Instructions for Form 4548
2010 Michigan Business Tax (MBT) Quarterly Return

MBT Estimated Tax Payments

All business taxpayers, regardless of business type, may use Form 4548 to make their required estimated tax payments. Follow general instructions for all business types and specific instructions as identified for Standard Taxpayers, Financial Institutions, and Insurance Companies.

The MBT consists of a franchise tax for financial institutions, a premiums tax for insurance companies, and a Business Income and Modified Gross Receipts Tax for standard taxpayers (all taxpayers other than financial institutions and insurance companies). In addition, every standard and financial taxpayer is subject to an annual surcharge equal to a percentage of their MBT liability after apportionment or allocation. Insurance companies are not subject to a surcharge.

Taxpayers with an annual combined MBT liability reasonably expected to exceed $800 must make quarterly estimated tax payments.

The sum of estimated tax payments must equal at least 85 percent of total liability and the amount of each payment must reasonably approximate the tax liability incurred during the period. If the tax year was less than 12 months (e.g., the business was opened or closed during the year), annualize the tax to see if estimates must be filed.

If the preceding year's tax liability was $20,000 or less, the taxpayer can submit four equal installments, the sum of which equals the immediately preceding tax year's tax liability.

MBT estimated tax payments are not required for taxpayers with a short year of less than four calendar months.

Special Instructions for Unitary Business Groups

Taxpayers include a single individual or entity or a Unitary Business Group (UBG). A UBG is a group of United States persons, other than a foreign operating entity, one of which owns or controls (directly or indirectly) more than 50 percent of the ownership interests with voting or comparable rights of the other United States persons and that has business activities resulting in a flow of value between or among persons in the group, or has business activities that are integrated with, are dependent upon, or contribute to each other. All MBT estimated tax payments for a UBG should be made by the Designated Member.

An MBT return is due if the taxpayer's gross receipts before intercompany eliminations are $350,000 or greater for the tax year.

When to File MBT Quarterly Tax Returns

For a calendar year taxpayer, quarterly returns are due the 15th day of April, July, October and January. For a fiscal year taxpayer, quarterly returns are due the 15th day of the first month after each quarter. For any tax year that includes an estimated tax payment period of less than three months, the quarterly return for that period is due on the 15th day of the month immediately following the final month of the estimated tax payment period.

NOTE: Insurance companies must file on a calendar year basis.

How Much to Pay

Standard Taxpayers and Financial Institutions. Compute quarterly estimated tax payments for MBT based on the filer's actual combined tax base for the period, plus the applicable annual surcharge.

Insurance Companies. Compute quarterly estimated tax payments on the greater of the amount of tax imposed under Chapter 2A of the MBT Act (MCL 208.1101 et seq.) or under Section 476a of the Insurance Code of 1956, 1956 Public Act 218, MCL 500.476a.

All Taxpayers. Penalty and interest for underpaid estimated tax payments will not be charged if payments are made on time and meet the requirements for the amount per quarter as stated under the heading MBT Estimated Tax Payments in these instructions.

NOTE: For a taxpayer that calculates and pays estimated tax payments for federal income tax purposes pursuant to section 6655(e) of the internal revenue code, that taxpayer may use the same methodology as used to calculate the annualized income installment or the adjusted seasonal installment, whichever is used as the basis for the federal estimated tax payment, to calculate the estimated tax payments required each quarter for MBT.

Estimating Tax Liability

Standard Taxpayers

MBT is due only if a taxpayer's apportioned or allocated gross receipts are $350,000 or greater for the tax year (annualized, if a short period).

For standard taxpayers with apportioned or allocated gross receipts of $350,000 or more (annualized, if a short period), MBT is comprised of a 4.95 percent tax on the Business Income Tax base and a 0.8 percent tax on the Modified Gross Receipts Tax base. A credit is used to phase in the tax liability for taxpayers with apportioned or allocated gross receipts between $350,000 and $700,000. In addition, an annual surcharge is imposed on each taxpayer equal to 21.99 percent of its MBT liability after allocation or apportionment to Michigan, but before the calculation of credits available under the MBT Act. The amount of the surcharge levied against a standard taxpayer is capped at $6,000,000 in any single tax year. The apportionment for standard taxpayers is based on a sales factor, utilizing rules set in statute.

For most standard taxpayers, the Business Income Tax base is that part of federal taxable income derived from business activity, with certain adjustments. "Federal taxable income" means taxable income as defined in section 63 of the Internal Revenue Code, except that federal taxable income shall be calculated as if section 168(k) and section 199 of the Internal Revenue Code (IRC) were not in effect.

Additions (to the extent deducted or excluded from federal taxable income) include:

- Interest income and dividends derived from obligations or securities of states other than Michigan,
- Taxes on or measured by net income and the tax imposed under MBT,
- Any net operating loss carryback or carryover,
- Loss attributable to another taxable entity,
- Royalty, interest, or other expense paid to a person related to the taxpayer by ownership or control for the use of an intangible asset if the person is not included in the taxpayer's UBG.

Subtractions (to the extent included in federal taxable income) include:

- Dividends and royalties received from persons other than United States persons and foreign operating entities,
- Income attributable to another taxable entity,
- Interest income derived from United States obligations,
- Net earnings from self-employment, as defined under IRC § 1402, of the taxpayer or a partner or Limited Liability Company member of the taxpayer except to the extent that those net earnings represent a reasonable return on capital.

The Modified Gross Receipts Tax base for standard taxpayers consists of gross receipts less purchases from other firms and other limited subtractions. *Gross receipts* means the entire amount received by the taxpayer, as determined by using the taxpayer's method of accounting for federal income tax purposes, from any activity, whether in intrastate, interstate, or foreign commerce, carried out for direct or indirect gain, benefit or advantage to the taxpayer or to others, with certain exceptions. Use the *Gross Receipts Worksheet* (Worksheet 4700) to calculate gross receipts.

NOTE: HMOs holding contract with the State of Michigan for Medicaid services, per MCL 208.1111(1) dd, should complete line 71 of Worksheet 4700 only if applicable, otherwise the exclusion will be disallowed.

Purchases from other firms and *other limited subtractions* include:

- Inventory acquired during the tax year.
- Depreciable assets acquired during the tax year.
- To the extent not included in inventory or depreciable assets, materials, and supplies (tangible personal property), including repair parts and fuel, acquired during the tax year directly connected to and used or consumed in the production or management of inventory or the operation or maintenance of depreciable assets.
- Compensation for personnel for staffing companies, certain construction contractors, and certain real estate brokers and appraisers.
- 100 percent of film rental or royalty payments paid by a theater owner to a film distributor and/or producer.
- Qualified Affordable Housing Deduction.

Some standard taxpayers may find that business income, gross receipts, and purchases from other firms may be approximated using monthly profit and loss statements.

Insurance Companies

Under MBT, insurance companies are subject to a 1.25 percent tax on gross direct premiums written, with no minimum filing threshold, on property or risk located or residing in Michigan with certain exclusions, including:

- Premiums on policies not taken.
- Returned premiums on canceled policies.
- Receipts on sales of annuities.
- Receipts on reinsurance premiums assumed if the tax has been paid on the original premiums.
- The first $190,000,000 of disability insurance premiums written in Michigan, other than credit insurance and disability income insurance premiums, reduced by two dollars for each dollar by which the gross direct premiums from insurance carrier services, both within and without Michigan, exceeds $280,000,000.

Credits may be claimed against the tax for amounts paid to the following, using the assessments from the immediately preceding tax year:

- Michigan Workers' Compensation Placement Facility
- Michigan Basic Property Insurance Association
- Michigan Automobile Insurance Placement Facility
- Property and Casualty Guaranty Association
- Michigan Life and Health Guaranty Association.

In addition, credits are available for 50 percent of examination fees paid during the tax year, and 100 percent of the amount paid during the tax year pursuant to Section 352 of the Workers' Disability Compensation Act of 1969, as certified by the director of the Bureau of Workers' Disability Compensation.

Foreign and alien insurers may be liable for the Retaliatory Tax under Section 476a of the Insurance Code and must look to the laws of their state of incorporation to make the appropriate calculation. Insurance companies must pay the greater of the MBT or the Retaliatory Tax.

Financial Institutions

In lieu of other taxes imposed by MBT, every financial institution with nexus in Michigan is subject to a franchise tax imposed on its tax base, after allocation or apportionment, at the rate of 0.235 percent, with no minimum filing threshold. In addition, an annual surcharge is imposed on each financial institution equal to 23.4 percent of its MBT liability after allocation or apportionment to Michigan, but before the calculation of credits available under the MBT Act.

A financial institution that is authorized to exercise only trust powers is not subject to this surcharge.

A *financial institution* is defined as:

- A bank holding company, a national bank, a state chartered bank, an office of thrift supervision chartered bank or thrift institution, or a savings and loan holding company other than a diversified savings and loan holding company as defined in 12 USC 1467a(a)(F).
- Any person, other than an insurance company subject to the tax imposed under Chapter 2A of the MBT Act, who is directly or indirectly owned by an entity described in the preceding instruction and is a member of the UBG.
- A UBG made up of the entities described above.

The tax base of a financial institution is the financial institution's net capital, which is equity capital, as computed in accordance with generally accepted accounting principles, with certain adjustments. An addition to the Net Capital Tax base is required for the amount in excess of 125 percent of the minimum regulatory capitalization requirements of an insurance company subsidiary. (The amount capitalized would be carried on the books of the insurance company subsidiary as an asset.) Deductions are allowed for goodwill, and the average daily book value of United States and Michigan obligations.

NOTE: If a financial institution does not maintain its books and records in accordance with generally accepted accounting principles, net capital may be computed in accordance with the books and records used by the financial institution, so long as the method fairly reflects the financial institution's net capital for purposes of MBT.

Net capital is determined by averaging the financial institution's net capital as of the close of the current tax year with the preceding four tax years. This calculation is modified if a financial institution has been in existence for less than five tax years. The statute also provides additional guidance for mergers and acquisitions.

The tax base of financial institutions whose business activities are subject to tax both within and outside Michigan are then apportioned by the gross business factor, utilizing rules set in statute. Gross business means the sum of the following:

- Fees, commissions, or other compensation for financial services.
- Net gains, not less than zero, from the sale of loans and other intangibles.
- Net gains, not less than zero, from trading in stocks, bonds, or other securities.
- Interest charged to customers for carrying debit balances of margin accounts.
- Interest and dividends received.
- Any other gross proceeds resulting from the operation as a financial institution.

All Taxpayers

Additional details regarding the calculation of the tax may be found in the forms and instructions provided on the Department of Treasury (Department) Web site at **www.michigan.gov/MBT**. The Web site contains information taxpayers may find helpful in determining their estimated tax liability.

Using Personalized Estimate Returns

If you previously made estimated returns, the Department will send you personalized estimate returns. Subsequently, we will continue to send them to you if you make estimated tax payments.

- File the original returns and keep copies for your file. (The personalized returns are read by an optical scanner which can process only these original returns.)
- Use the personalized returns whether you fill them out yourself or get help from a tax preparer.
- Personalized returns shorten the processing time of your payment and reduce the chance of an error in your account.
- Do not use personalized returns if information on the return is incorrect and DO NOT USE OTHER TAXPAYERS' RETURNS OR PHOTOCOPY THEIR FORMS. If you do, your payments could be applied to the wrong account.
- If you use software to prepare your return, the software may create a personalized return for you.

If you lose a return, or have not made estimated tax payments before, visit **www.michigan.gov/taxes** to obtain a form.

Combined Sales, Use, Withholding and Michigan Business Tax Payments

You may make MBT monthly estimated tax payments with your Sales, Use and Withholding Taxes return. If you choose this convenient option, you only need to file one form and write one check for all the taxes you pay. If filing monthly using the *Combined Return for Michigan Taxes* (Form 160), monthly payments may be filed on the 20th day of the month. For example, a calendar year taxpayer may file monthly MBT estimated tax payments using Form 160 on February 20, March 20, and April 20 rather than a single quarterly payment on April 15 provided the combined estimated tax payments for those months are calculated using the instructions provided with the form. For taxpayers electing to make **monthly** remittances by Electronic Funds Transfer (EFT) where the requirement to file a paper Form 160 has been waived, MBT estimated tax payments remain due on the 20th day of the month following the month's end. The estimated MBT for the quarter must also reasonably approximate the liability for the quarter.

NOTE: Your debit transaction will be ineligible for EFT if the bank account used for the electronic debit is funded or otherwise associated with a foreign bank account to the extent that the payment transaction would qualify as an International ACH Transaction (IAT) under NACHA Rules. Contact your bank for questions about the status of your bank account. Contact the Department's Electronic Funds Transfer Unit at (517) 636-4730 for alternate payment methods.

Reporting Payments

Regardless of which form is used to file estimated MBT payments, report all MBT estimated tax payments on the annual MBT return.

NOTE: An annual return must be filed to claim a refund of the estimated tax payments made.

Penalty and Interest

Penalty is 5 percent of tax due for the first two months. Penalty increases by an additional 5 percent per month, or fraction thereof, after the second month to a maximum of 25 percent.

If the sum of the estimated tax payments is less than 85 percent of the annual liability, or the amount of the estimated tax payment doesn't equal the quarter's liability, interest will accrue.

The interest rate is adjusted by the Department on January 1 and July 1 of each year to 1 percent above the adjusted prime rate. For a complete list of interest rates, see RAB 2009-7 on the Department Web site at **www.michigan.gov/taxes.**

Filing Quarterly Tax Returns

Make your check payable to "State of Michigan" and write your account number and "2010 MBT Quarterly" on the front of the check. Mail your check with the MBT Quarterly Return for that installment. Do NOT staple the check to the return. Mail the check and return to:

Michigan Department of Treasury
P.O. Box 30774
Lansing, MI 48909-8274