

THE MICHIGAN BUSINESS TAX

OVERVIEW

The Michigan Business Tax (MBT) is a tax levied on business income and gross receipts, and includes an additional surcharge. The tax allows numerous tax credits, including credits for investment in human and physical capital, and research and development. The MBT also includes significant property tax reductions, creating certain property tax exemptions for industrial and commercial personal property.

The Business Income Tax will be assessed on business activity that takes place in Michigan. The base of the tax for all entities will start with federal taxable income derived from business activity. Business income will be taxed at a rate of 4.95%. A business with gross receipts, apportioned or allocated to Michigan, of less than \$350,000 will not have to file an MBT return or pay any tax.

The Modified Gross Receipts Tax is based on a modified measure of a company's gross receipts. The rate of this tax is 0.8%. The tax base is a taxpayer's gross receipts less "purchases from other firms," before apportionment. Taxes collected by the business are not included in gross receipts. "Purchases from other firms" includes: inventory purchased during the tax year; depreciable assets acquired during the tax year; materials and supplies, including repair parts and fuel; compensation of personnel supplied to customers of a staffing company; and payments by certain contractors to subcontractors. Special provisions reduce the tax base for a variety of taxpayers including auto dealers and construction contractors.

Both the Business Income Tax and Modified Gross Receipt Tax will be apportioned to Michigan based on sales. The apportionment factor equals a business' sales in Michigan divided by its total sales, meaning investment or job creation in Michigan will not affect the apportionment of the MBT.

A surcharge is levied at 21.99% and applies to the MBT liability generated by the Business Income Tax and Modified Gross Receipts Tax prior to any credit reductions. The surcharge may not exceed \$6 million for any one taxpayer.

MBT HIGHLIGHTS

Business Income Tax	4.95%
Gross Receipts Tax	0.8%
Surcharge: Applied to apportioned income and gross receipts tax before credits	21.99%
Apportionment Factor	100% Sales
Filing Threshold	\$350K
Investment Tax Credit ¹	2.9 % ²
Compensation Credit ¹	0.37% ²
R&D Credit ¹	1.9% ²
Industrial Personal Property Tax Credit ³	35%

1. The combined ITC and Compensation Credit cannot exceed 50% of tax liability in 2008 and 52% in tax years thereafter. The combined ITC, Compensation Credit, and R&D credit cannot exceed 65% of liability in 2008 and beyond.
2. These are the permanent credit rates beginning in 2009. Initially, the 2008 credits are lower—the ITC at 2.32%, the Compensation Credit at .296%, and R&D Credit at 1.52%.
3. Not available on leased personal property.

Insurance and financial institutions are taxed differently from other businesses under the MBT. Insurance companies are liable for 1.25% of gross direct premiums written on property or risk residing in Michigan (with adjustments). Financial institutions are taxed at a 0.235% rate on the value of net capital averaged over five years.

TAX CREDITS

The MBT offers incentives for new and existing firms. Tax credits provide incentives to invest in Michigan, to employ Michigan residents, and to perform research and development in the state. Credits are allowed for 0.37% of compensation paid in Michigan; 2.9% of the cost of net depreciable assets located in Michigan; and 1.9% of the amount spent on R&D in Michigan. There is also an entrepreneurial credit, which can be claimed by businesses with less than \$25 million in gross receipts that create at least 20 jobs and invest at least \$1.25 million in one year. Some small businesses may also be eligible for a phase-in credit or the Small Business Alternative Credit.

The MBT also includes the Michigan Early Stage Venture Capital Voucher, Brownfield credits, the Historic Preservation credit, the Michigan Economic Growth Authority (MEGA) Employment Credit, NextEnergy credits and Renaissance Zone® credit.

PERSONAL PROPERTY TAX REDUCTIONS

The MBT affects property taxes, too. Commercial personal property is exempt from 12 of 24 education mills, and purchased industrial personal property is exempt from the 24 education mills. Firms will also receive a 35% refundable credit for remaining industrial personal property taxes paid. The full exemption will not apply in “Hold Harmless” school districts. On average, these tax reductions provide a 65% cut on purchased industrial personal property taxes and a 23% reduction in commercial personal property taxes.

OVERALL IMPACT ON MICHIGAN-BASED BUSINESSES

Aggregate Estimated MBT Credit Savings

- Personal Property Tax Credit & Exemption—
\$635 million in savings
- Small Business Alternative Credit—
\$389 million in savings
- Compensation Credit—
\$288 million in savings
- Investment Tax Credit—
\$266 million in savings
- R&D Credit—
\$73 million in savings
- Filing Phase-In Credit—
\$54 million in savings
- Other Nonrefundable Credits—
\$34 million in savings

IMPACT ON SMALL BUSINESS

There are a number of provisions within the MBT that are beneficial to small businesses:

- Businesses earning less than \$350,000 in gross receipts are not required to file for the MBT and businesses earning between \$350,000 and \$700,000 will phase-in

their liability. These provisions lessen the tax burden on start-ups and other small businesses.

- The Small Business Alternative Credit has been expanded from the SBT. Qualified small businesses may pay an alternate tax equal to 1.8% of adjusted business income.
 - Adjusted business income limit has been increased from \$475,000 to \$1.3 million and is indexed to inflation.
 - Gross receipts limit is increased to \$20 million. (The credit phase-out range for gross receipts is \$19–\$20 million.)
 - Officer/owner’s compensation cannot exceed \$180,000. (The credit phase-out range for officer compensation is \$160,000–\$180,000.)
- The Michigan Entrepreneurial Credit rewards entrepreneurs that create jobs in Michigan. Businesses that earn less than \$25 million in gross receipts, invest at least \$1.25 million in Michigan, and create at least 20 jobs can take a credit against the MBT in 2008, 2009, and 2010. The size of the credit depends on the number of jobs the business creates relative to their current size. This credit could provide eligible businesses with a 100% reduction in their MBT liability.

The MBT is a crucial component in improving the state’s overall business climate and encouraging new investment through tax credits and reduced personal property tax costs.

**MBT IN THREE PARTS:
BUSINESS INCOME TAX, GROSS
RECEIPTS TAX AND SURCHARGE**

BUSINESS INCOME TAX STRUCTURE

Business Income
*(Federal taxable income from business activity
with specific statutory modifications)*
x Apportionment Factor
(Sales in Michigan divided by Total Sales)

Apportioned Business Income
x 4.95% Tax Rate

Estimated Liability

GROSS RECEIPTS TAX

Gross Receipts
*(Less purchases from other firms,
including inventory and depreciable assets)*
x Apportionment Factor
(Sales in Michigan divided by Total Sales)

Apportioned Gross Receipts
x 0.8% Tax Rate

Estimated Liability

SURCHARGE

Business Income Tax Liability
+ Gross Receipts Tax Liability
(Before Credits)
x 21.99%

Surcharge

Business Income Liability
+ Gross Receipts Liability
+ Surcharge

Tax Liability Before Credits

**HOW DOES IT WORK?
WHO FILES AND PAYS**

NEXUS—Nexus is the term that identifies the minimum level of activity that causes a business entity to be responsible for filing and paying a tax in a specified jurisdiction. A taxpayer has nexus and is subject to the MBT if it has a physical presence in the state for more than one day per tax year or if the entity “actively solicits” sales and has gross receipts of \$350,000 or more in Michigan. Physical presence means “any activity” by a taxpayer, while “actively solicits” means “purposeful solicitation” in Michigan. “Taxpayer” is defined as a person or a unitary business group liable for tax, interest or penalty. See the definitions at the end of this document for more information.

FILING THRESHOLD—Taxpayers with less than \$350,000 in gross receipts apportioned or allocated to Michigan are exempt from the MBT. A tax return is required to be filed if apportioned or allocated gross receipts exceed \$350,000.

TAX PHASE-IN BASED ON GROSS RECEIPTS—The MBT filing threshold is “phased-in” through the use of a credit for companies with gross receipts between \$350,000 and \$700,000. The tax credit is based on a declining scale as apportioned gross receipts approach \$700,000

UNITARY BUSINESS GROUPS—The MBT requires unitary business groups to file a combined return that includes each U.S. entity in the group. The tax base or apportionment formula does not include transactions between group members. A unitary business group is a group of U.S. persons other than a foreign operating entity, one of which:

- Owns/controls, directly or indirectly, more than 50% of the ownership interest of the other U.S. persons; and has business activities or operations that result in a flow of value between or among businesses in the business group; (“Control Test”)
AND
- Has business activities or operations that are integrated with, dependent upon, or contribute to other members of the group. (“Relationship Test”)

MBT CREDITS

INDUSTRIAL PERSONAL PROPERTY TAX CREDIT

Taxes paid on industrial personal property tax are eligible for a 35% credit. The eligible property must be owned by the taxpayer and classified as industrial personal property. Property that has been abated under **P.A. 198 of 1974** is eligible if it is classified as industrial personal property and is situated on land classified as industrial real property. Taxpayers will be required to provide documentation including assessment statements and paid tax bills. This credit is refundable if it exceeds a taxpayer's MBT liability.

COMPENSATION CREDIT

A credit is available for 0.37% of the wages, salaries and benefits paid in Michigan each year. The compensation credit rate is 0.296% in 2008.

INVESTMENT TAX CREDIT (ITC)

A credit is available for 2.9% of the investment in depreciable real and personal property located in Michigan. In 2008, the ITC rate is 2.32%.

- The sum of the compensation credit and ITC cannot exceed 52% of MBT liability before credits. In 2008 only, these two credits cannot exceed 50% of MBT liability before credits.

RESEARCH & DEVELOPMENT CREDIT (R&D)

A credit is available for 1.9% of R&D expenditures made each year in Michigan. The R&D credit rate is 1.52% in 2008. The credit is based on the R&D expenses claimed on the federal tax return and based on federal statute 26 USC 41(b).

- The sum of the compensation, ITC and R&D credits may not exceed 65% of the MBT liability before credits.

The Technology Collaboration Credit is also available for the 2008, 2009 and 2010 tax years. The credit equals 30% of the contribution that a business pays to help a small business finance R&D activity on behalf of the contributing company. The credit cannot exceed \$300,000 and must be approved by the Michigan Economic Growth Authority (MEGA) Board. The MEGA Board may only approve 20 of these credits each year.

MEDIA PRODUCTION CREDITS

Eligible production companies that produce film, television, or other media in Michigan may enter into an agreement with the Michigan Film Office to receive various credits under the MBT. The credits include:

- A 40%–42% credit on all eligible production and personnel expenditures made in Michigan. If the amount of this credit exceeds the business' MBT liability, the excess will be refunded to the business.
- A 25% credit on investment in certain depreciable real and personal property.
- A 50% credit on expenditures made for on-the-job training for certain production staff.

These credits are negotiated through the Michigan Film Office and various restrictions apply.

MICHIGAN ENTREPRENEURIAL CREDIT

For the 2008, 2009 and 2010 tax years, a taxpayer can claim a credit for 100% of the tax liability attributable to increased employment if, in the previous tax year, the taxpayer met all of the following conditions:

- Had gross receipts of less than \$25 million (adjusted annually for inflation).
- Created or transferred to Michigan at least 20 new jobs.
- Made at least \$1.25 million in capital investment in Michigan.

Retail establishments are generally not eligible for this credit.

CULTURE CREDIT

A business that contributes more than \$50,000 to a municipal or nonprofit art, historical, or zoological institute, qualifies for a credit equal to 50% of the amount contributed in excess of \$50,000. The credit is capped at \$100,000 and is not refundable.

SBT CARRYFORWARDS

Historic Preservation and Brownfield carryforwards are available for the same period they would have been under the Single Business Tax. Other unused SBT credit carryforwards may be applied against MBT liability for tax years 2008 and 2009 only.

MBT CREDITS *continued*

MICHIGAN ECONOMIC GROWTH AUTHORITY (MEGA) EMPLOYMENT CREDIT

The Michigan Economic Growth Authority (MEGA) credit is based on the state personal income tax attributed to qualified new full time employees. This credit is negotiated with the MEGA Board and administered by the Michigan Economic Development CorporationSM (MEDC).

RENAISSANCE ZONE CREDIT

By locating in one of Michigan's Renaissance Zones[®], a business virtually eliminates its state business tax and general property tax liability attributable to activity in the zone. The zone also eliminates any applicable city income taxes.

BROWNFIELD CREDITS

Brownfield credits are provided for the costs related to the reuse of qualifying properties. Credits may be available based on the taxpayer's eligible investments and improvements to the site, but must be approved by the MEGA Board and/or State Treasurer within 90 days of the start of the project.

NEXTENERGY CREDIT

Alternative energy companies certified by the Michigan Next Energy Authority (MNEA) may claim a credit based on qualified business activity. This credit is administered by the MEDC.

STARTUP BUSINESS CREDIT

This credit targets small, relatively new taxpayers with substantial R&D activity. The credit is equal to the taxpayer's liability for the year. A qualified taxpayer must:

1. Have fewer than 25 employees;
2. Have sales of less than \$1 million;
3. Not be publicly traded;
4. Have R&D make up at least 15 percent of its expenses;
5. Be in one of the first two years of contribution for unemployment insurance taxes in the immediately preceding seven years.

MICHIGAN EARLY STAGE VENTURE CAPITAL VOUCHER

Investors in the Michigan Early Stage Venture Investment Fund may claim a credit based on vouchers issued by the fund's corporation.

PUBLIC CONTRIBUTIONS CREDIT

A credit is allowed for 50% of a taxpayer's charitable contributions to public broadcasting stations, public libraries, institutions of higher learning, Michigan college foundations, and housing and community development funds. This credit may not exceed 5% of liability or \$5,000, whichever is less.

WORKERS' DISABILITY COMPENSATION CREDIT

A qualified tax credit for contributions to a specially designated workers' compensation supplemental fund.

COMMUNITY FOUNDATION CREDIT

A credit is allowed for 50% of taxpayer charitable contributions to community or education foundations. This credit may not exceed 5% of liability or \$5,000, whichever is less.

FOOD BANK AND HOMELESS SHELTER CONTRIBUTION CREDIT

A credit is allowed for 50% of taxpayer charitable contributions to a homeless shelter, food kitchen, food bank, or other entity that assists persons who are indigent. This credit may not exceed 5% of liability or \$5,000, whichever is less.

HEMATITE ORE CREDIT

A taxpayer may claim a credit equal to \$1 per long ton of qualified low-grade hematite consumed in an industrial process.

KEY DEFINITIONS

Note: Not all relevant definitions are listed here. Please see Public Act 36 of 2007 (MCL 208.1101-208.1601) for complete statutory information.

BUSINESS INCOME

The part of federal taxable income derived from business activity. For a partnership or S corporation, business income includes payments and items of income and expenses that are attributable to business activity of the partnership or S corporation and separately reported to the partners or shareholders.

COMPENSATION

All wages, salaries, fees, bonuses, commissions and other payments made in the tax year on behalf of or for the benefit of employees, officers, or directors of the taxpayer, and any earnings that are net earnings from self-employment. Compensation includes, but is not limited to, payments that are subject to or specifically exempt or exempted from withholding under sections 3401 to 3406 of the Internal Revenue Code. Compensation also includes:

1. Payments to a pension, retirement, or profit sharing plan other than those payments attributable to unfunded accrued actuarial liabilities;
2. Payments from insurance for which employees are the beneficiaries, including payments under health and welfare;
3. Noninsured benefit plans and payment of fees for the administration of health and welfare;
4. Noninsured benefit plans.

Compensation is only used in the calculation of credits and is not included in the tax base.

COMPENSATION EXCLUDES:

1. Discounts on the price of the taxpayer's merchandise or services sold to the taxpayer's employees, officers, or directors that are not available to other customers;
2. Payments to state and federal unemployment compensation funds;
3. The employers portion of payments under the federal insurance contributions act;
4. Generally, payments to an independent contractor;
5. Payments, including self-insurance payments, for workers' compensation insurance or federal employers' liability act insurance.

GROSS RECEIPTS

The entire amount received by the taxpayer from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or others.

GROSS RECEIPTS EXCLUDE: For a full list of gross receipts exclusions refer to MCL 208.1111. The following are gross receipts exclusions from gross receipts: Taxes collected by the business. Amounts received as an agent on behalf of the principal. Certain amounts realized from the sale of marketable instruments. The gross receipts exclusions for professional employer organizations are charges by professional employer organizations that represent the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer arrangement.

'LESS PURCHASES FROM OTHER FIRMS'

Modified gross receipts under the MBT refer to gross receipts "less purchases from other firms." "Purchases from other firms" means:

1. Inventory acquired during the tax year, including freight, shipping, delivery, or engineering charges included in the original contract price for that inventory.
2. Assets, including the costs of fabrication and installation, acquired during the tax year of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes.
3. To the extent not included in inventory or depreciable property, materials and supplies, including repair parts and fuel.
4. Additional amounts for a staffing company, construction contractor, theatre owner, or real estate broker.

KEY DEFINITIONS *continued*

PHYSICAL PRESENCE

Any activity conducted by the taxpayer or on behalf of the taxpayer by its employee, agent, or an independent contractor acting in a representative capacity. Physical presence does not include the activities of professionals providing services in a professional capacity or other service providers if the activity is not significantly associated with the taxpayer's ability to establish and maintain a Michigan market. More information on physical presence may be found in Revenue Administrative Bulletin (RAB) 2008-4 from the Treasury Department.

'ACTIVELY SOLICITS'

"Actively solicits," for the purposes of determining nexus under the MBT and as defined by the Treasury Department's Revenue Administrative Bulletin (RAB) 2007-6, means "purposeful" solicitation of persons within this state. Specifically, RAB 2007-6 states, "Solicitation means (1) speech or conduct that explicitly or implicitly invites an order; and (2) activities that neither explicitly or implicitly invite an order, but are entirely ancillary to requests for an order. Solicitation is purposeful when it is directed at or intended to reach persons within Michigan or the Michigan market. Active solicitation includes, but is not limited to, solicitation through (1) the use of mail, telephone, and e-mail; (2) advertising, including print, radio, internet, television, and other media; and (3) maintenance of an internet site over or through which sales transactions occur with persons within Michigan."

UNITARY BUSINESS GROUP

A group of United States persons, other than a foreign operating entity, one of which owns or controls, directly or indirectly, more than 50% of the ownership interest with voting rights or ownership interests that confer comparable rights to voting rights of the other U.S. persons, and that has business activities or operations which result in a flow of value between or among persons included in the unitary business group or has business activities or operations integrated with, are dependent upon, or contribute to each other.

INDUSTRIAL PERSONAL PROPERTY

The industrial personal property tax credit under the MBT refers to all machinery and equipment, furniture and fixtures, and dies on industrial parcels, and inventories not exempt by law. Industrial real property includes parcels used for manufacturing and process purposes, including utility sites and specified mining activities. Industrial real property also includes specified buildings on leased land used for industrial or utility purposes. See MLC 211.34c for full details.

For more information, contact the MEDC Customer Assistance Center at 517.373.9808 or visit michigan.gov/MBT.

ONLINE RESOURCES

- [Frequently Asked Questions on the Michigan Business Tax](#)
- [Michigan Business Tax Estimator](#)
- [Michigan Business Tax Forms \(Final 2008 Forms\)](#)
- [Michigan Business Tax Form Webinars](#)
- [Online Tax Account Information \(coming soon\)](#)
- [Revenue Administrative Bulletins](#)