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STATE AND LOCAL TAX NEWSLETTER

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Michigan Legislature Busy with Passage of Several Business Incentive Bills

GRAND RAPIDS, MI – Wednesday, July 30, 2008 – During the month of July, the Michigan legislature passed several bills that amended the Renaissance Zone Act, the Commercial Redevelopment Act, the Commercial Rehabilitation Act, the Downtown Development Authority Act, the Neighborhood Enterprise Zone Act and the Michigan Property Tax Act. The bills, which are now law, are summarized below.

Public Act 242 of 2008 (PA 242), effective July 17, 2008, allows the board of the Michigan Strategic Fund (MSF) to choose a beginning date for a renaissance zone designation made under MCL 125.2688a(2) of January 1 that is not more than five years after the designation date. Under MCL 125.2688a(2), the MSF board may designate up to 17 renaissance zones in addition to the zones designated by the State Administrative Board, of which not more than one can be an alternative energy zone; not more than eight can be redevelopment renaissance zones; and not more than one can be a pharmaceutical recovery renaissance zone. All other zone designations continue to take effect on January 1 in the year following designation.

The bill further extends to all tax years a provision allowing a business for tax years to receive tax exemptions under the Renaissance Zone Act even though it failed to file a Single Business Tax return, if the business had no SBT liability for the tax year for which it failed to file a return (previously the provision applied only to tax years beginning on or after January 1, 2006).

Public Act 227 of 2008 (PA 227), effective July 17, 2008 revives the Commercial Redevelopment Act to allow new tax abatements for a new or replacement facility in a redevelopment district in a

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city or village, on property zoned for mixed-use (including high-density residential use) that is located in a qualified downtown revitalization district. The bill refers to the facility's taxable value, instead of its state equalized valuation, in the formula for determining the commercial facilities tax, and otherwise revises the formula. The bill allows the State Treasurer to exclude, for up to six years, up to half the State Education Tax mills from the calculation to determine the commercial facilities tax under certain circumstances and limits the number of exclusions granted each year to 25. The bill includes hotel or motel development in the definition of "commercial property." No new exemptions can be granted after December 31, 2020.

Public Act 231 of 2008 (PA 231), effective July 17, 2008 amends the revived Commercial Rehabilitation Act to include a qualified retail food establishment as a "qualified facility."

The bill defines such an establishment as property that meets all of the following:

(1) the property will be used primarily as a retail supermarket, grocery store, produce market, or delicatessen that offers fresh USDA-inspected meat and poultry products, fresh fruits and vegetables, and dairy products for sale to the public;

(2) the property meets one of the following:

(a) is located in a qualified local governmental unit as defined by the Obsolete Property Rehabilitation Act,

(b) is located in a qualified local governmental unit that is designated as rural as defined by the U.S. Census Bureau and is located in an underserved area, or

(c) the property was used as residential, commercial, or industrial property as allowed and conducted under the applicable zoning ordinance for the immediately preceding 30 years.

The bill also provides that rehabilitation for a qualified retail food establishment also include new construction. Finally, the bill provides that if the taxable value of the property proposed to be exempt under the Commercial Redevelopment Act under an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under the Act or the Plant

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Rehabilitation District and Industrial Development Act (P.A. 198) exceeds 5% of the taxable value of the qualified local governmental unit, the units legislative body must make a separate finding and must include a statement in its resolution approving the application that exceeding that amount will not have the effect of substantially impeding the operation of the unit or impairing the financial soundness of an affected taxing unit.

Public Act 230 of 2008 (PA 230), effective July 17, 2008 allows an exemption for all new personal property owned or leased by an eligible business located in one or more “distressed parcels.”

A distressed parcel is defined as a parcel of real estate in a city or village that is:

- (1) located in a qualified downtown revitalization district;
- (2) is zoned to allow for mixed use; and
- (3) either has a blighted or functionally obsolete building located on the parcel or is a vacant parcel that previously has been occupied.

An eligible business is one primarily engaged in manufacturing, mining, research and development, wholesale trade, or office operations. An eligible business does not include a Casino, retail establishment, professional sports stadium, or that portion of an eligible business used exclusively for retail sales.

Public Act 243 of 2008 (PA 243), effective July 17, 2008 allows property that qualified as a principal residence to continue to qualify as a principal residence for three years after all or any portion of the dwelling or unit included in or constituting the principal residence was rented or leased to another person as a residence, if the owner of the dwelling or unit is absent while on active duty in the U.S. Armed Forces and the dwelling or unit otherwise would qualify as the owner's principal residence. The owner must file an affidavit with the local assessor by May 1 (or, for 2008 only, by December 31) attesting that it is his or her intent to occupy the dwelling or unit as a principal residence upon completion of active duty in the Armed Forces. A copy of the affidavit must be forwarded to the Department of Treasury.

Public Act 225 of 2008 (PA 225), effective July 17, 2008 amends the Downtown Development Authority Act's definition of “public

facility” to also include the acquisition, construction, improvement, and operation of a building owned or leased by an authority to be used as a retail business incubator. The bill also amends the definition of “other protected obligation.”

Public Act 226 of 2008 (PA 226), effective July 17, 2008 amends the Downtown Development Authority Act to allow the board of a downtown development authority to create, operate, and fund retail business incubators in the downtown district as well as a loan program to fund improvements for existing buildings located in a downtown district to make them marketable for sale or lease.

Public Act 228 of 2008 (PA 228), effective July 17, 2008 amends the Neighborhood Enterprise Zone Act's definition of “new facility” to include a new structure or a portion of a new structure that is all of the following: (1) rented or leased or available for rent or lease; (2) a mixed use building or located in a mixed use building that contains retail business space on the street floor level; and (3) located in a qualified downtown revitalization district.

The bill also amends the definition of “homestead facility” to mean an existing structure, purchased by or transferred to an owner after December 31, 1996, that has as its primary purpose residential housing consisting of one or two units, one of which is occupied by an owner as his or her principal residence and that is located within a subdivision platted under state law before January 1, 1968 other than an existing structure for which a certificate will or has been issued after December 31, 2006 in a city with a population of 750,000 or more, is located within a subdivision platted under state law before January 1, 1968.

Stays tuned for more news and follow the [MichiganStateAndLocalTaxBlog](#) for information as it becomes available. If you have any questions, please go ahead and contact me. I will be happy to be of assistance.

Sincerely,

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