



# State and Local Tax Newsletter

## 2007-10



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## Michigan Business Tax Administrative Provisions Penalty, Interest, Information Returns, Rules, Short Period Returns, Amended Returns and Federal Adjustments

GRAND RAPIDS, MI - Tuesday, September 18, 2007 - The administrative provisions of the Michigan Business Tax (MBT) are contained in Chapter V of the Michigan Business Tax Act (PA 36 of 2007). The following discusses the administrative provisions which will govern the MBT.

### Penalty, Interest, Information Returns and Administrative Rules

The Michigan Business Tax (MBT) will be administered by the Department of Treasury (Department) under the provisions of the Revenue Act. [MCL 208.1513] The Revenue Act penalty and interest provision will apply. Specifically these penalty provisions apply for failure to file, filing late and failure to pay. The penalty is equal to 5% per month up to a 25% maximum. Interest is applied at the rate of 1% over Michigan prime for non payment, insufficient payment or late payment of tax due on an estimated return or an annual return.

However, the MBT also includes administrative provisions which may require a taxpayer to file informational returns and it also mandates that the Department to promulgate rules. The following is a summary of the relevant provisions in the MBT requiring informational returns and promulgating administrative rules.

#### Informational Returns

At the request of the Department, a taxpayer required by the internal revenue code to file or submit an information return of income paid to others must, to the extent the information is applicable to residents of Michigan, at the same time file or submit the information in the form and content prescribed to the Department of Treasury. [MCL 208.1509(1)]

At the request of the Department, a voluntary association, joint venture, partnership, estate, or trust must file a copy of any tax return or portion of any tax return that was filed under the provisions of the internal revenue code. The Department may prescribe alternate forms of the returns. [MCL 208.1509(2)]

#### Administrative Rules

The MBTA mandates that the Department must promulgate rules to implement the MBT. The rules must be promulgated pursuant to the administrative procedures act. [MCL 208.1513(2)]

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He currently serves on the Treasury Business Advisory Group and other organizations.

Ed's practice areas include Consultation and Planning and Litigation Support in the areas of State and Local Taxation and Accountant's Legal Liability.

### STATE AND LOCAL TAX WHITEPAPERS

#### MICHIGAN SINGLE BUSINESS TAX

- History
- Compensation
- Capital Acquisition Deduction
- Agricultural Exemption
- Entities Under Common Control
- Combined or Consolidated Returns
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- Apportionment & Allocation
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- Historic Resource Credit

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Echelbarger, Himebaugh, Tamm & Co., P.C. (EHTC), a professional corporation was established in 1977 by Dennis M. Echelbarger. Since that time, our Firm has grown to become one of the largest, most successful, local accounting firms in the Greater Grand Rapids, Michigan area, and we are a recognized leader in the business community. Our success is based on building partnering relationships with our customers. We are large enough to serve a wide diversity of customers but small enough to maintain personalized attention.

EHTC's professional team is highly trained to provide technical and consulting services in the areas of accounting, taxes, and strategic planning to nonprofit, profit and service organizations and related entities.

Minimizing your tax liability requires careful, advance planning rather than preparing tax returns as deadlines near. Our tax professionals provide complete tax services and are assisted by our extensive tax library and the latest technology.

We pay careful attention to your unique circumstances such as your current requirements and your plans for the future. We then recommend a plan that best suits your needs while minimizing financial risk.

The MBTA gives the Department of Treasury authority to prescribe forms for use by taxpayers and may promulgate rules in conformity with the MBTA for the maintenance by taxpayers of records, books, and accounts, and for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this act, the making of returns, and the ascertainment, assessment, and collection of the tax imposed by the MBTA. [MCL 208.1513(3)]

### Short Period Returns, Federal Returns and Amended Returns

The effective date for the Michigan Business Tax (MBT) is January 1, 2008. Therefore all taxpayers with a tax year other than a calendar year ending on December 31 will have to file a short period MBT return covering the period January 1, 2008 to the end of their fiscal year. The MBTA provides the taxpayer options on calculating the MBT for the short period. Following is a summary of the MBT provisions covering short period returns and amended returns.

#### Short Period Returns

If a taxpayer's tax year ends before December 31, 2008 or if a taxpayer's first tax year is less than 12 months, then the taxpayer may elect to compute the tax for the portion of that tax year to which the MBT applies or that first tax year of the MBT in accordance with 1 of two acceptable methods:

Apportionment: The tax may be computed as if the MBT were effective on the first day of the taxpayer's annual accounting period and the amount computed shall be multiplied by a fraction, the numerator of which is the number of months in the taxpayer's first tax year and the denominator of which is 12. [MCL 208.1503(a)]

Separate Accounting: The tax may be computed by determining the business income tax base and modified gross receipts tax base in the first tax year in accordance with an accounting method satisfactory to the Department of Treasury that reflects the actual business income tax base and modified gross receipts tax base attributable to the period. [MCL 208.1(503)(b)]

#### Federal Income Tax Returns

A taxpayer required to file a MBT return may be required to furnish a true and correct copy of any return or portion of any return filed under the provisions of the internal revenue code. [MCL 208.1507(1)]

#### Amended Returns

A taxpayer shall file an amended return with the department showing any alteration in or modification of a federal income tax return that affects its business income tax base or modified gross receipts tax base under the MBT. The amended return must be filed within 120 days after the final determination by the internal revenue service. [MCL 208.1507(2)]

## STATE AND LOCAL TAX WHITEPAPERS

### MICHIGAN SALES AND USE TAX

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- Food for Human Consumption
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