



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

STATE AND LOCAL TAX NEWSLETTER

Business Strategists & Certified Public Accountants

2008-8

The power to make a difference.

The people to make it count.

5136 Cascade Rd. SE #2A • Grand Rapids, MI 49546 • Phone: 616-575-3482 • Fax: 616-575-3481



**Ed Kisscorni,
CPA/MBA**

edk@ehtc.com

[Ed's Blog
www.MichiganState
andLocalTax.com](#)

**[EHTC STATE AND
LOCAL TAX
SERVICES](#)**

[INCOME &
FRANCHISE TAX](#)

[Tax Minimization
Studies](#)

[Business
Structure Reviews](#)

[Allocation and
Apportionment
Planning](#)

[Combined.](#)

December 2007 Amendments to the Michigan Business Tax Act

GRAND RAPIDS, MI – Monday, March 3, 2008 – Since the enactment of the Michigan Business Tax (MBT) in July of 2007, there has been nine amendments enacted into law. Public Act 90 provided an adjustment for deferred taxes. Public Act 145 imposed the MBT surcharge and made other changes. In December of 2007 the Governor signed seven bills that made a variety of changes to the Michigan Business Tax Act (MBTA). Following is a summary of those changes.

For a complete, up to date, copy of the Michigan Business Tax Act, as amended, please visit the EHTC SALT Website at www.ehtc.com/ehtc/salt.htm. Click on Michigan Business Tax Resources.

Public Act 205 of 2007 – Approved December 27, 2007 – Effective January 1, 2008.

The act amends Section 305 of the Michigan Business Tax Act (MBTA) [MCL 208.1305] to specify that for a taxpayer whose business activities included live radio or television programming or any combination of the business activities included in those groups, media receipts would be in Michigan and attributable to Michigan only if the commercial domicile of the customer were in Michigan and the customer had a direct connection or relationship with the taxpayer pursuant to a contract under which the media receipts were derived.

For media receipts from the sale of advertising, if the customer of that advertising were commercially domiciled in Michigan and received some of the benefit of the sale of that advertising in Michigan, the media receipts from the advertising to that customer would be included in the numerator of the apportionment factor used to determine MBT liability in proportion to the extent that the customer received the benefit of the advertising in Michigan. For this purpose, if the taxpayer were a broadcaster and the customer received some of the benefit of the advertising in Michigan, the media receipts for that sale of advertising from that customer would have to be proportioned based on the ratio that the broadcaster's audience is in Michigan to its total audience everywhere.

[Consolidated, & Unitary Planning](#)

[Nexus Studies](#)

[Amended State Tax Returns from IRS Audits](#)

[Single Business Tax Training](#)

SALES & USE TAX

[Reverse Audits](#)

[Compliance System Review](#)

[Direct Pay & Compliance Agreements](#)

[Exemption Certificate Documentation](#)

[Industrial Processing / Manufacturing Exemption](#)

[Utility Studies](#)

[Nexus Studies](#)

[Sales & Use Tax Training](#)

[Transportation Company](#)

[Procurement Company](#)

PROPERTY (AD VOLOREM) TAX

Public Act 206 of 2007 – Approved December 27, 2007 – Effective January 1, 2008.

The act amends the Michigan Business Tax Act (MBTA) by adding a new Section 453 [MCL 208.1453] to allow a credit against the MBT for private equity funds. Specifically, an eligible taxpayer could claim a credit against the MBT equal to the taxpayer's tax liability for the tax year after claiming any other credits allowed under the Act, based on the ratio of total activity of the private equity fund manager conducted in Michigan during the tax year to the total activity of the fund manager conducted everywhere during the tax year.

The location of the activity of the private equity fund manager would be based on the location of the office from which the fund manager conducted management activity for the eligible taxpayer.

"Eligible taxpayer" would mean a taxpayer that is a private equity fund that serves as a conduit for the investment of private securities not listed on a public exchange by accredited investors or qualified purchasers at any time during which the investment is acquired or subsequently used to claim the credit under the bill.

Public Act 207 of 2007 – Approved December 27, 2007 – Effective January 1, 2008.

The act amends the Michigan Business Tax Act (MBTA) to expand exceptions to the definition of "gross receipts" in Section 111 of the MBTA. [MCL 208.1111] Currently, for a sales finance company directly owned in whole or in part by a motor vehicle manufacturer as of January 1, 2008, gross receipts do not include the following:

- Amounts realized from the repayment, maturity, sale, or redemption of the principal of a loan, bond, or mutual fund, certificate of deposit, or similar marketable instrument.
- The principal amount received under a repurchase loan agreement or other transaction properly characterized as a loan.

Under the act, this exception also would apply for a person that was a broker or dealer as defined under the Securities Exchange Act, or a person included in the unitary business group of that broker or dealer that buys and sells for its own account contracts that are subject to the Commodity Exchange Act. The exception would apply provided the instruments were not held as inventory.

Also, for a person that was a broker or dealer or a person included in the unitary business group of that broker or dealer that buys and sells contracts for its own account, the modified gross receipts tax base would not include the cost of securities and commodities as defined under the Internal Revenue Code, excluding interest expense other than that related to repurchase agreements. New subsection 111(4)(d) provides a subtraction as inventory.

Public Act 208 of 2007 – Approved December 27, 2007 – Effective January

[Real Property Tax
Reviews](#)

[Personal Property
Tax Reviews](#)

**[TAX AUDIT &
APPEALS](#)**

[Sales & Use Tax
Audit Defense &
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](#)

1, 2008.

The act amends the Michigan Business Tax Act (MBTA) [MCL 208.1450a], to put in place a tax credit for compensation paid by a taxpayer for services performed for hybrid vehicle research and development. This credit is currently found in Section 34 the Single Business Tax Act, which is repealed as of December 31, 2007, and is to be replaced by the MBT.

The bill essentially transfers the credit from the SBT to the MBT.

This credit was put into the SBT by Public Act 472 of 2006 (Senate Bill 387). That act allows a taxpayer to receive a tax credit for 3.9 percent of the compensation paid for services performed for hybrid vehicle research and development at a facility in Troy, if the taxpayer entered into an agreement with the Michigan Economic Growth Authority (MEGA) by April 1, 2007. If the credit exceeds the taxpayer's tax liability for the tax year, the portion exceeding the tax liability is refundable. The maximum amount of the credit that any one taxpayer may claim is \$3 million in a single year. The credit is available for tax years ending before January 1, 2016.

Under the act, a taxpayer claiming this credit would not be prohibited from claiming a research and development credit under Section 405 of the MBT, but the taxpayer could not claim a credit under both sections based on the same research and development.

Public Act 214 of 2007 – Approved December 27, 2007 – Effective January 1, 2008.

The act amends the Michigan Business Tax Act (MBTA) by adding a new Section 450 [MCL 208.1450] to provide that for tax years beginning on or after January 1, 2008, and ending before January 1, 2016, a taxpayer that was engaged in research and development of a qualified technology could claim a credit against the MBT equal to 3.9% of the compensation for services performed in a qualified facility, paid to the employees at the qualified facility in the tax year.

The credit is available only if the taxpayer had entered into an agreement before April 1, 2007, with the Michigan Economic Growth Authority (MEGA).

The maximum credit that any one taxpayer could claim would be \$2.0 million in a single tax year. If the credit exceeded the MBT liability of the taxpayer for the tax year, the portion that exceeded the liability would not be refundable.

A taxpayer that qualified to claim the credit under Section 34 of the Single Business Tax (SBT) Act (which provides for a similar credit) could claim the credit under PA 214 for the total number of years designated in the agreement, reduced by the number of years the taxpayer claimed the SBT credit, or until January 1, 2016, whichever occurred first.

A taxpayer that claimed a credit under PA 214 would not be prohibited from claiming a research and development credit under Section 405 of the MBT, but could not claim both credits based on the same research and development.

The act refers to a taxpayer engaged in research and development of a "qualified technology" and to the compensation paid to employees at a "qualified facility."

"Qualified technology" would mean a hybrid system whose primary purpose is the propulsion of a motor vehicle.

"Qualified facility" would mean a leased facility used for the research and development of a qualified technology in a "qualified city", i.e., a city with a population of at least 80,000 but not more than 82,000, located in a county with a population of at least 1.0 million but not more than 1.3 million. The City of Troy, in Oakland County, is the only city that meets those criteria.

At the time Public Act 472 was enacted, it was described as designed to provide a tax credit to a new joint venture by General Motors, DaimlerChrysler, and BMW called the Hybrid Development Center, which is located in Troy.

Public Act 215 of 2007 – Approved December 27, 2007 – Effective January 1, 2008.

The act amends the Michigan Business Tax Act (MBTA) Section 433 to extend the Renaissance Zone Credit to Insurance Companies and Financial Institutions

Public Act 216 of 2007 – Approved December 27, 2007 – Effective January 1, 2008.

The act amends the Michigan Business Tax Act (MBTA) Section 435 [MCL 208.1435] to extend the Historic Resource Credit to Insurance Companies and Financial Institutions.

Please stay tuned for more news and follow the [MichiganStateAndLocalTax Blog](#) for information as it becomes available.

If you have questions please feel free to contact me. I would be happy to be of assistance.

Sincerely,

Ed Kisscorni, CPA/MBA



Echelbarger, Himebaugh, Tamm & Co., P.C.
5136 Cascade Rd. SE #2A

Grand Rapids, MI 49546

(616)575-3482 / ehhc@ehhc.com / www.ehhc.com/

www.MichiganStateandLocalTax.com

Notice:

To ensure compliance with Treasury Department regulations, we inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

The contents of this email and any attachments to it contain privileged and confidential information from Echelbarger, Himebaugh, Tamm & Co., P.C. This information is only for the viewing or use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of, or the taking of any action in reliance upon, the information contained in this email, or any of the attachments to this email, is strictly prohibited and that this email and all of the attachments to this email, if any, must be immediately returned to Echelbarger, Himebaugh, Tamm & Co., P.C. or destroyed and, in either case, this email and all attachments to this email must be immediately deleted from your computer without making any copies hereof. If you have received this email in error, please notify Echelbarger, Himebaugh, Tamm & Co., P.C. by email immediately.

5136 Cascade Rd. SE Suite 2A Grand Rapids, MI 49546

[Click here](#) to unsubscribe.

[Powered by BizActions.](#)