



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

Business Strategists & Certified Public Accountants

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The power to make a difference.

The people to make it count.

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The Michigan Business Tax and Unforeseen Consequences

Special Seminars Will Address Specific Issues and Opportunities

GRAND RAPIDS, MI – Friday, December 21, 2007 – 70 years ago Sociologist Robert Merton popularized what has come to be known as the law of unforeseen consequences resulting from the world's inherent complexity, perverse incentives, human stupidity, self-deception or other cognitive or emotional biases. (*From the Warner Norcross & Judd Estate Planning Focus by Jeffrey Power*).

All of the above factors were at work in combination with special interest groups, lobbyists, a weak economy, and a naive term-limited legislature. The net result is the Michigan Business Tax Act (MBTA), the most complicated piece of state tax legislation to date in this country and possibly the world.

The Michigan Business Tax (MBT), which takes effect on January 1, 2008 is loaded with issues that tax practitioners, CPAs and Attorneys have characterized as unforeseen consequences. The MBT was designed to extend its reach beyond the Michigan borders to impose tax on multi-state and multi-national companies that possibly exploit the Michigan market and may not have paid their fair share of tax under the Single Business Tax (SBT).

An expansive unitary business approach combined with aggressive apportionment provisions and an economic nexus standard all combine to pull non-Michigan based companies into the MBT. These same provisions work to the advantage of Michigan based companies to reward Michigan based business activities. Special credits which reward Michigan business activity (paying compensation in Michigan, investing in assets in Michigan, conducting research and development in Michigan) serve to reduce the effective tax rate for Michigan based businesses.

On three different dates and in three different cities, Ed Kisscorni and the Michigan Association of Certified Public Accountants (MACPA) will present special one day seminars devoted to special issues found deep down in the details of the MBTA.

**[Michigan Business Tax Update – Friday, January 4, 2008
in Traverse City](#)**

**[Michigan Business Tax Update – Monday, January 7, 2008
in Sterling Heights](#)**

**[Michigan Business Tax Update – Tuesday, January 22, 2008
in Grand Rapids](#)**

You may register on line at: <http://www.michcpa.org>

Each seminar will cover the two amendments to the MBTA, the MBT Revenue Administrative Bulletins, the MACPA MBT Q&A's, and the Treasury MBT FAQ's. The emphasis will be specific issues created by the Michigan Business Tax. These are issues that may have a profound effect on a company's MBT liability, and issues we believe our customers need to know now rather than later.

[System Review](#)

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[Personal Property Tax Reviews](#)

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[Single Business Tax Audit Defense & Appeals](#)

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[State and Local Tax Litigation Support](#)

[Merger & Acquisition Due Diligence Reviews](#)

[Voluntary Disclosure](#)

BUSINESS INCENTIVE SERVICES

[Business Relocation & Expansion](#)

Following is a list of issues that will be discussed in detail:

- A. Definition of person
 - B. Definition of business activity
 - C. MBT treatment of flow through entities
 - D. Definition of gross receipts
 - a. Broadly defined
 - b. Sale of business assets other than land
 - E. Exclusions from gross receipts
 - a. Amounts received in an agency capacity
 - b. Sale of capital assets and land used in a business activity
 - c. Professional Employer Organization (PEO)
 - d. Exclusively for estate and gift planning
 - F. Gross Receipts less purchases from other firms
 - a. Inventory
 - b. Assets
 - i. Materials and supplies
 - G. Modified gross receipts tax base
 - a. If negative – no carryback or carryover
 - H. Nexus standard
 - a. Physical presence
 - b. Actively solicits sales
 - c. Michigan based business activity
 - I. Apportionment
 - a. Definition of Sale – Factor representation
 - b. Sourcing of services – benefit received doctrine
 - c. No throwback or throwout
 - d. Finnigan
 - J. Unitary Business Group
 - a. Control test – More than 50% ownership and control, and
 - b. Relationship test
 - i. flow of value or
 - ii. integrated with, dependent upon or contribute to each other
- Container Corporation*
- i. Functional integration
 - ii. Centralization of management
 - iii. Economies of scale
 - c. Combined return, one person
 - i. Filing considerations
 - 1. Controlling member
 - 2. Different tax years
 - 3. Different methods of accounting
 - 4. Eliminations
- K. Single Business Tax business loss carryforwards
- L. Single Business Tax credit carryforwards
- M. Credits based on Michigan only business activities
 - a. Refundable or non-refundable
 - b. Carryover or not carryover
 - c. Percentage limitations
 - d. Ordering
 - e. Other limitations
- N. Personal Property Tax Credit

Best wishes to you and yours for a very happy holiday!

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,

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