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"Helping Business Owners and Professionals Retire on Time"

The Michigan Business Tax



On July 12, 2007, the Governor of Michigan signed into law Public Act 36 of 2007 (Senate Bill 0094). This act creates the Michigan Business Tax (MBT), which replaces the Michigan Single Business Tax (SBT). The MBT will take effect on January 1, 2007.

On December 1, 2007, the Governor of Michigan signed into law Public Act 145 of 2007 (House Bill 5408). This act repealed the recently created use tax on services, and instead added a surcharge to the MBT.

Not liable for the services tax.

Public Act 148 of 2007 (Senate Bill 0845), signed into law December 1, 2007, deals with the approximately 16 hour period on December 1, 2007 when the services tax was in effect. Under this act, individuals are not required to collect the services tax, and are not liable for any failure to do so. Any tax on services that was collected can either be returned to the person that the tax was collected from, or it can be sent to the Michigan Department of Treasury, from where the person who the tax was collected from can receive a refund.

Introducing the Michigan Business Tax

Who is required to pay the tax?

The Michigan Business Tax applies to any person or unitary business group that has substantial nexus in Michigan. This includes any of the following:

- Individual
- Firm
- Bank
- Financial Institution
- Insurance Company
- Joint venture
- Association
- Corporation
- Subchapter S corporation
- Limited Liability Company
- Receiver
- Estate

- Trust
- Any other group or combination of groups acting as a unit
- A Unitary Business Group – defined as a group of businesses, one of which owns or controls more than 50% of the ownership interest and that has business activities or operations which result in a flow of value between or among persons in the group or has business activities or operations that are integrated with, are dependent upon, or contribute to each other.

A taxpayer has substantial nexus in Michigan if the taxpayer has a physical presence in Michigan for more than 1 day during the tax year, or the taxpayer actively solicits sales in Michigan and has gross receipts of \$350,000 or more that are sourced to Michigan.

However, a taxpayer does not need to pay this tax if their Michigan gross receipts are less than \$350,000. There is a phase out of the tax if their Michigan gross receipts are between \$350,000 and \$700,000.

How Does the Michigan Business Tax work?

The MBT consists of two parts – The Business Income Tax and the Modified Gross Receipts Tax. However, there is a different tax for Insurance companies and Financial Institutions.

Due to the Surcharge, the effective tax rates have increased, and the rates for credits have decreased. However, no taxpayer will pay a surcharge of more than \$6 million in a single year.

Business Income Tax

The Business Income Tax is a Tax on the business income tax base. The Tax rate is 4.95% with a 21.99% surcharge making an effective tax rate of 6.0385%.

The business income tax base is the amount of federal taxable income derived from business activity, subject to certain adjustments.

Modified Gross Receipts Tax

The Modified Gross Receipts Tax is a tax on the modified gross receipts tax base. The tax rate is 0.80% with a surcharge of 21.99% making an effective tax rate of 0.976%.

The modified gross income tax base is defined as the gross receipts minus any purchases from other firms. MBT uses the same definition for gross receipts as the SBT. However there are a few exclusions to gross receipts under the MBT. Purchases from other firms include the following:

- Inventory Acquired
- Assets eligible for depreciation, amortization or accelerated cost recovery
- Purchased materials and supplies

The Insurance Company Premiums Tax

Insurance companies are not subject to the Business Income Tax and Gross Receipts Tax. Instead they pay tax on direct premiums written on property in Michigan. The Tax rate is 1.25% and there is no surcharge.

The Financial Institutions Tax

Financial Institutions are not subject to the Business Income Tax and gross receipts tax. Instead, they pay a 0.235% tax on their net capital. In addition, there is a surcharge on the financial institutions tax. For calendar years ending after December 31, 2007 and before January 31, 2009, the surcharge is 27.7%, resulting in an effective tax rate of 0.300%. For tax years ending after December 31, 2008, there is a surcharge of 23.4%, resulting in an effective tax rate of 0.290%.

Small Business Alternate Tax Credit

The MBT, like the SBT, has a small business alternate tax credit. This credit is for the amount by which the tax exceeds 1.8% of adjusted business income. The result is a tax of 1.8% of the adjusted business income.

To be eligible for the Small Business Alternate Tax Credit, gross receipts must be less than \$20 million, adjusted business income can not be more than 1.3 million, and the adjusted business income of any one owner must be less than \$180,000.

SBT loss carryforward

Taxpayers who have SBT loss carryforward can, in the 2008 tax year only, deduct 65% of the loss carryforward that was incurred in 2006 and 2007.

Credits for Compensation, Investment and Research & Development

There are some new credits that apply to the MBT:

- **Wage Credit:** This credit is for compensation to officers, directors and employees, as well as self-employment net income. Due to the surcharge, in 2008 the wage credit is 0.296% of compensation, but will increase to 0.37% in 2009 and subsequent years.
- **Investment Tax Credit:** This credit is similar to the investment credit of the SBT. Due to the surcharge, in 2008 the investment tax credit is 2.32% of the investment tax base, but will increase to 2.9% in 2009 and subsequent years.
- **Research and Development Credit:** This credit is for research and development expenses. Due to the surcharge, in 2008, the credit is 1.52% of research and development expenses, but will increase to 1.9% in 2009 and subsequent years.

These credits are limited in certain ways:

- The total of the wage credit and investment tax credit is limited to 50% of the MBT tax liability in 2008 and 52% of tax liability in 2009 and subsequent years.
- The combined total of the three credits (wage credit, investment tax credit, and Research and Development credit) is limited to 65% of the tax liability.

Filing Considerations

Taxpayers who use the calendar year are required to file a final SBT return for 2007 and then begin filing MBT in 2008. Taxpayers who do not use the calendar year are required to file an SBT return for the portion of the year ending on December 1, 2007, and a MBT return for the remaining portion of the

year. The MBT liability may be calculated either by the actual gross receipts and modified business income for the 2008 period, or using a prorated portion of the yearly total gross receipts and modified gross income.

The MBT return, like the SBT return, is due the last day of the fourth month after the year end, so for calendar year taxpayers, the MBT return is due on April 30. The quarterly estimated payments are due on April 15, July 15, October 15, and January 15.

More Information

For more information about the MBT, including downloading tax forms (Some forms may not be available yet), go to the Michigan Department of Treasury website: <http://www.michigan.gov/taxes>.