

Due Date for Michigan Business Tax Returns for Federally Disregarded Entities Extended to July 1, 2012

November 18, 2011

On November 15, 2011, the Michigan Department of Treasury issued its Third Revised Notice to Taxpayers Regarding Federally Disregarded Entities and the Michigan Business Tax, extending the date for affected persons to file a return or amend a return to July 1, 2012. In response to the decision in *Kmart Michigan Property Services LLC v Dep't of Treasury*, 283 Mich App 647 (2009), lv den 772 NW2d 421 (2009), the Department issued a notice mandating that taxpayers file amended returns under the MBT to reflect U.S. disregarded entities as separate persons. The due date for filing, now July 1, 2012, has been extended three times by the Department. Amended returns are required even if the return results in no change in tax liability.

As recently reported in a previous alert, the administration was in the process of examining the issue of how foreign entities disregarded for federal tax purposes should be treated under the MBT in connection with corrective legislation addressing the *Kmart* decision. Subsequently, through meetings in which Miller Canfield participated, the administration resolved to treat foreign and U.S. entities consistently and follow the federal status for all disregarded entities. The administration and the Michigan Legislature have indicated a commitment to working on corrective legislation, and the due date extension provides the administration, the Department and the Legislature additional time to consider and work on that legislation. Therefore, while a deadline for filing amended returns still exists, all parties anticipate that amended returns ultimately will not be required.

For more information, contact one of our State and Local Tax attorneys, or the authors.

Gregory A. Nowak
313.496.7963