



MOCERI & COMPANY, P.C.
CERTIFIED PUBLIC ACCOUNTANTS

45100 Sterritt Street • Suite 200 • Utica, Michigan 48317-5843
☎ (586) 254-2010 • Fax (586) 254-4856 • ✉ general@moceri-cpa.com

Joseph P. Moceri, C.P.A.
Michael Kramer, C.P.A.

Mary E. Pruss, C.P.A.
Ann Walsh, C.P.A.

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Dear Clients and Friends:

On August 2, 2007, all Moceri & Company professional staff attended the Michigan Association of Certified Public Accountants seminar on *The New Michigan Business Tax*. The new business tax law was signed by the governor on July 12, 2007 and is effective beginning January 1, 2008. The following are some immediate changes all business taxpayers must know:

1. Fiscal year taxpayers will file their final SBT tax return for the short period ending on December 31, 2007. Fiscal year taxpayers will then file a second short period return for the period of January 1, 2008 to their year end.
2. Due dates of Michigan Business Taxes (MBT) estimates are 4/15/08, 7/15/08, 10/15/08 and 1/15/09, and will continue on the same dates in future years. This is a change from old law when the estimates were due at the end of the respective months.
3. The \$350,000 adjusted gross receipts threshold still applies to taxpayers to be required to pay the MBT, however, a gradual phase-in of the tax occurs between adjusted revenue of \$350,001 and \$700,000.
4. Unitary Business Groups in Michigan must file a consolidated MBT return. A Unitary Business Group is a group of US persons one of which controls more than 50% ownership interest in a group of companies.
5. A taxpayer has substantial nexus in Michigan and is subject to the MBT if the taxpayer has a physical presence in Michigan for a period of more than one day during the tax year or if the taxpayer actively solicits sales in Michigan and has gross receipts of \$350,000 or more in Michigan.
6. Michigan Single Business Tax Credit carry-forwards and SBT business loss carry-forwards will expire 1/1/2010.

The MBT tax is a two pronged computation. The first prong of the tax is based on Federal Taxable Income for your business. Adjustments to federal taxable income include:

1. + Non-Michigan Muni Interest and Dividends
2. + Taxes based on income
3. + Federal net operating loss carry-ins
4. +/- Foreign dividends and royalties
5. +/- Previously taxed income attributed to another entity, not part of the unitary group.
6. – US Government interest
7. – Net Earnings from Self-Employment income for Partnership, LLC and sole proprietors

After adjusting federal taxable income for the aforementioned adjustments, a tax rate of 4.95% is applied resulting in the tax to be added to the gross receipt tax, before MBT credits.

The second prong of the MBT is a gross receipts tax. Gross receipts are defined as any amount received from any activity carried out for gain. Excluded from gross receipts are the following:

1. Proceeds collected in an agency capacity
2. Cost of advertising media in agency
3. Proceeds from factoring receivables
4. Issuance of stock or debt instruments
5. Refunds for returns
6. Cash, in-kind or trade discounts
7. Federal, State or Local tax refunds
8. Security deposits
9. Payments toward principal of loans
10. Value received in like-kind exchanges
11. Involuntary conversions under IRC 1221 or 1231
12. Insurance policy settlements unless federally taxed.

After adjusting the gross receipts for the aforementioned adjustments, a tax rate of .080% is applied resulting in the tax to be added to the above net income tax before, MBT credits.

The new law has many credits available. The following are some credits available:

1. Unused credits from the SBT law can be applied to 2008 and 2009, then lost
2. Compensation credit of 0.37% of Michigan compensation, limited to 65% of the tax liability. Compensation includes the payments to Leased Employment Companies (PEO's), not including the markup on the payment.
3. Investment Tax Credit – 2.9% of eligible depreciable property subject to recapture, paid or accrued, located in Michigan.
4. Research & Development Credit – 1.9% of qualified R&D in Michigan defined under IRC 41(b)
5. Smoothing Credit – Michigan receipts between \$350,000 and \$700,000 multiply the tax liability by a fraction of $(\$700,000 - \text{Gross Receipts}) / \$350,000$.
6. Property Tax Credit – 35% on Industrial personal property tax paid in the tax year.
7. Small Business Credit – credit is amount that exceeds 1.8% of adjusted business income for companies with gross receipts less than \$20 million, adjusted business income less than \$1.3 million, and distributive share of business income plus compensation to one owner less than \$180,000.
8. Brownfield Credit – for revitalizing specific identified land with environmental issues

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Please keep in mind, this is not tax simplification. The state legislature and governor needed to replace the old SBT law, and the above is the result. We expect many technical corrections to be issued by the Treasury department to clarify issues. Forms and instructions to mechanically file the information for the 2008 taxes have not been issued by the Michigan Treasury, thus some modifications will happen. If our firm can answer any questions, please contact us.

Thank you for your business.

Sincerely,

Moceri & Company, P.C.
Michael Kramer CPA