



# Echelbarger, Himebaugh, Tamm & Co., P.C. STATE AND LOCAL TAX NEWSLETTER

Business Strategists & Certified Public Accountants

2008-20

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## **New Michigan Business Tax – Advanced Seminar Coming in June**

**GRAND RAPIDS, MI – Tuesday, May 27, 2008 – In June, the MACPA and EHTC will be presenting for the first time, a new seminar titled Michigan Business Tax – Advanced. It became clear last year, while we were presenting the Michigan Business Tax seminars, that one day was not enough time to cover the tax in-depth. We decided to change to a two-seminar format. We freed up more time in the basic seminar to cover the complicated issues with greater detail. The nexus, apportionment, and unitary topics were moved to the new Michigan Business Tax – Advanced seminar.**

### **Who should attend the Michigan Business Tax – Advanced seminar?**

Any practitioner with clients whose customers sell either goods or services to an out-of-state location or with clients who operate with multiple entities would benefit from attending this seminar.

### **When and where are the Michigan Business Tax – Advanced seminars presented?**

<b>Date</b>	<b>City</b>	<b>Location</b>
Wednesday, June 4, 2008	Grand Rapids	WMU Downtown Conference Center
Wednesday, June 11, 2008	Traverse City	Great Wolf Lodge
Monday, June 16, 2008	Sterling Heights	Sterling Inn Banquet & Conference Center
Tuesday, June 24, 2008	Livonia	VisTaTech Center, Schoolcraft College

### **How do I register for the Michigan Business Tax – Advanced seminar?**

Register online at the MACPA website: <http://www.michcpa.org/Content/ContinuingEducation.aspx>

Use "MBT" as the keyword.

### **Description:**

**Nexus** - The nexus standard for the Michigan Business Tax is generally physical presence as with the Single Business Tax. However, in addition to certain protections under Public Law 86-272 there is an "actively solicits sales" element making it an economic presence standard. The Treasury RAB on nexus and the definition of "actively solicits sales" will be discussed. The application of Public Law 86-272 will also be reviewed since it will be applied on a unitary business group basis and not on an entity basis.

**Apportionment** - Under the Michigan Business Tax, a taxpayer taxable both inside and outside of Michigan must apportion the tax base by using a single factor, sales only, apportionment formula. The sourcing rules, including benefit received for services, no throwback or throw-out rules, factor representation and the Finnegan method will be discussed.

**Unitary** - The new Michigan Business Tax employs the unitary business doctrine and treats a unitary business group as a single taxpayer. For a unitary business group, the combined filing method is mandatory. This course covers the origin of the unitary business doctrine and the case law that defined that concept. In addition it provides examples of what entities may be included in a unitary business group and how to prepare a combined return.

### **Seminar Outline:**

#### **Nexus**

- Federal Public Law 86-272
- Business Activities Tax Simplification Act

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- Affiliate nexus
- Jurisdictional Standard
- Physical presence
- Economic Nexus – Active Solicitation [RAB 2007-6]

## **Apportionment**

- Sales Factor
- Definition of Sales
- Factor Representation
- Sales for a Unitary Business Group
- Finnigan Concept
- Throwback
- Sourcing of Tangible Personal Property
- Receipts from Rental Property
- Receipts from Lease or Rental of Tangible Personal Property
- Receipts from Lease or Rental of Mobile Transportation Property
- Receipts from Intangible Property
- Sourcing of Sales from Services

## **Unitary**

- Unitary Business Group
- Basic Principles of the Unitary Concept
- Michigan Statutory Authority for Unitary
- Constitutional Limits on the States' Right to Tax Multistate Enterprises
  - Taxation Under the Commerce Clause
  - Taxation Under the Due Process Clause
  - Taxation Under the Privileges and Immunities Clauses
- Development of the Unitary Concept
- Unitary Business Group Defined

- United States Person
- Two Tests for Unitary Business Group
- Control Test
- Attribution
  - Attribution – Individual
  - Attribution Between Family Members
  - Attribution Between a Partnership and Partners
    - § Attribution from Partnership to Partners
    - § Attribution from Partner to Partnership
  - S Corporation Treated as a Partnership
  - Attribution Between Estates and Beneficiaries
    - § Attribution from Estate to Beneficiary
    - § Attribution from Beneficiary to Estate
- Attribution Between Trust and Beneficiaries
  - § Attribution from Trust to Beneficiary
  - § Attribution from beneficiary to Trust
- If Five or Fewer Own a Controlling Interest
- Attribution Between Corporations and Shareholders
  - § Attribution from Corporation to Shareholder
  - § Attribution from Shareholder to Corporation
- Attribution Between S Corporations and Shareholders
- Options to Acquire Stock and to Acquire Options
  - § Definition of an Option
  - § Stock Option Rule
  - § Convertible Debentures
  - § Restrictions on Options

§ Scope of Option Rules

§ Option Rule Supersedes Family Member Attribution Rule

- Re-Attribution
  - Limitation on Re-Attribution – No Double Inclusion
  - Limitation on Re-Attribution – No Family Re-Attribution
  - Limitation on Re-Attribution – No "Sidewise" Attribution
  - Direct and Indirect Ownership
- Relationship Tests
  - Flow of Value
    - § Functional Integration
    - § Centralized Management
    - § Economies of Scale
  - Integrated With, Dependent Upon or Contribute to Each Other
- Combined Return

Stay 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 would be happy to be of assistance.

Sincerely,

Ed Kisscorni, CPA/MBA



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