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Key Tax Credits Preserved and New Credits Added in the New Michigan Business Tax

Late last week both houses of the Michigan Legislature passed, and the Governor is expected to sign, a bill that creates a new state business tax. Virtually all of the key business incentive programs that had been part of the Single Business Tax Act (SBT) have been included in the new Michigan Business Tax Act (MBT). The programs that will continue with the new tax include the MEGA employment credit, Renaissance Zone credits, Brownfield credits and Historic Rehabilitation credits. In addition, taxpayers that have unused credits when the SBT expires at the end of 2007, will, in most cases, be able to apply them against future MBT liability starting in 2008. Taxpayers should also be aware, however, that the new law provides for claw-back or recapture provisions for those credits that had such provisions in the SBT.

MEGA

The MEGA employment credit continues for both new jobs and retained jobs. It will continue to be a credit based on the value of new or retained payroll multiplied by the state income tax rate. The new law allows the authority to certify a credit against the new tax based on agreements entered into under the SBT. The sunset for new certifications was also extended from 2009 to 2013. However, the MEGA business activity credit has been eliminated. In practice the elimination of the business activity credit is not significant since the MEGA board had not granted any of these types of credits in the past several years.

Brownfield

The brownfield credit will continue under the new MBT. The credit will be 10% of the eligible investment for smaller projects (\$1 million or less) and the Michigan Economic Growth Authority may approve credits up to 10% of eligible investment for larger projects (\$1 million to \$30 million). A 10 year carry-forward applies to any unused credits granted under either the SBT or the MBT. At least for now, the new credit is limited to projects for which preapproval letters are issued before January 1, 2013.

Historic Rehabilitation

The Historic Rehabilitation credit will continue under the new MBT. As with the SBT credit, the new credit will equal 25% of qualified rehabilitation expenditures to historic resources. Credits may be carried forward for up to 10 years and credits granted under the SBT may be carried forward against the MBT. If the historic resource is sold within 5 years of claiming the credit, a sliding scale recapture provision becomes effective. The recapture can apply to credits that were originally claimed under the SBT.

Renaissance Zones

The credit for business activity within a Renaissance zone will remain essentially unchanged under the MBT. The credit works much like an exemption for that part of a business' activity that occurs within the zone. As was the case with the SBT credit, the MBT credit is non-refundable and may not be carried-forward to future tax years.

Tax Incentive Alert

Other Credits

Other incentive related credits that have been preserved in the new tax include the Investment Tax Credit, the Start-Up Business Credit, the Alternative Energy Credit, and the Early Stage Venture Capital Investment Credit.

New MBT Credits

R&D Credit

There are two new separate research and development credits in the MBT. The first equals 1.9% of qualified R&D expenses. This credit, combined with the compensation and investment tax credits, may not exceed 75% of the taxpayer's liability. In addition, a business may claim a credit for 30% of the contributions it makes to a small business to help finance R&D that is of interest to the contributing company. This credit is capped at \$300,000 per year, must be approved by the Michigan Economic Growth Authority and expires after the 2010 tax year.

Entrepreneurial Credit

The new MBT will include an Entrepreneurial Credit for small businesses that bring jobs and investment to Michigan. Non-retail businesses that, for the previous year, had less than \$25 million in gross receipts; created at least 20 new jobs and made at least \$1.25 million in capital investment are eligible for the credit. The credit would equal the taxpayer's liability attributable to the increased employment and is available for tax years 2008-2010.

Personal Property Tax Credit

The MBT includes a 35% refundable credit for personal property taxes paid on industrial personal property. There are also special provisions that apply to state assessed telephone companies and to natural gas pipeline property.

In addition to the personal property tax credit in the MBT, the package that will be presented to the Governor includes a 24 mill exemption for industrial personal property and a 12 mill exemption for commercial personal property. Hence, as a result of the MBT credit and the 24 mill exemption, personal property taxes on industrial personal property will effectively be reduced by about 65% starting in 2008.

Additional Information

For additional information regarding these or other tax credits or business incentives, please contact a member of Honigman's Investment Incentives and Tax Savings Group:

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