



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

STATE AND LOCAL TAX NEWSLETTER

Business Strategists & Certified Public Accountants

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MBT Advanced Seminars Return in October New and Improved Version Features Problems, Examples & Charts

GRAND RAPIDS, MI – Monday, September 22, 2008 – The very popular Michigan Business Tax – Advanced Seminars return in October with many changes, as requested by participants of the Spring sessions. The new and improved version includes ~400 PowerPoint slides, a detailed table of contents, tax planning ideas, and almost 50 organizational charts to help explain the new nexus, apportionment, and unitary control test and relationship tests.

The co-presenters for the Michigan Business Tax – Advanced seminars will again be Ed Kisscorni and Dave Barrons. Last spring, almost 500 CPAs participated in the Michigan Business Tax – Advanced seminars, which focused exclusively on nexus, apportionment and unitary.

Ed Kisscorni has nearly forty years of extensive experience in Michigan state and local taxation, first as an auditor with the Michigan Department of Treasury, then in the tax department of an international CPA firm, as a sole practitioner, and in the state and local tax group of a national CPA firm. He is the most recognizable speaker in Michigan on State and Local Tax issues including the Single Business Tax. Ed has presented all of the Single Business Tax and Sales and Use Tax seminars over the last twenty years for the Michigan Association of Certified Public Accountants (MACPA) and is a frequent speaker at conferences and workshops. In 2006, Ed co-authored Michigan Business Taxes published by the Michigan State Chamber of Commerce. He contributed the Single Business Tax and Sales and Use Tax sections of the book. Last spring, Ed published The Michigan Business Tax – Desktop Reference Manual. He has also spoken extensively for the Michigan State Chamber of Commerce and other business groups.

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Dave Barrons has spent the last twenty years focusing on the state tax filing issues of multi-state business enterprises here in Michigan and across the United States. After first working in the service industry, David became part of the State and Local Tax Group of an international CPA firm in its Portland, Oregon office before moving to Grand Rapids as a partner in a competing international CPA firm. In 2006 David started a state and local tax consulting practice as a sole practitioner here in Grand Rapids. In his career he has had significant experience addressing the unitary issues facing multi-state business enterprises.

Seminar Enhancements

A substantial amount of material has been added to the PowerPoint presentation. Approximately 400 slides cover the nexus, apportionment, and unitary issues associated with the Michigan Business Tax. To assist participants navigate through the material, the slides have been numbered and a detailed Table of Contents has been added.

The nexus, apportionment, and unitary issues relating to the Michigan Business Tax are very difficult to grasp and understand. To assist in the learning process, a substantial number of problems and examples have been added to the seminar material. Almost 50 organizational charts have been included to assist participants in understanding this complex material.

Throughout the seminar, the presenters will discuss some of the planning ideas that taxpayers can utilize to reduce or minimize their Michigan Business Tax liability.

Seminar Dates and Locations

Friday, October 3, 2008 – Novi, Michigan

Wednesday, October 8, 2008 – Grand Rapids, Michigan

Friday, October 24, 2008 – Traverse City, Michigan

Wednesday, October 29, 2008 – Sterling Heights, Michigan

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

Seminar Outline and Major Topics

[Appeals](#)

Single Business
Tax Audit Defense
& Appeals

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Nexus

1. Business Income Tax

a. Impact of the Due Process and Commerce Clauses

- What is business activity in Michigan?

b. Application of Federal Public Law 86-272

- PL 86-272 interpretations
- Proposed Federal Nexus Concept
- Economic Nexus Concept

2. Modified Gross Receipts Tax

a. Imposed on firms with a physical presence in Michigan

- i. Of more than one day, or
- ii. Actively solicits sales in Michigan and
- iii. Has gross receipts sourced to Michigan exceeding \$350,000

3. Definitions

- a. Physical presence
- b. Actively solicits sales

Apportionment

1. Single factor apportionment

- a. Sales factor
- b. Definition of "Sales"
- c. Factor representation
- d. No Throwback, No Throwout
- e. Finnigan

2. Sourcing rules

- a. Tangible personal property
- b. Intangible Income
- c. Services

- i. "Benefit Received Doctrine"
- ii. Multiple Points of Use Issue

d. Special Industry Provisions

- i. Apportionment
- ii. Sourcing Rules

Unitary Business Group

1. MBT Definition

- a. U.S. Persons, excludes a foreign operating entity
- b. Unitary Business Doctrine In General

- i. Significant Unitary Case Law
- ii. MTC Impact

c. Unitary Business Group Test

- i. Ownership or control
 - Directly or indirectly
 - IRC 318 Attribution
 - Application to Non-C Corporation Entities
 - More than 50% of the ownership interest
- ii. Contribution and dependency
- iii. Review of Container, 463 US 159 (1983)
 - Functional integration
 - Centralized management
 - Economies of scale
 - The California Approach

2. Business Income of a Unitary Business Group

- a. Single Taxpayer Treatment
- b. Sum of business income of each member in the unitary group
- c. Less: Certain inter-company items of income and deductions

3. Modified Gross Receipts of a Unitary Business Group

- a. Sum of the modified gross receipts of each member in the unitary group
- b. Less any inter-company modified gross receipts

4. Combined Return Filing Requirement

- a. Mandatory
- b. Composition of Unitary Business Group
 - i. Different year ends
 - ii. Differing Entity Types
- c. Inter-company eliminations
 - i. Different year ends
 - ii. Different methods of accounting
 - iii. Differing Entity Types

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 am happy to help.

Sincerely,

Ed Kisscorni, CPA/MBA



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