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Michigan Department of Treasury Releases Final MBT Forms – Now What?

Overview

Taxpayers who have been patiently waiting for the Michigan Department of Treasury (“Department”) to release final Michigan Business Tax (“MBT”) forms must wait no longer. On January 29, 2009 the Department issued the forms required by taxpayers, including those with fiscal years ending in 2008, to file first year MBT returns. Even though it took over a year from the effective date of the MBT, the final forms come just in time to meet the extended filing deadline of April 30, 2009.

While the concept of the MBT may appear relatively straightforward – a hybrid tax with business income and modified gross receipts components – the computation of the tax is far from simple. Also, recent changes to the MBT by the Michigan legislature, both of which are taxpayer friendly, may present companies with opportunities for MBT savings. Finally, there are a number of credits available against the MBT, some of which are newly created and others which have been carried over from the Single Business Tax (“SBT”), that taxpayers should be aware of as initial MBT returns are being prepared.

Recent MBT Changes

One change to the MBT – a quicker phase-out of the MBT surcharge – is currently proposed at this time. Senate Bill 1 passed the Michigan Senate on January 29, 2009 and was referred to the House Committee on Tax Policy earlier this month. If enacted into law, the bill would phase out the MBT surcharge 7 years quicker than originally planned for most taxpayers (other than financial institutions).

The MBT surcharge is an annual surcharge of 21.99% applied to the sum of a taxpayer’s business income tax and modified gross receipts tax liabilities and is capped for a taxpayer at \$6 million each year.

Under current law, the surcharge will expire in 2017 provided Michigan personal income growth exceeds 0% in 2014, 2015, or 2016. Under the pending bill, the MBT surcharge would be eliminated for tax years after 2009. The bill also would reduce the surcharge rate from 21.99% to 11% for tax years ending after 2008 and before 2010. Furthermore, under S.B. 1, the surcharge cap would be reduced from \$6 million to \$3 million for tax year 2009. The bill would not change the MBT surcharge as applied to financial institutions.

Another change to the MBT - a modified definition of “gross receipts” - became law on January 9, 2009 and is effective for taxes levied on and after January 1, 2008. Senate Bill 1038 (Public Act 433) modified the definition of “gross receipts” under the modified gross receipts portion of the MBT to exclude more items. Among items that are now excluded from the gross receipts calculation include bad debts that correspond to items included in the modified gross receipts tax base, interest and dividends received from federal or Michigan bonds, and amounts attributable to an ownership interest in a pass-through entity, regulated investment company, or a real estate investment trust. (Continued on page 2)



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Credits Still Abound in Michigan under the MBT

Taxpayers should be aware that there are approximately 26 credits available against the MBT, many of which are new and some of which carried over from the SBT. Some of the new and retained credits are discretionary and require approval by the Michigan Economic Development Corporation (“MEDC”), such as Michigan Economic Growth Authority (“MEGA”) tax credits for payroll and R&D and Brownfield tax credits. Despite the economic conditions present in the state of Michigan, the MEDC reports being continually active in receiving and approving applications for such discretionary tax credits.

Other tax credits available against the MBT are statutory and based on a taxpayer’s eligibility determined by certain criteria. One example of such a credit is the new MBT compensation tax credit. The compensation tax credit provides taxpayers with a credit against the MBT in the amount of 0.296% of a taxpayer’s Michigan compensation. The credit amount is increased to 0.37% for tax years 2009 and beyond. Another statutory tax credit is the Michigan investment tax credit, which was available under the SBT but has been revised for the MBT. For tax year 2008, this credit is now equal to 2.32% of a taxpayer’s creditable investment expenditures and 2.9% for tax years 2009 and beyond. Finally, a new MBT R&D tax credit is provided for research

and development expenses incurred in Michigan. The R&D tax credit is equal to 1.52% of a taxpayer’s qualified research and development expenses. The credit amount increases to 1.9% for subsequent tax years.

Action Items

GBQ SALT professionals are available to assist you with questions you may have concerning MBT compliance and eligibility for statutory and discretionary tax credits and incentives available under the MBT.

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