

Michigan Senate Passes MBT Technical Corrections Omnibus Bill

July 19, 2012

On Wednesday, July 18 the Michigan Senate voted 37-1 to pass Senate Bill 1037, which is an omnibus technical corrections bill making several clarifying amendments to the Michigan Business Tax (MBT) which was in effect as Michigan's general business tax from 2008 through 2011. The bill consists of 11 corrections which were advanced by the Michigan Association of Certified Public Accountants to clarify various points in the MBT. The MBT was replaced on January 1, 2012 by a simplified corporate income tax and remains in effect after 2011 only for those taxpayers electing to continue to pay the MBT to take advantage of discretionary tax credits granted previously under the MBT. The bill now proceeds to the Michigan House of Representatives. The most significant technical corrections issue from a revenue perspective is the definition of "materials and supplies" deductible from the modified gross receipts base of the MBT. The Michigan Department of Treasury estimates that this correction could result in refunds of \$110 million per year or \$440 million for the four years the MBT was in effect. Other issues include clarifying that cancellation of indebtedness income is not a component of the modified gross receipts tax base, allowing loss carryforwards to survive a business reorganization, allowing a deduction for self constructed asset from the modified gross receipts tax base, clarifying the order of claiming credits, clarifying other credit provisions, providing for intercompany eliminations from unitary tax returns, and defining the ultimate destination of goods for apportionment purposes. The Department of Treasury has opposed the bill largely on the basis of the revenue impact. Greg Nowak, state and local tax attorney with Miller Canfield in Detroit and past chair of the MACPA, has been an active advocate for the corrections package. Nowak observes, "When dealing with technical corrections, it is our view that revenue impact should never be a factor since the goal is to ensure that the original intent of the legislation is implemented. These issues don't change the law, they just clarify it. While it has taken a long time for these issues to finally see legislative action, we are thrilled with the Senate's vote today and look forward to working with the House on advancing the bill to the Governor."