

SENATE BILL No. 378

June 13, 2019, Introduced by Senators HORN, LASATA and MACDONALD and referred to the Committee on Economic and Small Business Development.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.713) by adding section 674.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 674. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,
2 2019, A TAXPAYER THAT HAS INCURRED QUALIFIED RESEARCH AND
3 DEVELOPMENT EXPENSES IN THIS STATE DURING THE TAX YEAR MAY CLAIM A
4 CREDIT AGAINST THE TAX IMPOSED BY THIS PART EQUAL TO THE SUM OF THE
5 FOLLOWING:

6 (A) FOR A TAXPAYER THAT INCURRED QUALIFIED RESEARCH AND
7 DEVELOPMENT EXPENSES WITHIN A QUALIFIED OPPORTUNITY ZONE DURING
8 EACH OF THE TAX YEARS WITHIN THE BASE PERIOD, 12% OF THE DIFFERENCE
9 BETWEEN THE AMOUNT OF THE TAXPAYER'S QUALIFIED RESEARCH AND
10 DEVELOPMENT EXPENSES INCURRED WITHIN A QUALIFIED OPPORTUNITY ZONE

1 DURING THE TAX YEAR FOR WHICH THE CREDIT IS CLAIMED AND AN AMOUNT
2 EQUAL TO 50% OF THE AVERAGE AMOUNT OF THE TAXPAYER'S QUALIFIED
3 RESEARCH AND DEVELOPMENT EXPENSES INCURRED WITHIN A QUALIFIED
4 OPPORTUNITY ZONE DURING THE BASE PERIOD.

5 (B) FOR A TAXPAYER THAT DID NOT INCUR QUALIFIED RESEARCH AND
6 DEVELOPMENT EXPENSES WITHIN A QUALIFIED OPPORTUNITY ZONE DURING 1
7 OR MORE OF THE TAX YEARS WITHIN THE BASE PERIOD, 6.4% OF THE
8 DIFFERENCE BETWEEN THE AMOUNT OF THE TAXPAYER'S QUALIFIED RESEARCH
9 AND DEVELOPMENT EXPENSES INCURRED WITHIN A QUALIFIED OPPORTUNITY
10 ZONE DURING THE TAX YEAR FOR WHICH THE CREDIT IS CLAIMED AND AN
11 AMOUNT EQUAL TO 50% OF THE AVERAGE AMOUNT OF THE TAXPAYER'S
12 QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES INCURRED WITHIN A
13 QUALIFIED OPPORTUNITY ZONE DURING THE BASE PERIOD.

14 (C) FOR A TAXPAYER THAT INCURRED QUALIFIED RESEARCH AND
15 DEVELOPMENT EXPENSES OUTSIDE OF A QUALIFIED OPPORTUNITY ZONE DURING
16 EACH OF THE TAX YEARS WITHIN THE BASE PERIOD, 5% OF THE DIFFERENCE
17 BETWEEN THE AMOUNT OF THE TAXPAYER'S QUALIFIED RESEARCH AND
18 DEVELOPMENT EXPENSES INCURRED OUTSIDE OF A QUALIFIED OPPORTUNITY
19 ZONE DURING THE TAX YEAR FOR WHICH THE CREDIT IS CLAIMED AND AN
20 AMOUNT EQUAL TO 50% OF THE AVERAGE AMOUNT OF THE TAXPAYER'S
21 QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES INCURRED OUTSIDE OF A
22 QUALIFIED OPPORTUNITY ZONE DURING THE BASE PERIOD.

23 (D) FOR A TAXPAYER THAT DID NOT INCUR QUALIFIED RESEARCH AND
24 DEVELOPMENT EXPENSES OUTSIDE OF A QUALIFIED OPPORTUNITY ZONE DURING
25 1 OR MORE OF THE TAX YEARS WITHIN THE BASE PERIOD, 2.14% OF THE
26 DIFFERENCE BETWEEN THE AMOUNT OF THE TAXPAYER'S QUALIFIED RESEARCH
27 AND DEVELOPMENT EXPENSES INCURRED OUTSIDE OF A QUALIFIED

1 OPPORTUNITY ZONE DURING THE TAX YEAR FOR WHICH THE CREDIT IS
2 CLAIMED AND AN AMOUNT EQUAL TO 50% OF THE AVERAGE AMOUNT OF THE
3 TAXPAYER'S QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES INCURRED
4 OUTSIDE OF A QUALIFIED OPPORTUNITY ZONE DURING THE BASE PERIOD.

5 (2) FOR EACH TAX YEAR FOR WHICH A CREDIT IS CLAIMED UNDER THIS
6 SECTION AND FOR EACH TAX YEAR IN A BASE PERIOD, A TAXPAYER SHALL
7 SEPARATELY COMPUTE THE QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES
8 INCURRED WITHIN A QUALIFIED OPPORTUNITY ZONE AND THE QUALIFIED
9 RESEARCH AND DEVELOPMENT EXPENSES INCURRED OUTSIDE OF A QUALIFIED
10 OPPORTUNITY ZONE USING A CONSISTENT METHOD FOR EACH TAX YEAR.

11 (3) A TAXPAYER SHALL CLAIM A CREDIT UNDER THIS SECTION AFTER
12 ALL ALLOWABLE NONREFUNDABLE CREDITS UNDER THIS PART.

13 (4) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE TAX
14 LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT PORTION THAT
15 EXCEEDS THE TAX LIABILITY IS REFUNDABLE TO THE TAXPAYER.

16 (5) AS USED IN THIS SECTION:

17 (A) "ADVANCED AUTOMOTIVE TECHNOLOGY" MEANS TECHNOLOGY AS
18 DESCRIBED IN SECTION 88A(A) (iv) OF THE MICHIGAN STRATEGIC FUND ACT,
19 1984 PA 270, MCL 125.2088A.

20 (B) "AUTOMATED DRIVING SYSTEM" AND "AUTOMATED MOTOR VEHICLE"
21 MEAN THOSE TERMS AS DEFINED IN SECTION 2B OF THE MICHIGAN VEHICLE
22 CODE, 1949 PA 300, MCL 257.2B.

23 (C) "BASE PERIOD" MEANS THE 3 TAX YEARS IMMEDIATELY PRECEDING
24 THE TAX YEAR FOR WHICH A CREDIT IS CLAIMED UNDER THIS SECTION.

25 (D) "QUALIFIED OPPORTUNITY ZONE" MEANS A POPULATION CENSUS
26 TRACT THAT WAS DESIGNATED AS A QUALIFIED OPPORTUNITY ZONE WITHIN
27 THIS STATE ON OR AFTER DECEMBER 22, 2017 UNDER SECTION 1400Z-1 OF

1 THE INTERNAL REVENUE CODE. FOR PURPOSES OF THIS SUBDIVISION, THE
2 DESIGNATION OF A PARTICULAR POPULATION CENSUS TRACT AS A QUALIFIED
3 OPPORTUNITY ZONE REMAINS IN EFFECT AFTER THE EXPIRATION OF THAT
4 DESIGNATION UNDER SECTION 1400Z-1 OF THE INTERNAL REVENUE CODE AND
5 APPLIES TO ZONES DESIGNATED BEGINNING JANUARY 1, 2017.

6 (E) "QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES" MEANS
7 RESEARCH AND DEVELOPMENT EXPENSES INCURRED IN THIS STATE BY A
8 TAXPAYER THAT IS CONDUCTING BUSINESS ACTIVITY IN THIS STATE IF THAT
9 BUSINESS ACTIVITY IS RELATED TO THE DESIGN, ENGINEERING, TESTING,
10 OR DIAGNOSTICS OF AUTOMATED DRIVING SYSTEMS FOR AUTOMATED MOTOR
11 VEHICLES OR RELATED TO ADVANCED AUTOMOTIVE TECHNOLOGY.

12 (F) "RESEARCH AND DEVELOPMENT EXPENSES" MEANS RESEARCH OR
13 EXPERIMENTAL EXPENDITURES AS THAT TERM IS DEFINED BY THE
14 REGULATIONS OF THE UNITED STATES DEPARTMENT OF TREASURY, 26 CFR
15 1.174-2. RESEARCH AND DEVELOPMENT EXPENSES DO NOT INCLUDE RESEARCH
16 DESCRIBED IN SECTION 41(D)(4)(D), (F), (G), OR (H) OF THE INTERNAL
17 REVENUE CODE.