Echelbarger, Himebaugh, Tamm & Co., P.C.

STATE AND LOCAL TAX NEWSLETTER

Business Strategists & Certified Public Accountants ***2008-32***

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EHTC STATE AND LOCAL TAX SERVICES

INCOME & FRANCHISE TAX

Tax Minimization Studies

Business Structure Reviews

Allocation and Apportionment Planning

Combined, Consolidated, & Unitary Planning

Nexus Studies

Amended State Tax Returns from IRS Audits

Single Business

EHTC's MBT Tax Compliance and Minimization Review

GRAND RAPIDS, MI – Monday, September 1, 2008 – The Michigan Business Tax (MBT) is a fitting successor to the Single Business Tax. It is by far the most complicated annual privilege tax in the United States. EHTC has attacked this problem by taking a proactive approach emphasizing creative tax planning to develop solutions to the Michigan Business Tax problem. The complexity in the tax creates opportunities for creative tax planning and when properly implemented can substantially reduce the Michigan Business Tax liability.

EHTC Solution: MBT Tax Compliance and Minimization Review

The Michigan Business Tax (MBT) is a combination business income tax and modified gross receipts tax imposed on the privilege of doing business in Michigan. The measure of the tax is the business activity conducted in Michigan.

The major component of the business income tax is federal taxable income with adjustments including loss carryforwards. The major component of the modified gross receipts tax is gross receipts less exclusions and subtractions for purchases from other firms.

A surcharge of 21.99% was imposed on the MBT. The tax is reduced by a significant number of credits. Major credits designed to reward engaging is a Michigan business activity including the compensation credit, the investment tax credit and a research and development credit. A small business alternate tax credit is available after the above listed credits but before all other credits.

The MBT imposes a physical presence/economic presence nexus standard combined with a single factor (sales) apportionment with destination sourcing. The nexus and apportionment provisions are designed to reward a Michigan based business activity.

The Tax Compliance and Minimization Review Process

The tax compliance and minimization review process includes five steps:

1. Identify all related entities and the direct ownership of each entity.
2. Complete a unitary business group study to identify which entities would be included in a unitary combined return and which entities would be filing a separate return.
3. Compute the MBT tax based on current law and existing ownership structure.
4. Identify possible tax savings opportunities by inclusion or exclusion of entities from a unitary business group or from entity restructuring.
5. Check for proper compliance and identify other tax planning opportunities.

Items to be reviewed include, but are not limited, the following:

- Person – Inclusion of Entities
- Isolated Sales
- Sale of Business Assets
- Capital Gains
- Non-Business Income
- Income from Investing Activities
- Flow-Through Entities
- "S" Corporation Issues
- Gross Receipts Broadly Defined "Entire Amount Received"
  - Deemed Income
  - Taxes
- Exclusions from Gross Receipts
  - Agency Capacity
  - Amounts Received Solely on behalf of a Principal
  - Advertising Agency
  - Real Property Manager
  - Transfer of an Accounts Receivable
  - Refunds
  - Security Deposits

[Appeals]

[Single Business Tax Audit Defense & Appeals]

[Property Tax Audit Defense & Appeals]

[State and Local Tax Litigation Support]

[Merger & Acquisition Due Diligence Reviews]

[Voluntary Disclosure]

BUSINESS INCENTIVE SERVICES

[Business Relocation & Expansion Services]
[Tax Credits, Exemptions, & Abatements]
[Grants, Financing, & Infrastructure Assistance]

- Loan Payments
- Investment Activities

- Purchases from Other Firms
  - Inventory
  - Assets
  - Materials and Supplies
  - Staffing Company
  - Contractor
  - Theater Owner or Film Distributor
  - SBT Business Loss Carryforward
- Nexus
  - Physical Presence
  - Economic Presence
- Apportionment
  - Sales for Apportionment
  - Sourcing of Tangible Personal Property
  - Sourcing of Services
- Unitary
  - Control Test
  - Relationship Test
  - Combined return
- Credit Carryforward from the SBT
- Credits
  - Compensation Credit
  - Investment Tax Credit
  - Research and Development Credit
  - Personal property Tax Credit
  - Small Business Alternate Tax Credit
  - Other Credits
- Credit Limitations, Refundability and Carryforwards
- Short Period Return Issues

Stay tuned for more news and follow the MichiganStateAndLocalTaxBlog for information as it becomes available. It you have any questions, please go ahead and contact me. I will be happy to be of assistance.

Sincerely,

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