

Michigan Tax Reform Proposals and Planning Opportunities

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- Repeal Legislation
- Alternatives Under Discussion
- Timing Issues
- Planning Opportunities

Initiated Legislation

- Petition initiative started by Brooks Patterson, Oakland County Executive
- Encourage Legislature to adopt tax that is less burdensome, less costly to employers, more equitable and more conducive to job creation and investment
- 297,741 petition signatures validated by Board of Canvassers
- Legislature enacted the initiative as PA 325 on 8/9/2006
- SBT repealed as of 12/31/2007

Possible Replacement Taxes

- Fair Tax
- Subtractive Value-Added Tax and Income Tax
- Detroit Chamber Business License Fee
- Grand Rapids Chamber Business Activities Tax
- Michigan Chamber Business License Tax and Income Tax
- Governor's Michigan Business Tax

Fair Tax

- Eliminate SBT, Individual Income Tax and Personal Property Tax
- Broad Based Sales Tax on all purchases of goods and services in range of 9%
- Taxes new house purchases
- Exempts business to business sales
- No Chance of Enactment

Subtractive Value Added Tax and Income Tax

- Gary Wolfram, Hillsdale College
- Business choice to pay either
 - Subtractive Value Added Tax on gross receipts minus purchases from other firms and CAD, or
 - Income Tax based on federal taxable income
- Election binding for minimum number of years

Detroit Chamber Business License Fee

- License fee based on Michigan sales
- Business with sales in specified range would pay set annual fee
- Sales under \$350,000 = no fee
- Maximum fee \$1,000,000
- Maintains MEGA type credits

Grand Rapids Chamber Business Activities Tax

- Tax base = Michigan sales less an apportioned cost tangible personal property purchased for resale, manufacturing, leasing or cost of funds for financials or apportioned \$350,000 standard deduction
- Rate not to exceed .75%
- Under \$350,000 = \$150
- Destination Sourcing
- Repeal Personal Property Tax, Replace with Local Tax

MI Chamber Business License and Income Tax

- Two Taxes
- Single sales factor for both taxes
- Business Activity Tax based on sales
- Rate = .24% / .18% retail/wholesale
- \$2 Million Cap

MI Chamber Business License and Income Tax

- Income Tax based on federal base
- Rate = 1.85%
- 350,000 or under = \$150 tax
- 50% personal property tax credit
- \$500 Million tax cut
- Bills being drafted

Governor's Michigan Business Tax

- Tax Base = gross receipts, assets plus net income x 15
- Rate = .125%
- Under \$350,000 gross receipts, no filing
- 100% sales factor apportionment
- No Michigan sales, then property and payroll for apportionment
- Keeps MEGA, Brownfield & Renaissance Zone Credits
- Adds new R & D credit

Governor's Michigan Business Tax

- Insurance Co tax at 1.25% on gross premiums
- 24 mill reduction to personal property tax
- Revenue Neutral
- Fallback tax if PL 86-272 applies or if apportionment is unconstitutional
Gross receipts tax at .375%

Senate Republican BEST Plan

- Introduced 1-25-07 SB 94, 95 & 96
- Imposes a business income tax at 1.97%
- Imposes a gross receipts/franchise net worth tax
- Rate to be determined by Treasury and fiscal agencies
- Gross receipts less business purchases
- Net worth = (assets – inventory) – liabilities
- Tax Base Weighting Choice: 70/30; 60/40; 50/50; 40/60; 30/70

Senate Republican BEST Plan

- Gross Receipts < \$15M elect gross receipts or business income base only
- 100% Sales factor except fall back to property and payroll for gross receipts/franchise net worth tax
- Destination sourcing except for services and intangibles under gross receipts/franchise net worth tax use cost of performance
- Minimum tax \$100 if gross receipts >100K but less than \$350k
- Industrial personal property tax – 10% credit for purchases in last 5 years; new purchases exempt

Timing Questions

- Governor's Proposal Reintroduced
- Michigan Chamber Proposal Introduced
- Michigan SBT Replacement Tax website:

<http://www.honigmansbtinfo.com>

Planning Opportunities

- Accelerate items not taxable under SBT into 2007
- Defer items that increase the base under SBT
- Re-evaluate strategies once new tax is enacted

Accelerate Items Not Taxable Under SBT

- Interest income
- Dividend income
- Royalty income except franchise royalties
- Use SBT loss carryforward

Defer Items That Increase SBT Base

- CAD and ITC recapture transactions
- Interest expense
- Dividend expense
- Royalty expense
- Compensation
- Other state net income tax
- Capital loss carryover or carryback
- Losses from partnerships

Exemptions, Reductions and Credits that Are Likely to Go Away

- Insurance Company Credits (maybe)
- Alternative gross receipts reduction
- Compensation reduction
- Investment Tax Credit
- Unincorporated Taxpayer Credit

Look at Sales Factor and Gross Receipts

- Sales Factor
 - Will be 100%
 - May include royalty income
 - May need a Michigan sale to avoid fallback to property and payroll

- Gross Receipts – Excludes
 - Amounts received in agency capacity
 - Refunds, returns
 - Cash and trade discounts
 - Like-kind exchange
 - Transfers of accounts receivable

Industry Specific Concerns

- Insurance
- Financials
- Consolidate return filers
- Real estate management
- Franchisors/Trademark Licensors
- Tiered Partnerships/S Corporations

This presentation is intended to provide general information regarding the various pending state tax proposals. It is not intended to be an all encompassing treatment of the subject matter and does not purport to offer legal advice.

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