

# HOUSE BILL No. 5557

April 13, 2016, Introduced by Rep. Farrington and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 680 (MCL 206.680), as amended by 2012 PA 70.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           Sec. 680. (1) Notwithstanding any other provision of this  
2 part, except as otherwise provided in ~~subsection (2)~~ **THIS SECTION**  
3 for a certificated credit under section 435 or 437 of the Michigan  
4 business tax act, 2007 PA 36, MCL 208.1435 and 208.1437, a taxpayer  
5 that has been approved to receive, has received, or has been  
6 assigned a certificated credit that has not been fully claimed or  
7 paid prior to January 1, 2012 may, for the taxpayer's first tax  
8 year ending after December 31, 2011 only, elect to file a return  
9 and pay the tax imposed by the Michigan business tax act, 2007 PA  
10 36, MCL 208.1101 to 208.1601, in lieu of the tax imposed by this

1 part. An election under this subsection shall continue for the  
2 period prescribed in section 500(1) of the Michigan business tax  
3 act, 2007 PA 36, MCL 208.1500.

4 (2) A taxpayer with a certificated credit under section 435 or  
5 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1435 and  
6 208.1437, which certificated credit may be claimed in a tax year  
7 ending after December 31, 2011 may elect to pay the tax imposed by  
8 the Michigan business tax act, 2007 PA 36, MCL 208.1101 to  
9 208.1601, in the tax year in which that certificated credit or any  
10 unused carryforward may be claimed in lieu of the tax imposed by  
11 this part.

12 (3) A taxpayer that is a member of a unitary business group  
13 and that has a certificated credit under sections 431 and 434(2)  
14 and (5) of the Michigan business tax act, 2007 PA 36, MCL 208.1431  
15 and 208.1434, is not required to file a combined return as a  
16 unitary business group and may elect to file a separate return and  
17 pay the tax, if any, under the Michigan business tax act, 2007 PA  
18 36, MCL 208.1101 to 208.1601.

19 (4) A taxpayer that elects to pay the tax imposed by the  
20 Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601,  
21 under this section is not required to file an annual return under  
22 this part.

23 (5) IF A TAXPAYER ACQUIRES BY MERGER ALL RIGHTS, PRIVILEGES,  
24 AND LIABILITIES OF ANOTHER PERSON OR MEMBER OF A UNITARY BUSINESS  
25 GROUP THAT HAS BEEN APPROVED TO RECEIVE, HAS RECEIVED, OR HAS BEEN  
26 ASSIGNED A CERTIFICATED CREDIT UNDER SECTION 431, 435, OR 437 OF  
27 THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1431, 208.1435,

1 AND 208.1437, THAT HAS NOT BEEN FULLY CLAIMED OR PAID PRIOR TO THE  
2 DATE OF THE MERGER, AND THAT PERSON OR MEMBER OF THE UNITARY  
3 BUSINESS GROUP HAS FILED A RETURN OR HAS BEEN INCLUDED IN A  
4 COMBINED RETURN AND PAID THE TAX IMPOSED BY THE MICHIGAN BUSINESS  
5 TAX ACT, 2007 PA 36, MCL 208.1101 TO 208.1601, FOR A TAX YEAR  
6 ENDING AFTER DECEMBER 31, 2011, IN LIEU OF THE TAX IMPOSED BY THIS  
7 PART, IN ORDER TO CLAIM THAT CERTIFICATED CREDIT, THEN THE  
8 ACQUIRING TAXPAYER MAY, FOR THE FIRST TAX YEAR ENDING AFTER THE  
9 ACQUISITION AND THE ASSIGNMENT OF THE CERTIFICATED CREDIT OR  
10 CREDITS IS COMPLETE ONLY, ELECT TO PAY THE TAX IMPOSED BY THE  
11 MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1101 TO 208.1601, IN  
12 LIEU OF THE TAX IMPOSED BY THIS PART. A TAXPAYER THAT ELECTS UNDER  
13 THIS SUBSECTION TO PAY THE TAX IMPOSED BY THE MICHIGAN BUSINESS TAX  
14 ACT, 2007 PA 36, MCL 208.1101 TO 208.1601, FOR A TAX YEAR ENDING  
15 BEFORE THE ENACTMENT DATE OF THE AMENDATORY ACT THAT ADDED THIS  
16 SUBSECTION AND FOR WHICH THE TAXPAYER HAS ALREADY FILED UNDER THIS  
17 PART SHALL FILE AN AMENDED RETURN FOR THAT TAX YEAR IF THE TAXPAYER  
18 FILED A RETURN UNDER THIS PART AND EACH TAX YEAR THEREAFTER, IF  
19 APPLICABLE, AND FILE AN ORIGINAL RETURN AS PROVIDED UNDER SECTION  
20 505 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1505. AN  
21 ELECTION UNDER THIS SUBSECTION SHALL CONTINUE FOR THE PERIOD  
22 PRESCRIBED IN SECTION 500 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA  
23 36, MCL 208.1500.

24 (6) ~~(5)~~—As used in this section, "certificated credit" means  
25 that term as defined in section 107 of the Michigan business tax  
26 act, 2007 PA 36, MCL 208.1107.

27 Enacting section 1. This amendatory act is retroactive and

1 effective for tax years beginning after December 31, 2011.

2 Enacting section 2. This amendatory act does not take effect  
3 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5558 (request no.  
4 04970'16) of the 98th Legislature is enacted into law.