

## Accord Reached for New Michigan Business Tax

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June 15, 2007

On Wednesday, June 13th, Governor Jennifer Granholm and top legislative leaders announced that an accord has been reached on the new Michigan Business Tax (MBT).

The MBT will fully replace the \$1.9B in revenue previously raised by the Michigan Single Business Tax (SBT), through a unique combined gross receipts and net income tax. This combination was proposed by the Senate in their BEST/BIT bills, into which the House bill proposed by House Speaker Andy Dillon (D-Redford) was substituted. The MBT is an amalgamation of these bills, and includes the Michigan-based credits first proposed by the House.

The gross receipts levy, termed a "margins tax," will raise two-thirds of the \$1.9B, with a rate to be slightly under .8%. The net income tax will raise the remaining one-third of the \$1.9B, with an anticipated rate of under 5%. Final rates will be determined next week, when bill language will be available. It is anticipated that the attributes of the gross receipts and net income tax will follow those previously proposed under SB 94, 95 and 96, in regards to sourcing, nexus, combined filing, etc. Further details will be forthcoming.

Other highlights of the MBT:

- "Margins" are based on a company's gross sales, less purchases of tangible property and related services.
- Industrial personal property will receive credits for 24 mills, commercial personal property will receive credits for 12 mills. Telephone personal property will receive credits similar to the commercial credit.
- In addition to the above credits, there will be a refundable credit on industrial personal property.
- New Michigan investment and compensation credits will be available, and will be capped at 65% of liability. Flow through entities will be able to utilize the compensation credit.
- New Michigan research and development credits will be available, and capped at 75% of liability.
- A new entrepreneurial tax credit for new Michigan businesses with revenue under \$25M.
- A small business alternative tax which provides for a reduced rate on adjusted business income at 1.8%.

As Michigan has never levied a business tax of this type, revenue estimates are just that--estimates, so the proposal includes a three-year revenue trigger to ensure that businesses will pay no more than they would have paid under the SBT.

The trigger would go into effect if revenues exceed 5% of over what businesses would have paid under the SBT in the first year, with half of the excess to be refunded to businesses, and the other half paid into the Budget Stabilization Fund (Michigan's rainy day fund). The trigger in the following two years would be based on the state's personal income growth.

While the majority of businesses will see some tax break, some businesses, mainly financially based companies, will find themselves paying more tax. Treasurer Robert Kleine has said that out-of-state businesses would pay about \$100 million more under the proposal. Senator Nancy Cassis (R-Nov), acknowledged the importance of exporting the tax burden in hopes of encouraging companies to locate in the state.

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Preparation of bill language will commence this week, with legislative action anticipated as soon as next week. Legislation is expected to be passed and signed into law by July 1, 2007. Work will continue on the 2008 budget deficit of approximately \$1.5B, with the focus on a luxury tax on selected services and a personal income tax increase. Details of which services will be taxed as a "luxury" have not been determined, and may include many services utilized by businesses.

If you have any questions regarding this alert, please contact any of our state and local tax attorneys.