Proceeds from any of the following:

4 (i) The original issue of stock or equity instruments or equity
5 issued by a regulated investment company as that term is defined
6 under section 851 of the internal revenue code.

7 (ii) The original issue of debt instruments.

8 (i) Refunds from returned merchandise.

9 (j) Cash and in-kind discounts.

10 (k) Trade discounts.

11 (l) Federal, state, or local tax refunds.

12 (m) Security deposits.

13 (n) Payment of the principal portion of loans.

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

15 (p) Proceeds from a sale, transaction, exchange, involuntary
16 conversion, maturity, redemption, repurchase, recapitalization, or
17 other disposition or reorganization of tangible, intangible, or
18 real property, less any gain from the disposition or reorganization
19 to the extent that the gain is included in the taxpayer's federal
20 taxable income, if the property satisfies 1 or more of the
21 following:

22 (i) The property is a capital asset as defined in section
23 1221(a) of the internal revenue code.

24 (ii) The property is land that qualifies as property used in
25 the trade or business as defined in section 1231(b) of the internal
26 revenue code.

27 (iii) The property is used in a hedging transaction entered into

1 by the taxpayer in the normal course of the taxpayer's trade or
2 business primarily to manage the risk of exposure to foreign
3 currency fluctuations that affect assets, liabilities, profits,
4 losses, equity, or investments in foreign operations; interest rate
5 fluctuations; or commodity price fluctuations. For purposes of this
6 subparagraph, the actual transfer of title of real or tangible
7 personal property to another person is not a hedging transaction.
8 Only the overall net gain from the hedging transactions entered
9 into during the tax year is included in gross receipts. As used in
10 this subparagraph, "hedging transaction" means that term as defined
11 under section 1221 of the internal revenue code regardless of
12 whether the transaction was identified by the taxpayer as a hedge
13 for federal income tax purposes, provided, however, that
14 transactions excluded under this subparagraph and not identified as
15 a hedge for federal income tax purposes shall be identifiable to
16 the department by the taxpayer as a hedge in its books and records.

17 (iv) The property is investment and trading assets managed as
18 part of the person's treasury function. For purposes of this
19 subparagraph, a person principally engaged in the trade or business
20 of purchasing and selling investment and trading assets is not
21 performing a treasury function. Only the overall net gain from the
22 treasury function incurred during the tax year is included in gross
23 receipts. As used in this subparagraph, "treasury function" means
24 the pooling and management of investment and trading assets for the
25 purpose of satisfying the cash flow or liquidity needs of the
26 taxpayer's trade or business.

27 (q) The proceeds from a policy of insurance, a settlement of a

1 claim, or a judgment in a civil action less any proceeds under this
2 subdivision that are included in federal taxable income.

3 (r) For a sales finance company, as defined in section 2 of
4 the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL
5 492.102, and directly or indirectly owned in whole or in part by a
6 motor vehicle manufacturer as of January 1, 2008, and for a person
7 that is a broker or dealer as defined under section 78c(a)(4) or
8 (5) of the securities exchange act of 1934, 15 USC 78c, or a person
9 included in the unitary business group of that broker or dealer
10 that buys and sells for its own account, contracts that are subject
11 to the commodity exchange act, 7 USC 1 to 27f, amounts realized
12 from the repayment, maturity, sale, or redemption of the principal
13 of a loan, bond, or mutual fund, certificate of deposit, or similar
14 marketable instrument provided such instruments are not held as
15 inventory.

16 (s) For a sales finance company, as defined in section 2 of
17 the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL
18 492.102, and directly or indirectly owned in whole or in part by a
19 motor vehicle manufacturer as of January 1, 2008, and for a person
20 that is a broker or dealer as defined under section 78c(a)(4) or
21 (5) of the securities exchange act of 1934, 15 USC 78c, or a person
22 included in the unitary business group of that broker or dealer
23 that buys and sells for its own account, contracts that are subject
24 to the commodity exchange act, 7 USC 1 to 27f, the principal amount
25 received under a repurchase agreement or other transaction properly
26 characterized as a loan.

27 (t) For a mortgage company, proceeds representing the

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

9 (u) For a professional employer organization, any amount
10 charged by a professional employer organization that represents the
11 actual cost of wages and salaries, benefits, worker's compensation,
12 payroll taxes, withholding, or other assessments paid to or on
13 behalf of a covered employee by the professional employer
14 organization under a professional employer arrangement.

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

19 (w) For an individual, estate, or person organized for estate
20 or gift planning purposes, amounts received other than those from
21 transactions, activities, and sources in the regular course of the
22 person's trade or business. For purposes of this subdivision, all
23 of the following apply:

24 (i) Amounts received from transactions, activities, and sources
25 in the regular course of the person's business include, but are not
26 limited to, the following:

27 (A) Receipts from tangible and intangible property if the

1 acquisition, rental, lease, management, or disposition of the
2 property constitutes integral parts of the person's regular trade
3 or business operations.

4 (B) Receipts received in the course of the person's trade or
5 business from stock and securities of any foreign or domestic
6 corporation and dividend and interest income.

7 (C) Receipts derived from isolated sales, leases, assignments,
8 licenses, divisions, or other infrequently occurring dispositions,
9 transfers, or transactions involving tangible, intangible, or real
10 property if the property is or was used in the person's trade or
11 business operation.

12 (D) Receipts derived from the sale of an interest in a
13 business that constitutes an integral part of the person's regular
14 trade or business.

15 (E) Receipts derived from the lease or rental of real
16 property.

17 (ii) Receipts excluded from gross receipts include, but are not
18 limited to, the following:

19 (A) Receipts derived from investment activity, including
20 interest, dividends, royalties, and gains from an investment
21 portfolio or retirement account, if the investment activity is not
22 part of the person's trade or business.

23 (B) Receipts derived from the disposition of tangible,
24 intangible, or real property held for personal use and enjoyment,
25 such as a personal residence or personal assets.

26 (x) Receipts derived from investment activity other than
27 receipts from transactions, activities, and sources in the regular

1 course of the person's trade or business by a person that is
2 organized exclusively to conduct investment activity and that does
3 not conduct investment activity for any person other than an
4 individual or a person related to that individual or by a common
5 trust fund established under the collective investment funds act,
6 1941 PA 174, MCL 555.101 to 555.113. For purposes of this
7 subdivision, a person is related to an individual if that person is
8 a spouse, brother or sister, whether of the whole or half blood or
9 by adoption, ancestor, lineal descendent of that individual or
10 related person, or a trust benefiting that individual or 1 or more
11 persons related to that individual.

12 (y) Interest income and dividends derived from obligations or
13 securities of the United States government, this state, or any
14 governmental unit of this state. As used in this subdivision,
15 "governmental unit" means that term as defined in section 3 of the
16 shared credit rating act, 1985 PA 227, MCL 141.1053.

17 (z) Dividends and royalties received or deemed received from a
18 foreign operating entity or a person other than a United States
19 person, including, but not limited to, the amounts determined under
20 section 78 of the internal revenue code and sections 951 to 964 of
21 the internal revenue code, phased in over a 5-year period starting
22 with 50% of that amount in the 2008 tax year, 60% in the 2009 tax
23 year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100%
24 in the 2012 tax year and each tax year thereafter.

25 (aa) To the extent not deducted as purchases from other firms
26 under section 203, each of the following:

27 (i) Sales or use taxes collected from or reimbursed by a

1 consumer or other taxes the taxpayer collected directly from or was
2 reimbursed by a purchaser and remitted to a local, state, or
3 federal tax authority, phased in over a 5-year period starting with
4 50% of that amount in the 2008 tax year, 60% in the 2009 tax year,
5 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the
6 2012 tax year and each tax year thereafter.

7 (ii) In the case of receipts from the sale of cigarettes or
8 tobacco products by a wholesale dealer, retail dealer, distributor,
9 manufacturer, or seller, an amount equal to the federal and state
10 excise taxes paid by any person on or for such cigarettes or
11 tobacco products under subtitle E of the internal revenue code or
12 other applicable state law, phased in over a 3-year period starting
13 with 60% of that amount in the 2008 tax year, 75% in the 2009 tax
14 year, and 100% in the 2010 tax year and each tax year thereafter.

15 (iii) In the case of receipts from the sale of motor fuel by a
16 person with a motor fuel tax license or a retail dealer, an amount
17 equal to federal and state excise taxes paid by any person on such
18 motor fuel under section 4081 of the internal revenue code or under
19 other applicable state law, phased in over a 5-year period starting
20 with 50% of that amount in the 2008 tax year, 60% in the 2009 tax
21 year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100%
22 in the 2012 tax year and each tax year thereafter.

23 (iv) In the case of receipts from the sale of beer, wine, or
24 intoxicating liquor by a person holding a license to sell,
25 distribute, or produce those products, an amount equal to federal
26 and state excise taxes paid by any person on or for such beer,
27 wine, or intoxicating liquor under subtitle E of the internal

1 revenue code or other applicable state law, phased in over a 5-year
2 period starting with 50% of that amount in the 2008 tax year, 60%
3 in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax
4 year, and 100% in the 2012 tax year and each tax year thereafter.

5 (v) In the case of receipts from the sale of communication,
6 video, internet access and related services and equipment, any
7 government imposed tax, fee, or other imposition in the nature of a
8 tax or fee required by law, ordinance, regulation, ruling, or other
9 legal authority and authorized to be charged on a customer's bill
10 or invoice, phased in over a 5-year period starting with 50% of
11 that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in
12 the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012
13 tax year and each tax year thereafter. This subparagraph does not
14 include the recovery of net income taxes, net worth taxes, property
15 taxes, or the tax imposed under this act.

16 (vi) In the case of receipts from the sale of electricity,
17 natural gas, or other energy source, any government imposed tax,
18 fee, or other imposition in the nature of a tax or fee required by
19 law, ordinance, regulation, ruling, or other legal authority and
20 authorized to be charged on a customer's bill or invoice, phased in
21 over a 5-year period starting with 50% of that amount in the 2008
22 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75%
23 in the 2011 tax year, and 100% in the 2012 tax year and each tax
24 year thereafter. This subparagraph does not include the recovery of
25 net income taxes, net worth taxes, property taxes, or the tax
26 imposed under this act.

27 (vii) Any deposit required under any of the following, phased

1 in over a 5-year period starting with 50% of that amount in the
2 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year,
3 75% in the 2011 tax year, and 100% in the 2012 tax year and each
4 tax year thereafter:

5 (A) 1976 IL 1, MCL 445.571 to 445.576.

6 (B) R 436.1629 of the Michigan administrative code.

7 (C) R 436.1723a of the Michigan administrative code.

8 (D) Any substantially similar beverage container deposit law
9 of another state.

10 (viii) An excise tax collected pursuant to the airport parking
11 tax act, 1987 PA 248, MCL 207.371 to 207.383, collected from or
12 reimbursed by a consumer and remitted as provided in the airport
13 parking tax act, 1987 PA 248, MCL 207.371 to 207.383, phased in
14 over a 5-year period starting with 50% of that amount in the 2008
15 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75%
16 in the 2011 tax year, and 100% in the 2012 tax year and each tax
17 year thereafter.

18 (bb) Amounts attributable to an ownership interest in a pass-
19 through entity, regulated investment company, real estate
20 investment trust, or cooperative corporation whose business
21 activities are taxable under section 203 or would be subject to the
22 tax under section 203 if the business activities were in this
23 state. For purposes of this subdivision:

24 (i) "Cooperative corporation" means those organizations
25 described under subchapter T of the internal revenue code.

26 (ii) "Pass-through" entity means a partnership, subchapter S
27 corporation, or other person, other than an individual, that is not

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1 classified for federal income tax purposes as an association taxed
2 as a corporation.

3 (iii) "Real estate investment trust" means that term as defined
4 under section 856 of the internal revenue code.

5 (iv) "Regulated investment company" means that term as defined
6 under section 851 of the internal revenue code.

7 (cc) For a regulated investment company as that term is
8 defined under section 851 of the internal revenue code, receipts
9 derived from investment activity by that regulated investment
10 company.

11 (dd) For fiscal years that begin after September 30, 2009,
12 unless the state budget director certifies to the state treasurer
13 by January 1 of that fiscal year that the federally certified rates
14 for actuarial soundness required under 42 CFR 438.6 and that are
15 specifically developed for Michigan's health maintenance
16 organizations that hold a contract with this state for medicaid
17 services provide explicit adjustment for their obligations required
18 for payment of the tax under this act, amounts received by the
19 taxpayer during that fiscal year for medicaid premium or
20 reimbursement of costs associated with service provided to a
21 medicaid recipient or beneficiary.

22 (ee) For a taxpayer that provides health care management
23 consulting services, amounts received by the taxpayer as fees from
24 its clients that are expended by the taxpayer to reimburse those
25 clients for labor and nonlabor services that are paid by the client
26 and reimbursed to the client pursuant to a services agreement.

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(2) "Insurance company" means an authorized insurer as defined in ~~section 106~~ **SECTIONS 106 AND 108** of the insurance code of 1956, 1956 PA 218, MCL 500.106 **AND 500.108**.

(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 (e), 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

1 supplier.

2 (d) For a person that is a securities trader, broker, or
3 dealer or a person included in the unitary business group of that
4 securities trader, broker, or dealer that buys and sells for its
5 own account, contracts that are subject to the commodity exchange
6 act, 7 USC 1 to 27f, the cost of securities as defined under
7 section 475(c)(2) of the internal revenue code and for a securities
8 trader the cost of commodities as defined under section 475(e)(2)
9 and for a broker or dealer the cost of commodities as defined under
10 section 475(e)(2)(b), (c), and (d) of the internal revenue code,
11 excluding interest expense other than interest expense related to
12 repurchase agreements. As used in this subdivision:

13 (i) "Broker" means that term as defined under section 78c(a)(4)
14 of the securities exchange act of 1934, 15 USC 78c.

15 (ii) "Dealer" means that term as defined under section
16 78c(a)(5) of the securities exchange act of 1934, 15 USC 78c.

17 (iii) "Securities trader" means a person that engages in the
18 trade or business of purchasing and selling investments and trading
19 assets.

20 (e) Inventory does not include either of the following:

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

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

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

27 (a) The chairperson of the board.

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

3 (c) Persons performing similar duties **AND RESPONSIBILITIES** to
4 persons described in subdivisions (a) and (b) **THAT INCLUDE, AT A**
5 **MINIMUM, MAJOR DECISION MAKING.**

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

12 (2) The business income tax base means a taxpayer's business
13 income subject to the following adjustments, before allocation or
14 apportionment, and the adjustments in subsections (5), (6), and (7)
15 after allocation or apportionment:

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

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

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

27 (d) To the extent included in federal taxable income, deduct

1 dividends and royalties received from persons other than United
2 States persons and foreign operating entities, including, but not
3 limited to, amounts determined under section 78 of the internal
4 revenue code or sections 951 to 964 of the internal revenue code.

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

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

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

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

27 (iii) Is unreasonable as determined by the treasurer, and the

1 taxpayer agrees that the addition would be unreasonable based on
2 the taxpayer's facts and circumstances.

3 (iv) The related person recipient of the transaction is
4 organized under the laws of a foreign nation which has in force a
5 comprehensive income tax treaty with the United States.

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

8 (h) To the extent included in federal taxable income, deduct
9 any earnings that are net earnings from self-employment as defined
10 under section 1402 of the internal revenue code of the taxpayer or
11 a partner ~~or limited liability company member~~ of the taxpayer
12 ~~except to the extent that those net earnings represent a reasonable~~
13 ~~return on capital~~ **AND FOR PURPOSES OF A PARTNER OF A TAXPAYER, IT**
14 **SHALL BE THE AMOUNT PROPERLY REPORTED ON A SCHEDULE K-1-FORM 1065**
15 **AS SELF-EMPLOYMENT EARNINGS FOR FEDERAL INCOME TAX PURPOSES FOR THE**
16 **TAX YEAR.**

17 (i) Subject to the limitation provided under this subdivision,
18 if the book-tax differences for the first fiscal period ending
19 after July 12, 2007 result in a deferred liability for a person
20 subject to tax under this act, deduct the following percentages of
21 the total book-tax difference for each qualifying asset, for each
22 of the successive 15 tax years beginning with the 2015 tax year:

23 (i) For the 2015 through 2019 tax years, 4%.

24 (ii) For the 2020 through 2024 tax years, 6%.

25 (iii) For the 2025 through 2029 tax years, 10%.

26 (j) For tax years that begin after December 31, 2009, to the
27 extent included in federal taxable income, deduct the amount of a

1 charitable contribution made to the advance tuition payment fund
2 created under section 9 of the Michigan education trust act, 1986
3 PA 316, MCL 390.1429.

4 (3) The deduction under subsection (2)(i) shall not exceed the
5 amount necessary to offset the net deferred tax liability of the
6 taxpayer as computed in accordance with generally accepted
7 accounting principles which would otherwise result from the
8 imposition of the business income tax under this section and the
9 modified gross receipts tax under section 203 if the deduction
10 provided under this subdivision were not allowed. The deduction
11 under subsection (2)(i) is intended to flow through and reduce the
12 surcharge imposed and levied under section 281. For purposes of the
13 calculation of the deduction under subsection (2)(i), a book-tax
14 difference shall only be used once in the calculation of the
15 deduction arising from the taxpayer's business income tax base
16 under this section and once in the calculation of the deduction
17 arising from the taxpayer's modified gross receipts tax base under
18 section 203. The adjustment under subsection (2)(i) shall be
19 calculated without regard to the federal effect of the deduction.
20 If the adjustment under subsection (2)(i) is greater than the
21 taxpayer's business income tax base, any adjustment that is unused
22 may be carried forward and applied as an adjustment to the
23 taxpayer's business income tax base before apportionment in future
24 years. In order to claim this deduction, the department may require
25 the taxpayer to report the amount of this deduction on a form as
26 prescribed by the department that is to be filed on or after the
27 date that the first quarterly return and estimated payment are due

1 under this act. As used in subsection (2)(i) and this subsection:

2 (a) "Book-tax difference" means the difference, if any,
3 between the person's qualifying asset's net book value shown on the
4 person's books and records for the first fiscal period ending after
5 July 12, 2007 and the qualifying asset's tax basis on that same
6 date.

7 (b) "Qualifying asset" means any asset shown on the person's
8 books and records for the first fiscal period ending after July 12,
9 2007, in accordance with generally accepted accounting principles.

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

17 (5) Deduct any available business loss incurred after December
18 31, 2007. As used in this subsection, "business loss" means a
19 negative business income taxable amount after allocation or
20 apportionment. **FOR PURPOSES OF THIS SUBSECTION, A TAXPAYER THAT**
21 **ACQUIRES THE ASSETS OF ANOTHER CORPORATION IN A TRANSACTION**
22 **DESCRIBED UNDER SECTION 381(A)(1) OR (2) OF THE INTERNAL REVENUE**
23 **CODE MAY DEDUCT ANY BUSINESS LOSS ATTRIBUTABLE TO THAT DISTRIBUTOR**
24 **OR TRANSFEROR CORPORATION.** The business loss shall be carried
25 forward to the year immediately succeeding the loss year as an
26 offset to the allocated or apportioned business income tax base,
27 then successively to the next 9 taxable years following the loss

1 year or until the loss is used up, whichever occurs first, but for
2 not more than 10 taxable years after the loss year.

3 (6) Deduct any gain from the sale of any residential rental
4 units in this state to a qualified affordable housing project that
5 enters an agreement to operate the residential rental units as rent
6 restricted units for a minimum of 15 years. If the qualified
7 affordable housing project does not agree to operate all of the
8 residential rental units as rent restricted units, the deduction
9 under this subsection is limited to an amount equal to the gain
10 from the sale multiplied by a fraction, the numerator of which is
11 the number of those residential rental units purchased that are to
12 be operated as a rent restricted unit and the denominator is the
13 number of all residential rental units purchased. In order to claim
14 this deduction, the department may require the taxpayer and the
15 qualified affordable housing project to report the amount of this
16 deduction on a form as prescribed by the department that is to be
17 signed by both the taxpayer and the qualified affordable housing
18 project and filed with the taxpayer's annual return. The department
19 shall record a lien against the property subject to the operation
20 agreement for the total amount of the deduction allowed under this
21 subsection. The department shall notify the qualified affordable
22 housing project of the maximum amount of the lien that the
23 qualified affordable housing project may be liable for if the
24 qualified affordable housing project fails to qualify and operate
25 as provided in the operation agreement within 15 years after the
26 purchase. The lien shall become payable in an amount as provided
27 under this subsection to the state by the qualified affordable

1 housing project if the qualified affordable housing project fails
2 to qualify as a qualified affordable housing project and fails to
3 operate all or some of the residential rental units as rent
4 restricted units in accordance with the operation agreement entered
5 upon the purchase of those units within 15 years after the
6 deduction is claimed by a taxpayer under this subsection. An amount
7 equal to the product of 100% of the amount of the deduction allowed
8 under this subsection multiplied by a fraction, the numerator of
9 which is the difference between 15 and the number of years the
10 affordable housing project qualified and operated rent restricted
11 units in accordance with the agreement and the denominator is 15,
12 shall be added back to the tax liability of the qualified
13 affordable housing project for the tax year that the qualified
14 affordable housing project fails to comply with the agreement.

15 (7) Subject to the limitations provided in this subsection,
16 for a person that is a qualified affordable housing project, deduct
17 an amount equal to the product of that person's taxable income that
18 is attributable to residential rental units in this state owned by
19 the qualified affordable housing project multiplied by a fraction,
20 the numerator of which is the number of rent restricted units in
21 this state owned by that qualified affordable housing project and
22 the denominator of which is the number of all residential rental
23 units in this state owned by the qualified affordable housing
24 project. The amount of the deduction calculated under this
25 subsection shall be reduced by the amount of limited dividends or
26 other distributions made to the partners, members, or shareholders
27 of the qualified affordable housing project. Taxable income that is

1 attributable to residential rental units does not include income
2 received by the management, construction, or development company
3 for completion and operation of the project and those rental units.

4 (8) If a qualified affordable housing project no longer meets
5 the requirements of subsection (9)(b) or fails to operate those
6 residential rental units as rent restricted units in accordance
7 with the operation agreement and the requirements of subsection
8 (9)(c), the taxpayer is entitled to the deductions under
9 subsections (6) and (7) as long as the qualified affordable housing
10 project continues to offer some of the residential rental units
11 purchased as rent restricted units in accordance with the operation
12 agreement.

13 (9) For purposes of subsections (6), (7), and (8) and this
14 subsection:

15 (a) "Limited dividend housing association" means a limited
16 dividend housing association, corporation, or cooperative organized
17 and qualified pursuant to chapter 7 of the state housing
18 development authority act of 1966, 1966 PA 346, MCL 125.1491 to
19 125.1496.

20 (b) "Qualified affordable housing project" means a person that
21 is organized, qualified, and operated as a limited dividend housing
22 association that has a limitation on the amount of dividends or
23 other distributions that may be distributed to its owners in any
24 given year and has received funding, subsidies, grants, operating
25 support, or construction or permanent funding through 1 or more of
26 the following sources and programs:

27 (i) Mortgage or other financing provided by the Michigan state

1 housing development authority created in section 21 of the state
2 housing development authority act of 1966, 1966 PA 346, MCL
3 125.1421, the United States department of housing and urban
4 development, the United States department of agriculture for rural
5 housing service, the Michigan interfaith housing trust fund,
6 Michigan housing and community development fund, federal home loan
7 bank, housing commission loan, community development financial
8 institution, or mortgage or other funding or guaranteed by Fannie,
9 Ginnie, federal housing association, United States department of
10 agriculture, or federal home loan mortgage corporation.

11 (ii) A tax-exempt bond issued by a nonprofit organization,
12 local governmental unit, or other authority.

13 (iii) A payment in lieu of tax agreement or other tax abatement.

14 (iv) Funding from the state or a local governmental unit
15 through a HOME investments partnership program authorized under 42
16 USC 12741 to 12756.

17 (v) A grant or other funding from a federal home loan bank's
18 affordable housing program.

19 (vi) Financing or funding under the new markets tax credit
20 program under section 45D of the internal revenue code.

21 (vii) Financed in whole or in part under the United States
22 department of housing and urban development's hope VI program as
23 authorized by section 803 of the national affordable housing act,
24 42 USC 8012.

25 (viii) Financed in whole or in part under the United States
26 department of housing and urban development's section 202 program
27 authorized by section 202 of the national housing act, 12 USC

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2 (ix) Financing or funding under the low-income housing tax
3 credit program under section 42 of the internal revenue code.

4 (x) Financing or other subsidies from any new programs similar
5 to any of the above.

6 (c) "Rent restricted unit" means any residential rental unit's
7 rental income is restricted in accordance with section 42(g)(1) of
8 the internal revenue code as if it was a qualified low-income
9 housing project, or receives rental assistance in the form of HUD
10 section 8 subsidies or HUD housing assistance program subsidies, or
11 rental assistance from the United States department of agriculture
12 rural housing programs, or from any of the other programs described
13 under subdivision (b).

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

16 (a) Sales of tangible personal property are in this state if
17 the property is shipped or delivered, or, in the case of
18 electricity and gas, the contract requires the property to be
19 shipped or delivered, to any purchaser within this state based on
20 the ultimate destination at the point that the property comes to
21 rest regardless of the free on board point or other conditions of
22 the sales. **[PROPERTY STORED IN TRANSIT FOR 60 DAYS OR MORE PRIOR TO
23 RECEIPT BY THE PURCHASER OR THE PURCHASER'S DESIGNEE, OR IN THE CASE OF
24 A DOCK SALE NOT PICKED UP FOR 60 DAYS OR MORE, SHALL BE DEEMED TO HAVE
25 COME TO REST AT THIS ULTIMATE DESTINATION. PROPERTY STORED IN TRANSIT
26 FOR FEWER THAN 60 DAYS PRIOR TO RECEIPT BY THE PURCHASER OR THE
27 PURCHASER'S DESIGNEE, OR IN THE CASE OF A DOCK SALE NOT PICKED UP BEFORE**

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1 60 DAYS, IS NOT DEEMED TO HAVE COME TO REST AT THIS ULTIMATE DESTINATION.
FOR PURPOSES OF THIS SUBDIVISION:

(i) "DOCK SALE" MEANS A SALE IN WHICH THE PURCHASER USES ITS OWN OR RENTED VEHICLES, OR MAKES ARRANGEMENTS WITH A CARRIER, TO PICK UP THE PROPERTY AT THE SELLER'S LOCATION.

(ii) "STORED IN TRANSIT" MEANS STORING, STAGING, FORWARDING, OR CONSOLIDATING ACTIVITIES UNDERTAKEN FOR FURTHER SHIPMENT OR TRANSFER OF THE PROPERTY TO THE PURCHASER OR PURCHASER'S DESIGNEE.]

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

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

18 (d) Receipts from the lease or rental of mobile transportation
19 property owned by the taxpayer are in this state to the extent that
20 the property is used in this state. The extent an aircraft will be
21 deemed to be used in this state and the amount of receipts that is
22 to be included in the numerator of this state's sales factor is
23 determined by multiplying all the receipts from the lease or rental
24 of the aircraft by a fraction, the numerator of the fraction is the
25 number of landings of the aircraft in this state and the
26 denominator of the fraction is the total number of landings of the

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27 aircraft. If the extent of the use of any transportation property

1 within this state cannot be determined, then the receipts are in
2 this state if the property has its principal base of operations in
3 this state.

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

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

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

1 receives benefit of the services in this state.

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

18 (c) Sales of services that are derived directly or indirectly
19 from the sale of management, distribution, administration, or
20 securities brokerage services to, or on behalf of, a regulated
21 investment company or its beneficial owners, including receipts
22 derived directly or indirectly from trustees, sponsors, or
23 participants of employee benefit plans that have accounts in a
24 regulated investment company, shall be attributable to this state
25 to the extent that the shareholders of the regulated investment
26 company are domiciled within this state. For purposes of this
27 subdivision, "domicile" means the shareholder's mailing address on

1 the records of the regulated investment company. If the regulated
2 investment company or the person providing management services to
3 the regulated investment company has actual knowledge that the
4 shareholder's primary residence or principal place of business is
5 different than the shareholder's mailing address, then the
6 shareholder's primary residence or principal place of business is
7 the shareholder's domicile. A separate computation shall be made
8 with respect to the receipts derived from each regulated investment
9 company. The total amount of sales attributable to this state shall
10 be equal to the total receipts received by each regulated
11 investment company multiplied by a fraction determined as follows:

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

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

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

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

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

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

1 the real property is located within this state.

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

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

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

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

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

25 (8) Receipts from the sale of credit card or other receivables
26 is in this state if the billing address of the customer is in this
27 state. Credit card issuer's reimbursements fees are in this state

1 if the billing address of the cardholder is in this state. Receipts
2 from merchant discounts, computed net of any cardholder
3 chargebacks, but not reduced by any interchange transaction fees or
4 by any issuer's reimbursement fees paid to another for charges made
5 by its cardholders, are in this state if the commercial domicile of
6 the merchant is in this state.

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

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

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

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

27 (i) Interest, dividends, and other income from investment

1 assets and activities and from trading assets and activities,
2 including, but not limited to, investment securities; trading
3 account assets; federal funds; securities purchased and sold under
4 agreements to resell or repurchase; options; futures contracts;
5 forward contracts; notional principal contracts such as swaps;
6 equities; and foreign currency transactions are in this state if
7 the average value of the assets is assigned to a regular place of
8 business of the taxpayer within this state. Interest from federal
9 funds sold and purchased and from securities purchased under resale
10 agreements and securities sold under repurchase agreements are in
11 this state if the average value of the assets is assigned to a
12 regular place of business of the taxpayer within this state. The
13 amount of receipts and other income from investment assets and
14 activities is in this state if assets are assigned to a regular
15 place of business of the taxpayer within this state.

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

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

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

1 person everywhere.

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

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

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

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

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

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

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

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

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

1 (a) The call both originates and terminates in this state.

2 (b) The call either originates or terminates in this state and
3 the service address is located in this state.

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

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

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

20 (a) 100% of the receipts from the sale of each channel
21 termination point within this state.

22 (b) 100% of the receipts from the sale of the total channel
23 mileage between each termination point within this state.

24 (c) 50% of the receipts from the sale of service segments for
25 a channel between 2 customer channel termination points, 1 of which
26 is located in this state and the other is located outside of this
27 state, which segments are separately charged.

1 (d) The receipts from the sale of service for segments with a
2 channel termination point located in this state and in 2 or more
3 other states or equivalent jurisdictions, and which segments are
4 not separately billed, are in this state based on a percentage
5 determined by dividing the number of customer channel termination
6 points in this state by the total number of customer channel
7 termination points.

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

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

18 (a) 100% of the receipts from access fees attributable to
19 intrastate telecommunications service that both originates and
20 terminates in this state.

21 (b) 50% of the receipts from access fees attributable to
22 interstate telecommunications service if the interstate call either
23 originates or terminates in this state.

24 (c) 100% of the receipts from interstate end user access line
25 charges, if the customer's service address is in this state. As
26 used in this subdivision, "interstate end user access line charges"
27 includes, but is not limited to, the surcharge approved by the

1 federal communications commission and levied pursuant to 47 CFR 69.

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

9 (20) Except as otherwise provided under this subsection, for a
10 taxpayer whose business activities include live radio or television
11 programming as described in subsector code 7922 of industry group
12 792 under the standard industrial classification code as compiled
13 by the United States department of labor or are included in
14 industry ~~groups~~**GROUP** 483, 484, 781, or 782 under the standard
15 industrial classification code as compiled by the United States
16 department of labor, or any combination of the business activities
17 included in those groups, media receipts are in this state and
18 attributable to this state only if the commercial domicile of the
19 customer is in this state and the customer has a direct connection
20 or relationship with the taxpayer pursuant to a contract under
21 which the media receipts are derived. For media receipts from the
22 sale of advertising, if the customer of that advertising is
23 commercially domiciled in this state and receives some of the
24 benefit of the sale of that advertising in this state, the media
25 receipts from the advertising to that customer are included in the
26 numerator of the apportionment factor in proportion to the extent
27 that the customer receives the benefit of the advertising in this

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1 state. For purposes of this subsection, if the taxpayer is a
2 broadcaster and if the customer receives some of the benefit of the
3 advertising in this state, the media receipts for that sale of
4 advertising from that customer shall be proportioned based on the
5 ratio that the broadcaster's viewing or listening audience in this
6 state bears to its total viewing or listening audience everywhere.
7 As used in this subsection:

8 (a) "Media property" means motion pictures, television
9 programs, internet programs and websites, other audiovisual works,
10 and any other similar property embodying words, ideas, concepts,
11 images, or sound without regard to the means or methods of
12 distribution or the medium in which the property is embodied.

13 (b) "Media receipts" means receipts from the sale, license,
14 broadcast, transmission, distribution, exhibition, or other use of
15 media property and receipts from the sale of media services. Media
16 receipts do not include receipts from the sale of media property
17 that is a consumer product that is ultimately sold at retail.

18 (c) "Media services" means services in which the use of the
19 media property is integral to the performance of those services.

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

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

[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 S04380'11 (H-2)

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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. Only those expenditures that are paid or incurred during the time periods prescribed for the credit under section 47(a)(2) of the internal revenue code and any related treasury regulations shall be considered qualified expenditures.

(2) The credit allowed under this subsection shall be 25% of the qualified expenditures that are eligible, or would have been eligible except that the taxpayer entered into an agreement under subsection (13), 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 or the taxpayer has entered into an agreement under subsection (13).

(b) A credit under this subsection 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 subsection (2), the taxpayer shall apply to and receive from the Michigan state housing development authority 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 authority to qualify for the credit allowed under section 47(a)(2) of the internal revenue code.

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If the qualified taxpayer has previously filed for certification with the authority 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 authority 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 authority 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.

(v) The historic resource is subject to a historic preservation easement.

(7) For projects for which a certificate of completed rehabilitation is issued for a tax year beginning before January 1, 2009, 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,

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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 attach 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) For projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2008, a qualified taxpayer may assign all or any portion of the credit allowed under this section. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completed rehabilitation is issued pursuant to this section. An assignee may subsequently assign the credit or any portion of the credit assigned under this subsection to 1 or more assignees. An assignment or subsequent reassignment of a credit can be made in the year the certificate of completed rehabilitation is issued. A credit assignment or subsequent reassignment under this section shall be made on a form prescribed by the department. The department or its designee shall review and issue a completed assignment or reassignment certificate to the assignee or reassignee. A credit amount assigned under this subsection may be claimed against the assignees' tax under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. An assignee or subsequent reassignee shall attach a copy of the completed assignment certificate to the annual return required to be filed under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, for the tax year in which the assignment or reassignment is made and the assignee or reassignee first claims the credit, which shall be the same tax year.

(9) 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. If a qualified taxpayer has an unused carryforward of a credit under this section, the amount otherwise

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added under subsection (10), (11), or (12) to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under this section. 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. For projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2008 and for which the credit amount allowed is less than \$250,000.00, a qualified taxpayer may elect to forgo the carryover period and receive a refund of the amount of the credit that exceeds the qualified taxpayer's tax liability. The amount of the refund shall be equal to 90% of the amount of the credit that exceeds the qualified taxpayer's tax liability. An election under this subsection shall be made in the year that a certificate of completed rehabilitation is issued and shall be irrevocable.

(10) For tax years beginning before January 1, 2009, 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.

(11) For tax years beginning before January 1, 2009, 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

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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.

(12) Except as otherwise provided under subsection (13), for tax years beginning after December 31, 2008, if a certificate of completed rehabilitation is revoked under subsection (5), a preapproval letter is revoked under subsection (23)(b), or an historic resource is sold or disposed of less than 5 years after the historic resource is placed in service as defined in section 47(b)(1) of the internal revenue code and related treasury regulations or if a certificate of completed rehabilitation issued after December 1, 2008 is revoked under subsection (5) during a tax year beginning after December 31, 2008, a preapproval letter issued after December 1, 2008 is revoked under subsection (23)(b) during a tax year beginning after December 31, 2008, or an historic resource is sold or disposed of less than 5 years after the historic resource is placed in service during a tax year beginning after December 31, 2008, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the qualified taxpayer that received the certificate of completed rehabilitation and not the assignee in the year of the revocation:

(a) If the revocation is less than 1 year after the historic resource is placed in service, 100%.

(b) If the revocation is at least 1 year but less than 2 years after the historic resource is placed in service, 80%.

(c) If the revocation is at least 2 years but less than 3 years after the historic resource is placed in service, 60%.

(d) If the revocation is at least 3 years but less than 4 years after the historic resource is placed in service, 40%.

(e) If the revocation is at least 4 years but less than 5 years after the historic resource is placed in service, 20%.

(f) If the revocation is at least 5 years or more after the historic resource is placed in service, an addback to the qualified taxpayer tax liability shall not be required.

(13) Subsection (12) shall not apply if the qualified taxpayer enters into a written agreement with the authority that will allow for the transfer or sale of the historic resource and provides the following:

(a) Reasonable assurance that subsequent to the transfer the property will remain a historic resource during the 5-year period after the historic resource is placed in service.

(b) A method that the department can recover an amount from the taxpayer equal to the appropriate percentage of credit added back as described under subsection (12).

(c) An encumbrance on the title to the historic resource being sold or transferred, stating that the property must remain a historic resource throughout the 5-year period after the historic resource is placed in service.

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

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

(15) 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 or assignee has assigned any portion of a credit allowed under this section or if the taxpayer is an assignee of any portion of a credit allowed under this section.

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

(17) The total of the credits claimed under subsection (2) 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 subsection (2) for that rehabilitation project.

(18) The authority shall report all of the following to the legislature annually for the immediately preceding state fiscal year:

(a) The fee schedule used by the authority 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.

(19) In addition to the credit allowed under subsection (2) and subject to the criteria under this subsection and subsections (21), (22), and (23), for tax years that begin on and after January 1, 2009 a qualified taxpayer that has a preapproval letter issued on or before December 31, 2013 may claim an additional credit that has been approved under this subsection or subsection (20) against the tax imposed by this act equal to a percentage established in the taxpayer's preapproval letter of the qualified taxpayer's qualified expenditures for the rehabilitation of an historic resource or the actual amount of the qualified taxpayer's qualified expenditures incurred during the completion of the rehabilitation of an historic resource, whichever is less. The authority may approve 1 credit under this subsection for a qualified taxpayer that receives a certificate of completed rehabilitation for a credit under subsection (2) on or after January 1, 2009 and before November 15, 2009 notwithstanding that the qualified taxpayer has not received a preapproval letter for a credit under this subsection. The qualified taxpayer must apply for the additional credit under this subsection before January 1, 2010. If the additional credit approved under this subsection for a qualified taxpayer that has not

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received a preapproval letter on or before December 31, 2009 exceeds the allotted amount available for additional credits approved under this subsection in the calendar year ending December 31, 2009, then \$2,800,000.00 of the allotted amount available in the calendar year ending December 31, 2010 may be allocated to that 1 credit. The total amount of all additional credits approved under this subsection shall not exceed \$8,000,000.00 in calendar year ending December 31, 2009; \$9,000,000.00 in calendar year ending December 31, 2010; \$10,000,000.00 in calendar year ending December 31, 2011; \$11,000,000.00 in calendar year ending December 31, 2012; and \$12,000,000.00 in calendar year ending December 31, 2013 and, except as otherwise provided under this subsection, at least, 25% of the allotted amount for additional credits approved under this subsection during each calendar year shall be allocated to rehabilitation plans that have \$1,000,000.00 or less in qualified expenditures. On October 1 of each calendar year, if the total of all credits approved under subdivision (a) for the calendar year is less than the minimum allotted amount, the authority may use the remainder of that allotted amount to approve applications for additional credits submitted under subdivision (b) for that calendar year. To be eligible for the additional credit under this subsection, the taxpayer shall apply to and receive a preapproval letter and comply with the following:

(a) For a rehabilitation plan that has \$1,000,000.00 or less in qualified expenditures, the taxpayer shall apply to the authority for approval of the additional credit under this subsection. Subject to the limitation provided under this subsection, the authority is authorized to approve an application under this subdivision and determine the percentage of at least 10% but not more than 15% of the taxpayer's qualified expenditures for which he or she may claim an additional credit. If the authority approves the application under this subdivision, then the authority shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the rehabilitation plan when it is complete and a certification of completed rehabilitation is issued.

(b) For a rehabilitation plan that has more than \$1,000,000.00 in qualified expenditures, the taxpayer shall apply to the authority for approval of the additional credit under this subsection. The authority, subject to the approval of the president of the Michigan strategic fund or his or her designee, is authorized to approve an application under this subdivision and determine the percentage of up to 15% of the taxpayer's qualified expenditures for which he or she may claim an additional credit. An application shall be approved or denied not more than 15 business days after the authority has reviewed the application, determined the percentage amount of the credit for that applicant, and submitted the same to the president of the Michigan strategic fund or his or her designee. If the president of the Michigan strategic fund or his or her designee does not approve or deny the application within 15 business days after the application is received from the authority, the application is considered approved and the credit awarded in the amount

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as determined by the authority. If the president of the Michigan strategic fund or his or her designee approves the application under this subdivision, the director of the authority shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the rehabilitation plan when it is complete and a certification of completed rehabilitation is issued.

(20) Except as otherwise provided under this subsection, the authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may approve 3 additional credits during the 2009 calendar year of up to 15% of the qualified taxpayer's qualified expenditures, and 2 additional credits during the 2010, 2011, 2012, and 2013 calendar years of up to 15% of the qualified taxpayer's qualified expenditures, for certain rehabilitation plans that the authority determines is a high community impact rehabilitation plan that will have a significantly greater historic, social, and economic impact than those plans described under subsection (19)(a) and (b). The authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may use 1 of the 2 additional credits available during the 2010 calendar year to approve an additional credit during the 2009 calendar year of up to 15% of the qualified taxpayer's qualified expenditures and 1 of the 2 additional credits available during the 2011 calendar year to approve an additional credit during the 2010 calendar year of up to 15% of the qualified taxpayer's qualified expenditures. Subject to the limitations provided under subsection (21), for the 2011, 2012, and 2013 calendar years, of the additional credits available under this subsection the authority may use 1 of those credits to approve a combined rehabilitation plan that the authority determines would allow for the rehabilitation of several multiple historic resources within the same geographic district and would have a greater impact on the community than the approval of a plan for the rehabilitation of a single larger historic resource. To be eligible for the additional credit under this subsection, the taxpayer shall apply to and receive a preapproval letter from the authority. The authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may combine applications that are received for the rehabilitation of historic resources that are located within the same geographic district and that taken as a whole satisfy the additional requirements under subsection (28) and consider the approval of the combination of those applications as the approval of a single credit for a combined rehabilitation plan. An application shall be approved or denied not more than 15 business days after the authority has reviewed the application, determined the percentage amount of the credit for that applicant, and submitted the same to the president of the Michigan strategic fund and the state treasurer. If the president of the Michigan strategic fund and the state treasurer do not approve or deny the application within 15 business days after the application is received from the authority, the application is considered approved and the credit awarded in the amount as determined by the authority. If the president of the Michigan strategic fund and the state treasurer approve the

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application under this subsection, the authority shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the high community impact rehabilitation plan when it is complete and a certification of completed rehabilitation is issued. Before approving a credit under this subsection, the authority shall consider all of the following criteria to the extent reasonably applicable:

- (a) The importance of the historic resource to the community in which it is located.
- (b) If the rehabilitation of the historic resource will act as a catalyst for additional rehabilitation or revitalization of the community in which it is located.
- (c) The potential that the rehabilitation of the historic resource will have for creating or preserving jobs and employment in the community in which it is located.
- (d) Other social benefits the rehabilitation of the historic resource will bring to the community in which it is located.
- (e) The amount of local community and financial support for the rehabilitation of the historic resource.
- (f) The taxpayer's financial need of the additional credit.
- (g) Whether the taxpayer is eligible for the credit allowed under section 47(a) (2) of the internal revenue code.
- (h) Any other criteria that the authority, the president of the Michigan strategic fund, and the state treasurer consider appropriate for the determination of approval under this subsection.

(21) The maximum amount of credit that a taxpayer or an assignee may claim under subsection (20) during a tax year is \$3,000,000.00. If the amount of the credit approved in the taxpayer's certificate of completed renovation is greater than \$3,000,000.00 that portion that exceeds the cap shall be carried forward to offset tax liability in subsequent tax years until used up. The aggregate amount of credits approved under subsection (20) for a combined rehabilitation plan shall not exceed \$24,000,000.00. Except as otherwise provided in the preapproval letter, the amount of the credit allowed for a combined rehabilitation plan shall be applied pro rata to each of the qualified taxpayers that submitted an application under subsection (20) that was considered a part of a combined rehabilitation plan. The taxpayer's pro rata share shall be the total amount of the credit allowed multiplied by a fraction the numerator of which is the amount of investment made by the taxpayer for the rehabilitation of the taxpayer's historic resource during the tax year and the denominator of which is the sum of the investments made by all taxpayers for the rehabilitation of all historic resources included within the combined rehabilitation plan during the tax year.

(22) Before approving a credit, determining the amount of such credit, and issuing a preapproval letter for such credit under subsection (19) or before considering an amendment to the preapproval letter, the authority shall consider the following criteria to the extent reasonably applicable:

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(a) The importance of the historic resource to the community.
(b) The physical condition of the historic resource.
(c) The taxpayer's financial need of the additional credit.
(d) The overall economic impact the renovation will have on the community.

(e) Any other criteria that the authority and the president of the Michigan strategic fund, as applicable, consider appropriate for the determination of approval under subsection (19).

(23) The authority may at any time before a certification of completed rehabilitation is issued for a credit for which a preapproval letter was issued pursuant to subsection (19) do the following:

(a) Subject to the limitations and parameters under subsection (19), make amendments to the preapproval letter, which may include revising the amount of qualified expenditures for which the taxpayer may claim the additional credit under subsection (19).

(b) Revoke the preapproval letter if the authority determines that there has not been substantial progress toward completion of the rehabilitation plan or that the rehabilitation plan cannot be completed. The authority shall provide the qualified taxpayer with a notice of his or her intent to revoke the preapproval letter 45 days prior to the proposed date of revocation.

(24) If a preapproval letter is revoked under subsection (23)(b), the amount of the credit approved under that preapproval letter shall be added to the annual cap in the calendar year that the preapproval letter is revoked. After a certification of completed rehabilitation is issued for a rehabilitation plan approved under subsection (19), if the authority determines that the actual amount of the additional credit to be claimed by the taxpayer for the calendar year is less than the amount approved under the preapproval letter, the difference shall be added to the annual cap in the calendar year that the certification of completed rehabilitation is issued.

(25) Unless otherwise specifically provided under subsections (19) through (24), all other provisions under this section such as the recapture of credits, assignment of credits, and refundability of credits in excess of a qualified taxpayer's tax liability apply to the additional credits issued under subsections (19) and (20).

(26) In addition to meeting the criteria in subsection (20)(a) through (h), 3 of the credits available under subsection (20), including the credit used from the 2010 calendar year, and approved during the 2009 calendar year for a high community impact rehabilitation plan shall be for an application meeting 1 of the following criteria:

(a) All of the following:
(i) The historic resource must be at least 70 years old.
(ii) The historic resource must comprise at least 500,000 total square feet.

(iii) The historic resource must be located in a county with a population of more than 1,500,000.

(iv) The historic resource must be located in a city with an unemployment rate that is at least 2% higher than the current state

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average unemployment rate at the time of the application.

(b) All of the following:

(i) The historic resource must be at least 85 years old.

(ii) The historic resource must comprise at least 120,000 total square feet.

(iii) The historic resource must be located in a county with a population of more than 400,000 and less than 500,000.

(iv) The historic resource must be located in a city with a population of more than 100,000 and less than 125,000.

(v) The historic resource must be located in a city with an unemployment rate that is at least 2% higher than the current state average unemployment rate at the time of the application.

(c) All of the following:

(i) The historic resource must be at least 70 years old.

(ii) The historic resource must comprise at least 180,000 total square feet but not more than 250,000 square feet and must exceed 30 stories in height.

(iii) The historic resource must be located in a county with a population of more than 1,500,000.

(iv) The historic resource must be located in a city with an unemployment rate that is at least 2% higher than the current state average unemployment rate at the time of the application.

(v) The historic resource must be located in a historic district that contains a park bifurcated by an all-American road designated by the federal highway administration in a city with a population of more than 750,000.

(vi) The historic resource must have been included in a rehabilitation plan for which an application was submitted by the application deadline for consideration of an additional credit for the 2009 calendar year for a high community impact rehabilitation plan.

(27) In addition to meeting the criteria in subsection (20) (a) through (h), 1 of the credits available under subsection (20), including the credit used from the 2011 calendar year, and approved during the 2010 calendar year for a high community impact rehabilitation plan shall be for an application that meets all of the following criteria:

(a) The historic resource must be at least 85 years old.

(b) The historic resource must comprise at least 85,000 total square feet.

(c) The historic resource must be located in a county with a population of more than 500,000 but less than 600,000 according to the official 2000 federal decennial census.

(d) The historic resource must be located in a city with a population of more than 180,000 but less than 200,000 according to the official 2000 federal decennial census.

(e) The historic resource is or was formerly owned by the United States government or formerly housed agencies of the United States government, or both.

(f) The historic resource houses facilities operated in conjunction with a public university.

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(28) In addition to meeting the criteria in subsection (20) (a) through (h), the credit available during the 2011, 2012, and 2013 calendar years and approved for a combined rehabilitation plan under subsection (20) shall be for applications that taken as a whole meet all of the following criteria:

(a) The geographic district in which the historic resources to be rehabilitated are located must not exceed 1 square mile.

(b) The historic resources to be rehabilitated combined must comprise more than 1,000,000 square feet.

(c) The historic resources to be rehabilitated combined must be redeveloped into residential, commercial, and retail establishments.

(d) The combined investment associated with the historic resources to be rehabilitated must be at least \$150,000,000.00.

(e) Each historic resource to be rehabilitated must be at least 50,000 square feet.

(f) The historic resources to be rehabilitated combined must be at least 80% vacant.

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

(30) NOTWITHSTANDING SUBSECTIONS (7) AND (8), FOR PROJECTS FOR WHICH A CERTIFICATE OF COMPLETED REHABILITATION IS ISSUED FOR A TAX YEAR BEGINNING AFTER DECEMBER 31, 2007 AND ENDING BEFORE JANUARY 1, 2012, AN ASSIGNMENT BY A QUALIFIED TAXPAYER OF ALL OR ANY PORTION OF A CREDIT ALLOWED UNDER SUBSECTION (1), (19), OR (20), MADE WITHIN THE 12 MONTHS IMMEDIATELY SUCCEEDING THE TAX YEAR IN WHICH THE CERTIFICATE OF COMPLETED REHABILITATION IS ISSUED, WILL QUALIFY AS AN ASSIGNMENT UNDER SUBSECTIONS (7) AND (8).

(31) ~~(30)~~ As used in this section:

(a) "Combined rehabilitation plan" means a rehabilitation plan for the rehabilitation of 1 or more historic resources that are located within the same geographic district.

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

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

(d) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within 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 a 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

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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.

(e) "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.

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

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

(h) "Michigan state housing development authority" or "authority" means the public body corporate and politic created by section 21 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1421.

(i) "Michigan strategic fund" means the Michigan strategic fund created under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(j) "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.

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

(l) "Preapproval letter" means a letter issued by the authority that indicates the date that the complete part 2 application was received and the amount of the credit allocated to the project based on the estimated rehabilitation cost included in the application.

(m) "Qualified expenditures" means capital expenditures that qualify, or would qualify except that the taxpayer entered into an agreement under subsection (13), 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. 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.

(n) "Qualified taxpayer" means a person that either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for

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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.

(o) "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.]

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Enacting section 1. This amendatory act is curative and

1 intended to clarify the original intent of 2007 PA 36 and shall be
2 retroactively applied.