

## MICHIGAN BUSINESS TAX FREQUENTLY ASKED QUESTIONS

### **What is the Michigan Business Tax (MBT)?**

The Michigan Business Tax is a tax on Michigan business income and modified gross receipts. MBT replaced the Single Business Tax (SBT) effective January 1, 2008. For taxpayers with apportioned or allocated gross receipts of \$350,000 or more, the MBT is comprised of a 4.95% tax on business income and a 0.8% tax on modified gross receipts. For most taxpayers, the business income tax base is that part of federal taxable income derived from business activity, with certain adjustments and the modified gross receipts tax base consists of gross receipts less purchases from other firms. The tax base of a taxpayer whose business activities are subject to tax both within and outside of Michigan are apportioned by multiplying each tax base by the sales factor.

Insurance companies and financial institutions pay different taxes with different tax bases, without regard to any filing threshold.

### **What are the nexus standards for MBT?**

There are two nexus standards under the MBT. First, a person may have nexus with Michigan if that person has physical presence in Michigan for more than one day during the tax year. Alternatively, a person may have nexus with Michigan if the person actively solicits sales in Michigan and has Michigan gross receipts of \$350,000 or more. See MCL 208.1200(1).

“Actively Solicits” is defined in RAB 2007-6. Active solicitation includes, but is not limited to, solicitation through (1) the use of mail, telephone, and e-mail; (2) advertising, including print, radio, internet, television, and other media; and (3) maintenance of an internet site over or through which sales transactions occur with persons within Michigan.

Public Law (PL) 86-272, 15 USC 318(a), applies to the business income portion of the MBT tax. Therefore, any activity that would be protected under PL 86-272 will be protected for the purpose of determining nexus for the business income portion of the MBT.

### **Who is considered a taxpayer under MBT?**

Taxpayers include a single person or entity or a unitary business group. A unitary business group means a group of United States persons, other than a foreign operating entity, one of which owns or controls, directly or indirectly, more than 50% of the ownership interest with voting or comparable rights of the other United States persons and that (a) has business activities resulting in a flow of value between or among persons in the group, or (b) has business activities that are integrated with, are dependent upon or contribute to each other. For more information regarding unitary groups refer to MCL 208.1117(5)(6).

### **What does the business income tax base of the MBT consist of?**

For most taxpayers, the business income tax base is that part of federal taxable income derived from business activity.

**Additions** (to the extent deducted or excluded from federal taxable income) include:

- Interest income and dividends derived from obligations or securities of states other than Michigan
- Taxes on or measured by net income and the tax imposed under the MBT
- Any carryback or carryover of net operating loss
- Loss attributable to another taxable entity
- Royalty, interest, or other expense paid to a person related to the taxpayer by ownership or control for the use of an intangible asset if the person is not included in the taxpayer’s unitary business group

**Subtractions** (to the extent included in federal taxable income) include:

- Dividends and royalties received from persons other than United States persons and foreign operating entities
- Income attributable to another taxable entity
- Interest income derived from United States obligations
- Earnings that are net earnings from self-employment as defined under section 1402 of the Internal Revenue Code of the taxpayer or a partner or limited liability company member of the taxpayer except to the extent that those net earnings represent a reasonable return on capital

Refer to MCL 208.1105(1) and MCL 208.1201 for further instructions.

### **What does the modified gross receipts tax base consist of?**

The modified gross receipts tax base consists of gross receipts less purchases from other firms. Gross receipts means the entire amount received by a taxpayer from any activity carried on for direct or indirect gain, benefit or advantage to the taxpayer or to others, with certain specific exceptions. "Purchases from other firms" means:

- Inventory acquired during the tax year
- Depreciable assets acquired during the tax year
- To the extent not included in inventory or depreciable assets, materials and supplies, including repair parts and fuel
- Other expenses for staffing companies and certain construction contractors

Refer to MCL 208.1111 and MCL 208.1113(6) for more information.

### **Do I need to make estimated payments? When are estimated payments due and what forms do I use to make estimated payments?**

Taxpayers with an annual MBT liability expected to exceed \$800 must make estimated payments.

MBT estimated payments for calendar year taxpayers are due the 15<sup>th</sup> day of April, July, October and January. MBT estimated payments for fiscal year filers are due the 15<sup>th</sup> day of the first month after each quarter. The following forms can be used to make these estimated payments:

- Form 4548, Michigan Business Tax Quarterly Return or
- Form 160, Combined Return for Michigan Taxes

If filing monthly using Form 160, monthly payments may be filed on the 20<sup>th</sup> day of the month.

Estimated payments must equal at least 85% of your annual liability, and the amount of each payment must reasonably approximate the tax liability incurred during the period.

### **What happens if I am a fiscal year filer?**

A taxpayer who has nexus for both SBT and MBT and who has a fiscal year beginning in 2007 and ending in 2008 must file two short period returns, one to report their final SBT liability, and the other to report their initial MBT liability. A fiscal year taxpayer may elect to compute the tax for the final short period SBT year and the initial short period MBT year by using the Annual or Actual Method. However, the same method of calculation must be used for both short periods. See MCL 208.1503 and RAB 2007-5 for further instructions.

### **How do I apportion my tax base if my business activities are subject to tax both within and outside of Michigan?**

The tax base of a taxpayer whose business activities are subject to tax both within and outside of Michigan are apportioned by multiplying each tax base by the sales factor. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in Michigan during the tax year and the denominator of which is the total sales of the taxpayer everywhere during the tax year.

Sales include sales in this state of every person included in a unitary business group without regard to whether the person has nexus in Michigan. Sales between persons included in a unitary business group must be eliminated in calculating the sales factor.

Sale means the amounts received by the taxpayer as consideration from the following:

- Property that would properly be included in the inventory of the taxpayer if on hand at the close of the tax period or property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business. For intangible property, the amounts received will be limited to any gain received from the disposition of that property.
- The performance of services that constitute business activities
- The rental, lease, licensing, or use of tangible or intangible property, including interest, that constitutes business activity.
- For taxpayers not engaged in any other business activities, sales include interest, dividends, and other income from investment assets and activities and from trading assets and activities.

For more information regarding apportionment including information on sales and the sales factor used in apportionment refer to MCL 208.1301, MCL 208.1303, and MCL 208.1115. For information regarding the sourcing of sales to Michigan refer to MCL 208.1305.

### **Where do I go to learn how to calculate the tax?**

Our website [www.Michigan.gov/taxes](http://www.Michigan.gov/taxes) contains additional information regarding MBT details, MBT credits, MBT Frequently Asked Questions (FAQ's), how to submit questions, forms for filing estimated MBT payments and a "Michigan Business Tax Estimator".