

Check if this is an amended return.
Attach supporting documents.

2008 MICHIGAN Business Tax Annual Return

Issued under authority of Public Act 36 of 2007

1. Return is for calendar year 2008 or for tax year beginning: MM-DD-YYYY and ending: MM-DD-YYYY

2. Name (print or type)				7. Federal Employer Identification Number (FEIN) or TR Number			
Doing Business As (DBA)				8. Organization Type <input type="checkbox"/> Individual <input type="checkbox"/> C Corporation / LLC C Corporation <input type="checkbox"/> Fiduciary <input type="checkbox"/> S Corporation / LLC S Corporation <input type="checkbox"/> Partnership / LLC Partnership			
Street Address							
City	State	ZIP Code	Country Code				
3. Principal Business Activity			4. Business Start Date in Michigan			9. <input type="checkbox"/> Check if Filing Michigan Unitary Business Group Return. (Attach Form 4580.)	
5. NAICS (North American Industry Classification System) Code			6. If Discontinued, Effective Date				

10. Special Computations

a. Check if you have sales receipts from transportation services

e. Check if Fiscal Filer using the **Annual** Method (Tax Year 2008 only) and complete 10f and 10h.

Apportionment Calculation

b. Michigan Sales		00
c. Total Sales		00
d. Apportionment %. Divide line (b) by line (c)		%

f. Number of months in MBT tax period....	
g. Total months.....	12
h. Proration %. Divide line (f) by line (g)....	

PART 1: MODIFIED GROSS RECEIPTS TAX

11. Gross Receipts (see instructions).....	00
12. Subtractions (see instructions)	
a. Inventory acquired during tax year	00
b. Depreciable assets acquired during tax year	00
c. Materials and supplies not included in inventory or depreciable property..	00
d. Staffing Company: Compensation of personnel supplied to customers.....	00
e. Deduction for contractors in SIC Codes 15, 16 and 17 (see instructions)..	00
f. Miscellaneous (see instructions)	00
13. Total Subtractions. Add lines 12a through 12f	00
14. a. Modified Gross Receipts. Subtract line 13 from line 11. If less than zero, enter zero	00
b. If box 10e checked, multiply line 14a by percentage on line 10h. All others, enter amount from line 14a	00
15. Apportioned Modified Gross Receipts Tax Base. Multiply line 14b by percentage on line 10d	00
16. a. Single Business Tax business loss carryforward.....	00
b. Multiply line 16a by 65% (0.65)	00
17. Subtract line 16b from line 15. If less than zero, enter zero	00
18. Multiply line 17 by .8% (0.008)	00
19. Enrichment Prohibition for dealer of new motor vehicles or personal watercraft. Enter amount collected during tax year	00
20. Modified Gross Receipts Tax Before All Credits. Enter the greater of line 18 or line 19.....	00

PART 2: BUSINESS INCOME TAX

21. Business Income. (If business activity protected under PL 86-272, complete and attach Form 4586. See instr.)	00
22. Additions to Income. (See instructions.)	
a. Interest income and dividends derived from obligations or securities of states other than Michigan	00
b. Taxes on or measured by net income.....	00
c. Tax imposed under MBT.....	00
d. Any carryback or carryover of a federal net operating loss	00
e. Losses attributable to other taxable flow-through entities	00
Account No. 	
f. Royalty, interest and other expenses paid to a related person.....	00
23. Total Additions to Income. Add lines 22a through 22f.....	00
24. Business Income Tax Base After Additions. Add lines 21 and 23.....	00

Continue and sign on Page 2

FEIN or TR Number

PART 2: BUSINESS INCOME TAX (Cont.)

25.	Subtractions From Income. (See instructions.)			
	a. Dividends and royalties received from persons other than United States persons and foreign operating entities	25a.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
	b. Income attributable to other taxable flow-through entities	25b.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
	Account No. <input style="width: 150px; height: 20px;" type="text"/>			
	c. Interest income derived from United States obligations	25c.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
	d. Net earnings from self-employment. If less than zero, enter zero	25d.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
26.	Total subtractions from income. Add lines 25a through 25d	26.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
27.	a. Business Income Tax Base. Subtract line 26 from line 24	27a.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
	b. If box 10e checked, multiply line 27a by percentage on line 10h. All others, enter amount from line 27a	27b.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
28.	Apportioned Business Income Tax Base. Multiply line 27b by percentage on line 10d	28.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
29.	Available MBT business loss carryforward from previous MBT return. Enter as a positive number	29.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
30.	a. Subtract line 29 from line 28. If negative, enter here as a negative number and skip to line 31. This is the available business loss carryforward to the next filing period (see instructions). Otherwise, go to line 30b	30a.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
	b. If line 30a is positive, enter the qualified affordable housing deduction (see instructions)	30b.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
	c. Subtract line 30b from line 30a. If less than zero, enter zero	30c.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
31.	Business Income Tax Before All Credits. Multiply line 30a or 30c, whichever applies, by 4.95% (0.0495). If less than zero, enter zero	31.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>

PART 3: TOTAL MICHIGAN BUSINESS TAX

32.	Total Michigan Business Tax Before Surcharge and Credits. Add lines 20 and 31			
33.	Annual Surcharge. Enter the lesser of \$6,000,000 or line 32 multiplied by 21.99% (0.2199)	33.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
34.	Total Liability Before All Credits. Add lines 32 and 33	34.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
35.	Nonrefundable credits from Form 4568, line 37	35.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
36.	Total Tax After Nonrefundable Credits. Subtract line 35 from line 34. If less than zero, enter zero	36.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
37.	Recapture of Certain Business Tax Credits and Deductions from Form 4587, line 10	37.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
38.	Total Tax Liability. Add lines 36 and 37	38.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>

PART 4: PAYMENTS, REFUNDABLE CREDITS AND TAX DUE

39.	Overpayment credited from prior return (SBT or MBT)				
40.	Estimated tax payments	40.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>	
41.	Tax paid with request for extension	41.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>	
42.	Refundable credits from Form 4574, line 23	42.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>	
43.	Total. Add lines 39 through 42. (Then, if not amending, skip to line 45.)	43.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>	
44.	AMENDED RETURN ONLY	a. Payment made with the original return	44a.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
		b. Overpayment received on the original return	44b.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
		c. Add lines 43 and 44a and subtract line 44b from the sum	44c.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
45.	TAX DUE. Subtract line 43 (or line 44c, if amending) from line 38. If zero or less than zero, leave blank	45.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>	
46.	Underpaid estimate penalty and interest from Form 4582, line 38	46.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>	
47.	Annual return penalty <input style="width: 40px; height: 20px;" type="text"/> % = <input style="width: 40px; height: 20px;" type="text"/> 00 plus interest of <input style="width: 40px; height: 20px;" type="text"/> 00. Enter total	47.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>	
48.	PAYMENT DUE. If line 45 is blank, go to line 49. Otherwise, add lines 45 through 47	48.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>	

PART 5: REFUND OR CREDIT FORWARD

49.	Overpayment. Subtract lines 38, 46 and 47 from line 43 (or line 44c, if amending). If less than zero, leave blank. (See instructions.)			
50.	CREDIT FORWARD. Amount of overpayment on line 49 to be credited forward	50.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>
51.	REFUND. Amount of overpayment on line 49 to be refunded	51.	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 30px; height: 20px;" type="text" value="00"/>

<p>Taxpayer Certification. I declare under penalty of perjury that the information in this return and attachments is true and complete to the best of my knowledge.</p> <p><input type="checkbox"/> By checking this box, I authorize Treasury to discuss my return with my preparer.</p> <p>Taxpayer Signature</p>	<p>Preparer Certification. I declare under penalty of perjury that this return is based on all information of which I have any knowledge.</p> <p>Preparer's PTIN, FEIN or SSN</p> <p><input style="width: 150px; height: 20px;" type="text"/></p> <p>Preparer's Business Name (print or type)</p>
<p>Taxpayer Name (print or type)</p>	<p>Preparer's Business Address and Telephone Number (print or type)</p>
<p>Title</p>	<p>Telephone Number</p>

Return is due April 30 or on or before the last day of the 4th month after the close of the tax year.

WITHOUT PAYMENT. Mail return to:
Michigan Department of Treasury, P.O. Box 30783, Lansing, MI 48909

WITH PAYMENT. Pay amount on line 48. Mail check and return to:
Michigan Department of Treasury, P.O. Box 30113, Lansing, MI 48909

Make check payable to "State of Michigan." Print the FEIN or TR Number and "MBT" on the front of the check. Do not staple the check to the return.

Instructions for Form 4567

Michigan Business Tax (MBT) Annual Return

Fiscal Year Filers: See “Supplemental Instructions for Initial Fiscal MBT Filers” on page 133.

Purpose

To calculate the Business Income Tax and Modified Gross Receipts Tax as well as surcharge for standard taxpayers. Insurance companies should file the *MBT Insurance Company Annual Return for Michigan Business and Retaliatory Taxes* (Form 4588) and Financial Institutions should file the *MBT Annual Return for Financial Institutions* (Form 4590).

Special Instructions for Unitary Business Groups

A *Unitary Business Group (UBG)* is a group of United States persons, other than a foreign operating entity, that satisfies the following criteria:

- One of the persons owns or controls, directly or indirectly, more than 50 percent of the ownership interest with voting rights (or rights comparable to voting rights) of the other United States persons; AND
- The UBG has operations which result in a flow of value between persons in the UBG or has operations that are integrated with, are dependent upon, or contribute to each other. Flow of value is determined by reviewing the totality of facts and circumstances of business activities and operations.
- A *foreign operating entity* means a United States person that would otherwise be a part of a UBG that is taxable in Michigan; has substantial operations outside the United States, the District of Columbia, any territory or possession of the United States except for the commonwealth of Puerto Rico, or a political subdivision of the foregoing; and at least 80 percent of its income is active foreign business income as defined in Internal Revenue Code (IRC) 861(c)(1)(B).

In Michigan, a UBG with standard taxpayer members must file Form 4567 for the group with a Designated Member (DM) who must be the controlling member of the group, unless the controlling member does not have nexus with Michigan. If that is the case, the controlling member may appoint a group member with nexus to Michigan to serve as the DM.

For MBT, *taxpayer* means a person or a UBG liable for tax, interest, or penalty.

For more information on UBGs, see the instructions for the *MBT Unitary Business Group Combined Filing Schedule* (Form 4580) found on page 87 of this booklet.

Under Michigan Compiled Law (MCL) 208.1511, all standard taxpayers that are members of a UBG must file a combined return on Form 4567, using the tax year of the DM as the filing period. On a Form 4567 combined return, business income of each member should reflect the accounting method that member used to compute its federal taxable income.

A combined return must include each tax year of each member that ends with or within the tax year of the DM.

The business income of a UBG is the sum of the business income of each person included in the UBG, other than a foreign operating entity or a person subject to the tax on insurance companies or financial institutions, less any items of income and related deductions arising from transactions, including dividends, between persons included in the UBG.

In general, phase-ins, thresholds, credit limits, and other components used to determine tax liability relate to the group as a single taxpayer, not to individual persons that comprise the group. Exceptions to this general rule are noted in instructions of the applicable forms. The group of persons on the combined return is treated as the taxpayer (a distinct entity) for purposes of tax liability under the MBT Act.

Line-by-Line Instructions

Lines not listed are explained on the form.

Dates must be entered in MM-DD-YYYY format.

See page 13 for periods less than 12 months.

Every standard taxpayer deemed to have nexus in Michigan with apportioned or allocated gross receipts of \$350,000 or more must file an annual return. (The filing threshold does not apply to insurance companies or financial institutions.) Businesses who operate less than 12 months must annualize their gross receipts to determine if a filing requirement exists.

UBGs: Complete Form 4580 before beginning Form 4567.

Amended Returns: Check the box (upper-right corner, page 1) if this is an amended return, and attach a separate sheet explaining the reason for the changes. Include any supporting documents including an amended federal return or a signed and dated Internal Revenue Service (IRS) audit document.

Line 1: If not a calendar year taxpayer, enter the beginning and ending dates (MM-DD-YYYY) that correspond to the taxable period as reported to the IRS.

Tax year means the calendar year, or the fiscal year ending during the calendar year, upon the basis of which the tax base of a taxpayer is computed. If a return is made for a fractional part of a year, tax year means the period for which the return is made. Except for the first MBT return required, a taxpayer's tax year is for the same period as is covered by its Federal Income Tax return. A taxpayer that has a 52- or 53-week tax year beginning not more than seven days before December 31 of any year is considered to have a tax year beginning after December of that year.

Example 1: A taxpayer with a federal tax year beginning on Monday, December 29, 2008, will be treated as follows:

- 2008 tax year end of December 31, 2008.
- Due date of April 30, 2009.
- 2009 tax year beginning January 1, 2009.

Example 2: A taxpayer with a federal tax year ending on Sunday, January 3, 2010, will be treated as follows:

- 2009 tax year end of December 31, 2009.
- Due date of April 30, 2010.
- 2010 tax year beginning on January 1, 2010.

Example 3: A 52- or 53-week year closing near the end of January is common in the retail industry. Such a taxpayer will be treated as follows:

- 2008-09 fiscal year end will be January 31, 2009.
- Due date will be May 31, 2009.
- 2009-10 fiscal year will begin on February 1, 2009.

Line 2: Country Code. If other than the United States, enter the country code. See the list of country codes on page 139.

UBGs: In the Name field, enter the name of the DM for the standard taxpayers.

Line 3: Enter a brief description of business activity (e.g., forestry, fisheries, mining, construction, manufacturing, transportation, communication, electric, gas, sanitary services, wholesale trade, retail trade, finance, or services).

Line 4: Enter the start date of first business activity in Michigan.

Line 5: Enter the entity's six-digit North American Industry Classification System (NAICS) code. For a complete list of six-digit NAICS codes, see the U.S. Census Bureau Web site at www.census.gov/eos/www/naics/, or enter the same NAICS code used when filing the entity's U.S. Form 1120, Schedule K, U.S. Form 1120S, U.S. Form 1065 or U.S. Form 1040, Schedule C.

Line 6: Enter the date, if applicable, on which taxpayer went out of existence. To complete the discontinuance for Michigan taxes, file a *Notice of Change or Discontinuance* (Form 163), which is available on the Department of Treasury Web site at www.michigan.gov/treasuryforms. If the taxpayer is still subject to another tax administered by the Department, do not use this line. Also, do not use this line if the taxpayer is a UBG and one member has stopped doing business.

Line 7: Use the taxpayer's Federal Employer Identification Number (FEIN) or the Michigan Treasury (TR) assigned number. Be sure to use the same account number on all forms. If the taxpayer does not have an FEIN or TR number, the taxpayer is encouraged to register online at www.michigan.gov/business taxes before filing this form. By registering online, an account number is usually assigned within seven days. If paper filing, attach a page with the Social Security number (SSN) of the taxpayer. Do NOT enter the SSN on line 7. The Department will notify the taxpayer when a TR number is assigned. Use that number on all future MBT filings and correspondence until the entity obtains its FEIN.

UBGs: Enter the FEIN or TR Number of the DM for standard taxpayers.

Line 8: Check the box that describes the organization type. A Trust or a Limited Liability Company (LLC) should check the appropriate box based on its federal return.

Line 9: Check this box if filing a Michigan UBG return and attach Form 4580.

UBGs: A UBG member may need to calculate a pro forma tax liability to claim an entity-specific credit. Where a pro forma calculation is required, the underlying objective is to determine what the tax liability of the UBG member generating the credit would have been if that member was not included in the UBG. Therefore, the UBG member generating the credit must calculate its pro forma tax liability as if it was a singular, stand alone taxpayer in all aspects. This supporting pro forma calculation should be provided in a statement attached to this form. However, this calculation should never be transferred to a Form 4567 or displayed as such.

Line 10: If taxable in another state, complete lines 10a through 10d. A taxpayer is subject to tax in another state if, in that state, the taxpayer is subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a Corporation stock tax, a tax of the type imposed under the MBT Act, or that state has jurisdiction to subject the taxpayer to one or more of such taxes regardless of whether or not the tax is imposed. A taxpayer will be subject to a tax in another state if the taxpayer has due process and commerce clause nexus with that state.

Michigan tax is based only on the business activity conducted in Michigan. This activity is measured by sales.

Sale or *Sales* means the amounts received by the taxpayer as consideration from the following:

- The transfer of title to, or possession of, property that is stock in trade or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the tax period, or property held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. For intangible property, the amounts received will be limited to any gain received from the disposition of that property.
- Performance of services which constitute business activities.
- The rental, leasing, licensing, or use of tangible or intangible property, including interest, that constitutes business activity.
- Any combination of business activities described above.
- For taxpayers not engaged in any other business activities, sales include interest, dividends, and other income from investment assets and activities and from trading assets and activities.

Complete the Apportionment Calculation using amounts for the taxpayer's business activity only. Do not include amounts from an interest in a Partnership, S Corporation or LLC (unless the LLC is wholly owned by the taxpayer and disregarded for federal tax purposes).

Line 10b: Use the "Sourcing of Sales to Michigan" chart on page 29 to determine Michigan sales. If Michigan sales reported are adjusted by a deduction for qualified sales to a qualified supplier, as determined by the Michigan Economic Growth Authority (MEGA), attach the MBT Anchor Company Payroll Credit Certificate from MEGA as support.

Line 10c: Fiscal year filer calculation method. See "Supplemental Instructions for Initial Fiscal MBT Filers" on

page 133. The method chosen must be consistent with how final SBT return was filed.

UBGs: Do not check the box and do not complete lines 10f and 10h. Proration is calculated for each member separately on Form 4580, Part 2A.

Line 10h: Divide line 10f by line 10g to arrive at proration percentage. This percentage will be applied at various points on this and other return forms.

Line 11: Gross receipts means the entire amount received by the taxpayer 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 Checklist” on page 26 as a guide to be sure receipts have been totaled correctly. Use the appropriate worksheet on page 136 to calculate gross receipts.

A taxpayer should compute its gross receipts using the same accounting method used in the computation of its net income for Federal Income Tax purposes. Under the *accrual method*, income is “received” and recorded on the books when all the events that establish the “right to receive” the income have occurred. Under the *cash method*, income is not recorded until payment is actually received, and expenses are not counted until they are actually paid. A taxpayer that computes its federal taxable income using the accrual method should consistently compute both its Business Income Tax base and Modified Gross Receipts Tax base using the accrual method. A federal cash basis taxpayer would compute both the MBT Business Income Tax and Modified Gross Receipts Tax bases using the cash basis method.

Line 12: *Subtractions* are deductions from a taxpayer’s gross receipts to arrive at the Modified Gross Receipts Tax base.

Line 12a: Enter inventory acquired during the tax year, including freight, shipping, delivery, or engineering charges included in the original contract price for that inventory.

Inventory means the stock of goods, including electricity and natural gas, held for resale in the ordinary course of a retail or wholesale business, and finished goods and goods in process of a manufacturer, including raw materials purchased from another person. Inventory also includes floor plan interest for licensed new car dealers and shipping and engineering charges so long as such charges are included in the original contract price for the associated inventory.

For purposes of this deduction, *floor plan interest* means interest paid that finances any part of the person’s purchase of new motor vehicle inventory from a manufacturer, distributor, or supplier. However, amounts attributable to any invoiced items used to provide more favorable floor plan assistance to a person subject to the tax imposed under this act than to a person not subject to this tax is considered interest paid by a manufacturer, distributor, or supplier.

For a person that is a securities trader, broker, or dealer or a person included in the UBG of that securities trader, broker, or dealer that buys and sells for its own account, inventory includes contracts that are subject to the Commodity Exchange Act, 7 USC 1 to 27f, the cost of securities as defined under IRC

475(c)(2) and for a securities trader the cost of commodities as defined under IRC 475(e)(2) and for a broker or dealer the cost of commodities as defined under IRC 475(e)(2)(b), (c), and (d), excluding interest expense other than interest expense related to repurchase agreements. As used in this provision:

- *Broker and dealer* mean those terms as defined under section 78c(a)(4) and (a)(5) of the Securities Exchange Act of 1934, 15 USC 78c.
- *Securities trader* means a person that engages in the trade or business of purchasing and selling investments and trading assets.

Inventory does not include either of the following:

- Personal property under lease or principally intended for lease rather than sale.
- Property allowed a deduction or allowance for depreciation or depletion under the IRC.

Line 12b: Enter assets, including the costs of fabrication and installation, acquired during the tax year of a type that are, or under the IRC will become, eligible for depreciation, amortization, or accelerated capital cost recovery for Federal Income Tax purposes.

Line 12c: To the extent not included in inventory or depreciable property, enter materials and supplies, including repair parts and fuel.

Materials and supplies means tangible personal property acquired during the tax year to be used or consumed in, and directly connected to, the production or management of inventory or the operation or maintenance of depreciable assets as described previously. Materials and supplies include repair parts and fuel.

For example, a physician’s or dentist’s purchase of sterilizing solution during the tax year that is used to sterilize examination equipment, such as an X-ray machine, may be considered materials and supplies under MCL 208.1113(6)(c).

Line 12d: A staffing company may deduct compensation of personnel supplied to its clients, including wages, benefits, and certain payroll taxes paid for personnel provided to the clients of staffing companies as defined under MBT. *Staffing company* means a taxpayer whose business activities are included in Industry Group 736 under the Standard Industrial Classification (SIC) Code as compiled by the United States Department of Labor.

Payments to a staffing company by a client do not constitute purchases from other firms.

Line 12e: For taxpayers that fall under SIC major groups 15 (Building Construction General Contractors and Operative Builders), 16 (Heavy Construction Other Than Building Construction Contractors), and 17 (Construction Special Trade Contractors) who do not qualify for the Small Business Alternative Credit under MCL 208.417, the following payments are considered purchases from other firms:

- Payments to subcontractors for a construction project under a contract specific to that project, and

- To the extent not deducted as inventory and materials and supplies, payments for materials deducted as purchases in determining the cost of goods sold for the purpose of calculating total income on the taxpayer's Federal Income Tax return.

Persons included in SIC codes 15, 16, and 17 include general contractors (of residential buildings including single-family homes; industrial, commercial, and institutional buildings; bridges, roads, and infrastructure, etc.); operative builders; and trade contractors (such as electricians, plumbers, painters, masons, etc.). See http://www.osha.gov/pls/imis/sic_manual.html for a more complete list.

A *subcontractor* is an Individual or entity that enters into a contract and assumes some or all of the obligations of a person included in SIC codes 15, 16, and 17 as set forth in the primary contract specific to a project. Thus, payments made to an independent contractor to provide general labor services to the contractor not specific to a particular contract do not constitute purchases from other firms. However, payments made to a subcontractor for services and materials provided under a contract specific to a particular construction project (such as the construction of commercial property at Main Street) do constitute purchases from other firms. There is no limitation or condition that the subcontractors to whom such payments are made be licensed.

The taxpayer bears the burden to prove it is entitled to a deduction in computing its tax liability. It is contemplated that good business practice would include documentation such as a written contract that would support a deduction from gross receipts for payments to subcontractors as purchases from other firms. The supporting information for payments to a subcontractor could be incorporated into the contract for the specific project or memorialized in a separate contract with a subcontractor specifying the project to which the costs pertain.

Line 12f: Enter the following:

- Film rental or royalty payments paid by a theater owner to a film distributor, a film producer, or a film distributor and producer.
- Payments made by taxpayers licensed under Article 25 (Real Estate Brokers and Salespersons) or Article 26 (Real Estate Appraisers) of the Occupational Code [MCL 339.2501 to 339.2601 and 339.2601 to 339.2637] to independent contractors licensed under Articles 25 or 26.
- Any deduction available to a qualified affordable housing project. Attach a statement detailing the calculation of this deduction.

Public Act (PA) 168 of 2008 provides for a deduction from the modified gross receipts for the buyer of affordable rental units so long as certain criteria are met. Specifically, the buyer of affordable rental units must enter into an operation agreement with the seller in which the buyer agrees to operate a specific number of the residential rental units sold as rent restricted units for a minimum of 15 years. The buyer must be a qualified affordable housing project.

Qualified affordable housing project means a person that is organized, qualified, and operated as a limited dividend

housing association that has a limitation on the amount of dividends or other distributions that may be distributed to its owners in any given year and has received funding, subsidies, grants, operating support, or construction or permanent funding through one or more sources.

A *limited dividend housing association* is organized and qualified pursuant to Chapter 7 of the State Housing Development Authority Act (MCL 125.1491 et seq).

If these criteria are satisfied, the buyer may deduct from its modified gross receipts the buyer's gross receipts attributable to residential rental units in Michigan owned by the qualified affordable housing project multiplied by a fraction, which is the number of rent restricted units in Michigan owned by the qualified affordable housing project over the number of all rental units in Michigan owned by the project. This deduction is reduced by the amount of limited dividends or other distributions made to the owners of the project. Amounts received by the management, construction, or development company for completion and operation of the project and rental units do not constitute gross receipts for purposes of the deduction.

The buyer is entitled to the deduction so long as the qualified affordable housing project continues to offer any of the residential rental units purchased as rent restricted units in accordance with the operation agreement.

Line 15: If taxable in another state, multiply line 14b by percentage on line 10d. Otherwise, enter the amount from line 14b.

Line 16a: For the tax year ending in 2008 only, a taxpayer may deduct 65 percent of any remaining Single Business Tax (SBT) business loss carryforward that was actually incurred in the 2006 or 2007 SBT tax years and that was not previously deducted in tax years beginning before January 1, 2008, against the Modified Gross Receipts Tax base. Any business loss carryforward incurred before January 1, 2006, is not eligible for the deduction. An SBT business loss carryforward cannot be used to create a negative Modified Gross Receipts Tax base, and cannot be used for any filing period ending after 2008.

Enter any unused business loss carryover from the December 31, 2007, SBT return that was actually incurred in the 2006 or 2007 SBT tax years and that was not previously deducted in tax years beginning before January 1, 2008.

NOTE: SBT Business loss carryforward is not the same as the federal net operating loss carryforward or carryback.

UBGs: The business loss carryforward may only be deducted against the Modified Gross Receipts Tax base of the UBG member that generated the loss. There are special rules for UBGs to claim a business loss carryforward. See Form 4580 instructions.

Line 19: Enter amount of MBT gross receipts tax collected in the tax year.

Section 203(5) of the MBT Act permits new motor vehicle dealers licensed under the Michigan Vehicle Code, PA 300 of 1949, MCL 257.1 to 257.923, and dealers of new or used personal watercraft to collect the Modified Gross Receipts Tax in addition to the sales price. The act states the "amount remitted to the Department for the [Modified Gross Receipts

Tax] ... shall not be less than the stated and collected amount.” Therefore, the entire amount of Modified Gross Receipts Taxes stated and collected by new motor vehicle dealers and new and used watercraft dealers must be remitted to the Department. There should be no instance where a dealer would be collecting amounts of Modified Gross Receipts Tax from customers in excess of the amount of taxes remitted to the Department. Taxpayers who elect to separately collect the Modified Gross Receipts Tax, in addition to sales price, under MCL 208.1203(5) may file and remit the tax as estimated payments with their quarterly or monthly *Combined Return for Michigan Taxes* (Form 160).

NOTE: Only new motor vehicle dealers and dealers of new or used personal watercraft are permitted to separately itemize and collect a tax imposed under the MBT Act from customers in addition to sales price, and that authority is limited to only the Modified Gross Receipts Tax imposed and levied under Section 203 of the MBT Act. The statute does not authorize separate itemizing and collection of the Business Income Tax or surcharge by any taxpayer.

PART 2: BUSINESS INCOME TAX

If business activity is protected under Public Law (PL) 86-272, complete and attach the *MBT Schedule of Business Activity Protected Under Public Law 86-272* (Form 4586). Leave lines 21 through 31 blank.

UBGs: A DM claiming PL 86-272 protection should complete and attach Form 4586. A non-DM should complete and attach the *MBT Schedule of Business Activity for Non-Designated Members of a Unitary Business Group Protected Under Public Law 86-272* (Form 4581).

Line 21: *Business income* means that part of federal taxable income derived from business activity. For MBT purposes, *federal taxable income* means taxable income as defined by IRC 63, except that federal taxable income shall be calculated as if section 168(k) [as applied to qualified property placed in service after December 31, 2007] and IRC 199 were not in effect. For a Partnership or S Corporation (or LLC federally taxed as such), business income includes payments and items of income and expense that are attributable to business activity of the Partnership or S Corporation and separately reported to the partners or shareholders. Use the appropriate worksheet on page 136 to calculate business income.

For an organization that is a mutual or cooperative electric company exempt under IRC 501(c)(12), business income equals the organization’s excess or deficiency of revenues over expenses as reported to the federal government by those organizations exempt from the Federal Income Tax under the IRC, less capital credits paid to members of that organization, less income attributed to equity in another organization’s net income, and less income resulting from a charge approved by a state or federal regulatory agency that is restricted for a specified purpose and refundable if it is not used for the specified purpose.

For a tax-exempt person, business income means only that part of federal taxable income (as defined for MBT purposes) derived from unrelated business activity.

For an Individual or an estate, or for a Partnership or Trust organized exclusively for estate or gift planning purposes, business income is that part of federal taxable income (as defined for MBT purposes) derived from transactions, activities, and sources in the regular course of the taxpayer’s trade or business, including the following:

- All income from tangible and intangible property if the acquisition, rental, management, or disposition of the property constitutes integral parts of the taxpayer’s regular trade or business operations.
- Gains or losses incurred in the taxpayer’s trade or business from stock and securities of any foreign or domestic Corporation and dividend and interest income.
- Income derived from isolated sales, leases, assignment, licenses, divisions, or other infrequently occurring dispositions, transfers, or transactions involving property if the property is or was used in the taxpayer’s trade or business operation.
- Income derived from the sale of a business.

NOTE: Personal investment income, gains from the sale of property held for personal use and enjoyment, or other assets not used in a trade or business, and any other income not specifically derived from a trade or business that is earned, received, or otherwise acquired by an Individual, an estate, or a Trust or Partnership organized or established exclusively for estate or gift planning purposes, are not included in the Business Income Tax base. This exclusion only applies to the specific types of taxpayers identified above. Investment income and any other types of income earned or received by all other types of persons or taxpayers not specifically referenced must be included in the business income of the taxpayer.

Line 22: Additions are generally required to the extent deducted in arriving at federal taxable income (business income, line 21).

Line 22a: Enter any interest income and dividends from bonds and similar obligations or securities of states other than Michigan and their political subdivisions in the same amount that was excluded from federal taxable income (as defined for MBT purposes). Reduce this addition by any expenses related to the foregoing income that were disallowed on the federal return by IRC 265 or 291.

Line 22b: Enter all taxes on, or measured by, net income including city and state taxes, Foreign Income Tax, and Federal Environmental Tax claimed as a deduction on the federal return.

Line 22c: Enter the Michigan Business Tax, including surcharge, claimed as a deduction on the federal return.

Line 22d: Enter any net operating loss carryover or carryback that was deducted in arriving at federal taxable income (as defined for MBT purposes) reported on line 21. Enter this amount as a positive number.

Line 22e: Enter any losses included in federal taxable income (as defined for MBT purposes) that are attributable to other entities whose business activities are taxable or would be subject to the tax if the business activities were in Michigan. Enter the FEIN(s) or TR numbers of the Partnerships,

S Corporations, or LLCs. Attach a list of account numbers of other taxable flow-through entities.

Line 22f: Enter any 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. Royalty, interest, or other expense described here is not required to be included if the taxpayer can demonstrate that the transaction has a nontax business purpose other than avoidance of this tax, is conducted with arm's-length pricing and rates and terms as applied in accordance with IRC 482 and 1274(d), and satisfies one of the following:

- Is a pass-through of another transaction between a third party and the related person with comparable rates and terms.
- Results in double taxation. For purposes of this subparagraph, double taxation exists if the transaction is subject to tax in another jurisdiction.
- Is unreasonable as determined by the Department, and the taxpayer agrees that the addition would be unreasonable based on the taxpayer's facts and circumstances.

Line 25: Subtractions are generally available to the extent included in arriving at federal taxable income. (Business Income, line 21.)

Line 25a: Enter any dividends and royalties received from persons other than United States persons and foreign operating entities, including, but not limited to, amounts determined under IRC 78 or IRC 951 to 964.

Line 25b: Enter any income attributed to another taxable entity included in the federal taxable income (as defined for MBT purposes) reported on line 21. (Income from the Business Income Tax base that is attributable to another entity whose business activities are taxable or would be subject to the tax if the business activities were in Michigan.) Enter the FEIN(s) or TR numbers of the Partnerships, S Corporations, or LLCs. Attach a list of the account numbers of other taxable flow-through entities.

Line 25c: To the extent included in federal taxable income (as defined for MBT purposes), deduct interest income derived from United States obligations.

Line 25d: To the extent included in federal taxable income (as defined for MBT purposes), deduct any earnings that are net earnings from self-employment as defined under IRC 1402 of the taxpayer, or a partner or LLC member of the taxpayer, except to the extent that those net earnings represent a reasonable return on capital. If less than zero, enter zero.

Under IRC 1402, the business income of an Individual or sole proprietor, and a partner's distributive share of Partnership income, whether distributed or not, from any trade or business carried on by the Partnership, may be considered self-employment income (with certain statutory exceptions), and subject to the Federal Self-Employment Tax. Therefore, a sole proprietorship or Partnership may deduct any income subject to the Federal Self-Employment Tax when computing the Michigan Income Tax base. Shareholders of Corporations, including S Corporations, are not subject to the Federal Self-Employment Tax, and, as a result, no deduction is allowed for earnings from self-employment income for corporate

entities. There is no deduction allowed for S Corporation distributions that is equivalent to the self-employment deduction allowed for Partnerships and sole proprietorships under MBT.

Net earnings from self-employment under IRC 1402 generally means "the gross income derived by an Individual from any trade or business carried on by such Individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus the distributive share (whether or not distributed) of income or loss described in [IRC] 702(a)(8) from any trade or business carried on by a Partnership of which he is a member," subject to certain exclusions, including rentals from real estate, dividends and interest, and certain net operating losses and personal exemptions (IRC 1402(a)).

Line 28: If taxable in another state, multiply line 27b by percentage on line 10d. Otherwise, enter the amount from line 27b.

If line 28 is negative, no Business Income Tax is due; enter "0" on line 31.

Line 29: Deduct any available MBT business loss incurred after December 31, 2007. Enter as a positive number.

Business loss means a negative business income tax base, after apportionment if applicable.

NOTE: MBT Business loss carryforward is not the same as the federal net operating loss carryforward or carryback.

Line 30a: Subtract line 29 from line 28. A loss on line 28 will increase the carryforward for the next year. Any negative amount on line 30a is a MBT business loss which may be carried forward to the year immediately succeeding the loss year as an offset to the allocated or apportioned Business Income Tax base, then successively to the next nine taxable years following the loss year or until the loss is used up, whichever occurs first, but for not more than ten taxable years after the loss year.

Line 30b: If line 30a is positive, enter the Qualified Affordable Housing Deduction, if applicable.

PA 168 of 2008 provides for a deduction from the apportioned Business Income Tax base to a buyer and seller of residential rental units associated with a qualified affordable housing project for certain amounts associated with the sale and operation of those units so long as certain criteria are met. Specifically, the buyer of affordable rental units must be a qualified affordable housing project and must enter into an operation agreement with the seller in which the buyer agrees to operate a specific number of the residential rental units sold as rent restricted units for a minimum of 15 years. Qualified affordable housing project is further defined under line 12f instructions.

The seller may take a deduction from its apportioned Business Income Tax base equal to the gain from the sale of the residential rental units to the qualified affordable housing project, as calculated on the *MBT Qualified Affordable Housing Seller's Deduction* (Form 4579). Enter the amount from Form 4579, line 5.

The buyer may deduct from its apportioned Business Income Tax base an amount equal to the product of the buyer's taxable income attributable to residential rental units in Michigan owned by the qualified affordable housing project multiplied by a fraction, which is the number of rent restricted units in Michigan owned by that qualified affordable housing project over the number of all residential rental units in Michigan owned by the project. The buyer is entitled to the deduction so long as the qualified affordable housing project continues to offer any of the residential rental units purchased as rent restricted units in accordance with the operation agreement.

In general, taxable income attributable to residential rental units is gross rental receipts attributable to residential rental units in Michigan (purchased pursuant to an operation agreement) less rental expenses attributable to residential rental units in Michigan, including, but not limited to, repairs, interest, insurance, maintenance, utilities, and depreciation.

Specifically, Partnerships may use a *Rental Real Estate Income and Expenses of a Partnership or an S Corporation* (U.S. Form 8825). To the extent that the qualified affordable housing project is taxed as something other than a Partnership, the qualified affordable housing project may use the *Supplemental Income and Loss* (U.S. Form 1040, Schedule E) or the relevant portions of the *U.S. Corporation Income Tax Return* (U.S. Form 1120) (line 6 and related deductions), as appropriate, to determine its taxable income attributable to residential rental units in Michigan. If the qualified affordable housing project is a Corporation, the expenses permitted should be limited to those also listed on the *Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition* (U.S. Form 8823) and U.S. Form 1040, Schedule E. Rental receipts and expenses must be calculated without regard to any gain or loss resulting from the disposition of rental property. Also, since Partnerships are subject to tax as a person under MBT, flow-through amounts from other Partnerships are not considered.

Improvements that increase the value of the property or extend its life, such as replacing a roof or renovating a kitchen, are not deductible rental expenses. Any passive activity loss limitations applicable to the qualified affordable housing project's federal return also apply for purposes of MCL 208.201(7).

The buyer's deduction is reduced by the amount of limited dividends or other distributions made to the owners of the project. Income received by the management, construction, or development company for completion and operation of the project and rental units does not constitute taxable income attributable to residential rental units.

The qualified affordable housing project must attach a statement detailing the calculation of the deduction for the buyer.

If the buyer fails to qualify as a qualified affordable housing project or fails to operate any of the residential rental units as rent restricted units in accordance with the operation agreement within 15 years after the date of purchase, the lien placed on the property for the amount of the seller's deduction becomes payable to the State. The lien is payable through a "recapture" to be added to the tax liability of the buyer in the year the recapture event occurs. The recapture is calculated on *MBT*

Schedule of Recapture of Certain Business Tax Credits and Deductions (Form 4587).

PART 3: TOTAL MICHIGAN BUSINESS TAX

Line 33: Enter the lesser of \$6,000,000 or line 32 multiplied by 21.99 percent (0.2199).

In addition to the taxes imposed and levied under MBT, an annual surcharge is imposed and levied on each standard taxpayer equal to 21.99 percent of the taxpayer's tax liability.

The amount of the surcharge imposed and levied on any taxpayer may not exceed \$6,000,000 for any single tax year.

The surcharge imposed and levied will constitute a part of the tax imposed under the MBT Act and will be administered, collected, and enforced as provided under the MBT Act.

Line 35: Nonrefundable credits from the *MBT Nonrefundable Credits Summary* (Form 4568), line 37. If claiming nonrefundable credits, see Form 4568. Note that these credits have strict eligibility requirements.

Fiscal Year Filers: See "Supplemental Instructions for Initial Fiscal MBT Filers" on page 133.

Line 36: Subtract line 35 from line 34. If less than zero, enter zero.

IMPORTANT: If apportioned or allocated gross receipts are less than \$350,000, enter a zero on this line. If a business operated less than 12 months, annualize gross receipts to determine if a filing requirement exists.

PART 4: PAYMENTS, REFUNDABLE CREDITS, AND TAX DUE

Line 39: Enter overpayment credited from 2007 SBT or overpayment from first fiscal year 2008 MBT return.

Line 40: Enter the total tax paid with the *MBT Quarterly Tax Return* (Form 4548), or the estimated MBT paid with Form 160 or the amount paid through Electronic Funds Transfer (EFT). Include all payments made on returns that apply to the current tax year. For example, calendar year filers include money paid with the combined returns for return periods January through December.

Line 42: Enter refundable credits from the *MBT Refundable Credits* (Form 4574), line 23. If claiming a Michigan refundable credit see Form 4574.

Amended Returns Only:

Line 44a: Enter Payment made with original return.

Line 44b: Enter overpayment received (refund received plus credit forward created) on the original return.

Line 44c: Add lines 43 and 44a and subtract line 44b from the sum.

Line 46: If penalty and interest are owed for not filing estimated returns or for underestimating tax, complete the *MBT Penalty and Interest Computation for Underpaid Estimated Tax* (Form 4582), on page 105, to compute penalty and interest due. If a taxpayer chooses not to file this form, the Department will compute penalty and interest and bill for payment.

Line 47: See "Computing Penalty and Interest" on page 14.

PART 5: REFUND OR CREDIT FORWARD

Line 49: If the amount of the overpayment, less any penalty and interest due on lines 46 and 47 is less than zero, enter the difference (as a positive number) on line 48. If the amount is greater than zero, enter on line 49.

Reminder: Taxpayers must sign and date returns.

Attachments

Federal Forms: Attach copies of these forms to the return.

UBGs: See Form 4580 instructions for information regarding federal attachments for members of UBGs.

- **Corporations:** U.S. Form 1120 (pages 1 through 4), Schedule D, Form 851, Form 4562, and Form 4797. If filing as part of a consolidated federal return, attach a pro forma or consolidated schedule.
- **S Corporations:** U.S. Form 1120-S (pages 1 through 4)*, Schedule D, Form 851, Form 4562, Form 4797, Form 8825.
- **Individuals:** U.S. Form 1040 (pages 1 and 2), Schedules C, C-EZ, D, E, and Form 4797.
- **Fiduciaries:** U.S. Form 1041 (pages 1 through 4), Schedule D, and Form 4797.
- **Partnerships:** U.S. Form 1065, (pages 1 through 5)*, Schedule D, Form 4797, and Form 8825.
- **Limited Liability Companies:** Attach appropriate schedules shown above based on federal return filed.

* Do not send copies of K-1s. The Department will request them if necessary.

Gross Receipts Checklist

This checklist is not intended to be all encompassing.

Receipts include, but are not limited to:

- Receipts (sales proceeds) from the sale of assets used in a business activity
- Sale of products
- Services performed
- Gratuities stipulated on a bill
- Sales tax collected on the sale of tangible personal property, subject to the phase-out schedule referenced below
- Dividend and interest income
- Gross commissions earned
- Rents
- Royalties
- Professional services
- Sales of scrap and other similar items
- Client reimbursed expenses not obtained in an agency capacity
- Gross proceeds from intercompany sales.

Receipts exclude:

- The following exclusions from gross receipts are being phased in, with 50 percent of the following being excludable

in the 2008 tax year and 60 percent excludable in the 2009 tax year:

- Any amount deducted as bad debt for Federal Income Tax purposes that corresponds to items of gross receipts included in the Modified Gross Receipts Tax base for the current tax year or a past tax year.
- Dividends and royalties received or deemed received from a foreign operating entity or a person other than a United States person, including, but not limited to, the amounts determined under IRC 78 and 951 to 964.
- To the extent not deducted as purchases from other firms, each of the following:
 - Sales or use taxes collected from or reimbursed by a consumer or other taxes the taxpayer collected directly from or was reimbursed by a purchaser and remitted to a local, state, or federal tax authority.
 - In the case of receipts from the sale of motor fuel by a person with a motor fuel tax license or a retail dealer, an amount equal to federal and state excise taxes paid by any person on such motor fuel under IRC 4081 or under other applicable state law.
 - In the case of receipts from the sale of beer, wine, or intoxicating liquor by a person holding a license to sell, distribute, or produce those products, an amount equal to federal and state excise taxes paid by any person on or for such beer, wine, or intoxicating liquor under subtitle E of the IRC or other applicable state law.
 - In the case of receipts from the sale of communication, video, internet access and related services and equipment, any government imposed tax, fee, or other imposition in the nature of a tax or fee required by law, ordinance, regulation, ruling, or other legal authority and authorized to be charged on a customer's bill or invoice. This provision does not include the recovery of net income taxes, net worth taxes, property taxes, or the MBT.
 - In the case of receipts from the sale of electricity, natural gas, or other energy source, any government imposed tax, fee, or other imposition in the nature of a tax or fee required by law, ordinance, regulation, ruling, or other legal authority and authorized to be charged on a customer's bill or invoice. This subparagraph does not include the recovery of net income taxes, net worth taxes, property taxes, or the MBT.
 - Any deposit required under MCL 445.571 to 445.576; R436.1629 of the Michigan administrative code (MAC); R436.1723a of the MAC; or any substantially similar beverage container deposit law of another state.
 - An excise tax collected pursuant to the Airport Parking Tax Act, MCL 207.371 to 207.383, collected from or reimbursed by a consumer and remitted as provided in the Airport Parking Tax Act.
- The following exclusion from gross receipts also is being phased in, but at a faster rate than those listed above, with 60 percent of the following being excludable in the 2008 tax year and 75 percent excludable in the 2009 tax year:

- In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the IRC or other applicable state law to the extent that this amount was not deducted as purchases from other firms.
- Proceeds from sales by a principal that are collected in an agency capacity solely on behalf of the principal and delivered to the principal
- Amounts received as an agent solely on behalf of the principal that are expended by the taxpayer under certain circumstances:
 - The performance of a service by a third party for the benefit of the principal that is required by law to be performed by a licensed person.
 - The performance of a service by a third party for the benefit of the principal that the taxpayer has not undertaken a contractual duty to perform.
 - Principal and interest under a mortgage loan or land contract, lease or rental payments, or taxes, utilities, or insurance premiums relating to real or personal property owned or leased by the principal.
 - A capital asset of a type that is, or under the IRC will become, eligible for depreciation, amortization, or accelerated cost recovery by the principal for Federal Income Tax purposes, or for real property owned or leased by the principal.
 - Property not described above that is purchased by the taxpayer on behalf of the principal and that the taxpayer does not take title to or use in the course of performing its contractual business activities.
 - Fees, taxes, assessments, levies, fines, penalties, or other payments established by law that are paid to a governmental entity and that are the legal obligation of the principal.
- Amounts excluded from gross income of a foreign corporation engaged in the international operation of aircraft under IRC 883(a)
- Amounts received by an advertising agency used to acquire advertising media time, space, production, or talent on behalf of another person
- Amounts received by a newspaper to acquire advertising space not owned by that newspaper in another newspaper on behalf of another person. This exclusion does not apply to any consideration received by the taxpayer for acquiring that advertising space.
- Amounts received by a person that manages real property owned by a third party that are deposited into a separate account kept in the name of the client and that are not reimbursed and are not reimbursements to the taxpayer and are not indirect payments for management services that the taxpayer provides to that third party.
- Proceeds from the transfer of an account receivable if the sale that generated the account receivable was included in gross receipts for Federal Income Tax purposes. This exclusion does not apply to a taxpayer that during the tax year both buys and sells any receivables.
- Proceeds from the original issue of stock or equity instruments or equity issued by a regulated investment company as defined under IRC 851, and the original issue of debt instruments.
- Refunds from returned merchandise.
- Cash and in-kind discounts
- Trade discounts
- Federal, State, or local tax refunds
- Security deposits
- Payment of the principal portion of loans
- Value of property received in a like-kind exchange
- Proceeds from a sale, transaction, exchange, involuntary conversion, maturity, redemption, repurchase, recapitalization, or other disposition or reorganization of tangible, intangible, or real property, less any gain that is included in federal taxable income (as defined for MBT purposes), if the property consists of one or more of the following. NOTE, however, that any gain that is included in federal taxable income (as defined for MBT purposes) from the sale, transaction, exchange, involuntary conversion, maturity, redemption, repurchase, recapitalization, or other disposition or reorganization of such property is included in gross receipts:
 - A capital asset as defined in IRC 1221(a).
 - Land that qualifies as property used in the trade or business as defined in IRC 1231(b).
 - Property used in a hedging transaction entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily to manage the risk of exposure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; interest rate fluctuations; or commodity price fluctuations. For purposes of this provision, the actual transfer of title of real or tangible personal property to another person is not a hedging transaction. NOTE, however, that the overall net gain from the hedging transactions entered into during the tax year is included in gross receipts. As used in this provision, "hedging transaction" means that term as defined under IRC 1221 regardless of whether the transaction was identified by the taxpayer as a hedge for Federal Income Tax purposes, provided, however, that transactions excluded under this provision and not identified as a hedge for Federal Income Tax purposes shall be identifiable to the Department by the taxpayer as a hedge in its books and records.
 - Investment and trading assets managed as part of the person's treasury function. For purposes of this provision, a person principally engaged in the trade or business of purchasing and selling investment and trading assets is not performing a treasury function. NOTE, however, that the overall net gain from the treasury function incurred during the tax year is included in gross receipts. As used in this provision, "treasury function" means the pooling and management of investment and trading assets for the purpose of satisfying the cash flow or liquidity needs of the taxpayer's trade or business.

- Proceeds from an insurance policy, a settlement of a claim or a judgment in a civil action, less any proceeds that are included in federal taxable income (as defined for MBT purposes).

- For a sales finance company, as defined in Section 2 of the Motor Vehicle Sales Finance Act, MCL 492.102, and directly or indirectly owned in whole or in part by a motor vehicle manufacturer as of January 1, 2008, and for a person that is a broker or dealer as defined under Section 78c(a)(4) or (5) of the Securities Exchange Act of 1934, 15 USC 78c, or a person included in the UBG of that broker or dealer that buys and sells for its own account, inventory includes contracts that are subject to the Commodity Exchange Act, 7 USC 1 to 27f, amounts realized from the repayment, maturity, sale, or redemption of the principal of a loan, bond, or mutual fund, certificate of deposit, or similar marketable instrument provided such instruments are not held as inventory, and the principal amount received under a repurchase agreement or other transaction properly characterized as a loan.

- For a mortgage company, proceeds representing the principal balance of loans transferred or sold in the tax year. *Mortgage company* means a person that is licensed under the Mortgage Brokers, Lenders and Servicers Licensing Act, PA 173 of 1987, MCL 445.1651 to 445.1684, or the Secondary Mortgage Loan Act, PA 125 of 1981, MCL 493.51 to 493.81, and has greater than 90 percent of its revenues, in the ordinary course of business, from the origination, sale, or servicing of residential mortgage loans.

- For a professional employer organization, any amount charged by a professional employer organization that represents the actual cost of wages and salaries, benefits, worker's 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.

- *Professional employer organization* means an organization that provides the management and administration of the human resources of another entity by contractually assuming substantial employer rights and responsibilities through a professional employer agreement that establishes an employer relationship with the leased officers or employees assigned to the other entity by doing all of the following:

- Maintaining a right of direction and control of employees' work, although this responsibility may be shared with the other entity.
- Paying wages and employment taxes of the employees out of its own accounts.
- Reporting, collecting, and depositing state and federal employment taxes for the employees.
- Retaining a right to hire and fire employees.

NOTE: A professional employer organization is not the same thing as a staffing company.

- Any invoiced items used to provide more favorable floor plan assistance to a person subject to the tax imposed under this act than to a person not subject to this tax and paid by a manufacturer, distributor, or supplier.

- For an individual, estate, or other person organized for estate or gift planning purposes, amounts received other than those from transactions, activities, and sources in the regular course of the taxpayer's trade or business. For purposes of this provision, receipts excluded from gross receipts include, but are not limited to:

- Receipts from investment activity, including interest, dividends, royalties, and gains from an investment portfolio or retirement account, if the investment activity is not part of the taxpayer's trade or business.
- Receipts from the disposition of tangible or intangible property held for personal use and enjoyment, such as a personal residence or personal assets.

NOTE: This exclusion only applies to individuals, estates and other persons organized for estate or gift planning purposes. Investment receipts and any other types of receipts earned or received by all other types of persons must be included in the gross receipts of the taxpayer, unless a different exclusion applies.

NOTE: Amounts received "from transactions, activities, and sources in the regular course of the taxpayer's business," are not excluded from gross receipts. These include, but are not limited to:

- Receipts from tangible and intangible property if the acquisition, rental, lease, management, or disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.
- Receipts in the course of the taxpayer's trade or business from stock and securities of any foreign or domestic corporation and dividend and interest income.
- Receipts from isolated sales, leases, assignments, licenses, divisions, or other infrequently occurring transactions involving tangible, intangible or real property if the property is or was used in the taxpayer's trade or business operation.
- Receipts from the sale of an interest in a business that constitutes an integral part of the taxpayer's regular trade or business.
- Receipts from the lease or rental of real property.

- Receipts derived from investment activity by a person organized exclusively to conduct investment activity and that does not conduct investment activity for any person other than an individual or a person related to that individual, or by a common trust fund established under the collective investment funds act, MCL 555.101 to 555.113. For purposes of this provision, a person is related to an individual if that person is a spouse, brother or sister, whether of the whole or half blood or by adoption, ancestor, lineal descendent of that individual or related person, or a trust benefiting that individual or one or more persons related to that individual.

- Interest and dividends derived from obligations or securities of the United States government, this state, or any governmental unit of this state. As used in this provision, *governmental unit* means that term as defined in section 3 of the Shared Credit Rating Act, MCL 141.1053.

- Amounts attributable to an ownership interest in a pass-through entity, regulated investment company, real estate investment trust, or cooperative corporation whose business activities are taxable under section 203 or would be subject to the tax under section 203 if the business activities were in this state. For purposes of this provision:
 - *Cooperative corporation* means those organizations described under subchapter T of the IRC.
 - *Pass-through* entity means a partnership, subchapter S corporation, or other person, other than an individual,

that is not classified for Federal Income Tax purposes as an association taxed as a corporation.

- *Real estate investment trust* means that term as defined under section 856 of the IRC.
- *Regulated investment company* means that term as defined under IRC 851.
- For a regulated investment company as that term is defined under IRC 851, receipts derived from investment activity by that regulated investment company.

Sourcing of Sales to Michigan

TANGIBLE AND REAL PROPERTY

Sale of tangible personal property

Property is shipped or delivered, or, in the case of electricity and gas, the contract requires the property to be shipped or delivered, to any purchaser within this State based on the ultimate destination at the point that the property comes to rest regardless of the free on board point or other conditions of the sales.

NOTE: *Tangible personal property* means that term as defined in Section 2 of the Use Tax Act, Public Act (PA) 94 of 1937, MCL 205.92.

Sale, lease, rental or licensing of real property

Property is located in this State.

Lease or rental of tangible personal property

To the extent the property is used in this State. Extent of use is determined by multiplying the receipts by a fraction, the numerator of which is the number of days of physical location of the property in this State during the lease or rental period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all lease or rental periods in the tax year.

If the physical location of the property during the lease or rental period is unknown or cannot be determined, the tangible personal property is used in the state in which the property was located at the time the lease or rental payer obtained possession.

Lease or rental of mobile transportation property owned by the taxpayer

To the extent property is used in this State. For example, the extent an aircraft will be deemed to be used is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of the fraction is the number of landings of the aircraft in this State and the denominator of the fraction is the total number of landings of the aircraft.

If the extent of use of any transportation property within this State cannot be determined, then the receipts are in this State if the property has its principal base of operations in this State.

INTANGIBLE PROPERTY (IN GENERAL)

Royalties and other income received for use of or for the privilege of using intangible property including patents, knowhow, formulas, designs, processes, patterns, copyrights, trade names, service names, franchises, licenses, contracts, customer lists, computer software, or similar items

Property is used by the purchaser in this State. If property is used in more than one state, royalties or other income will be apportioned to this State pro rata according to the portion of use in this State.

If the portion of use in this State cannot be determined, the royalties or other income will be excluded from both the numerator and the denominator.

If the purchaser of intangible property uses it or the rights to the intangible property, in the regular course of its business operations in this State, regardless of the location of the purchaser's customers.

SALES FROM PERFORMANCE OF SERVICES (IN GENERAL)

Receipts from performance of services, in general

Recipient of services receives all of the benefit of the services in this State.

If the recipient of the services receives some of the benefit of the services in this State, receipts are included in the numerator of the apportionment factor in proportion to the extent that the recipient receives benefit of the services in this State.

FINANCIAL SERVICES

Sales derived from securities brokerage services including commissions on transactions, the spread earned on principal transactions in which broker buys or sells from its account, total margin interest paid on behalf of brokerage accounts owned by broker's customers, and fees and receipts of all kinds from underwriting of securities.

Multiply the total dollar amount of receipts from securities brokerage services by a fraction, the numerator of which is the sales of securities brokerage services to customers within this State, and the denominator of which is the sales of securities brokerage services to all customers.

If receipts from brokerage services can be associated with a particular customer, but it is impractical to associate the receipts with the address of the customer, then the address of the customer will be presumed to be the address of the branch office that generates the transactions for the customer.

Sales of services derived directly or indirectly from sale of management, distribution, administration, or securities brokerage services to, or on behalf of, a regulated investment company or its beneficial owners, including receipts derived directly or indirectly from trustees, sponsors, or participants of employee benefit plans that have accounts in a regulated investment company

To the extent the shareholders of the regulated investment company are domiciled within this State. For this purpose, *domicile* means the shareholder's mailing address on the records of the regulated investment company.

If the regulated investment company or the person providing management services to the regulated investment company has actual knowledge that the shareholder's primary residence or principal place of business is different than the shareholder's mailing address, then the shareholder's primary residence or principal place of business is the shareholder's domicile.

A separate computation must be made with respect to receipts derived from each regulated investment company. Total amount of sales attributable to this State must be equal to total receipts received by each regulated investment company multiplied by a fraction determined as follows:

- The numerator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by the regulated investment company shareholders who have their domicile in this State.
- The denominator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by all shareholders.
- For purposes of the fraction, the year will be the tax year of the regulated investment company that ends with or within the tax year of the taxpayer.

Receipts from the origination of a loan or gains from sale of a loan secured by residential real property

Only if one or more of the following apply:

- Real property is located in this State.
- Real property is located both within this State and one or more other states and more than 50 percent of the fair market value of the real property is located within this State.
- More than 50 percent of the real property is not located in any one state and the borrower* is located in this State.

Interest from loans secured by real property

Property is located in this State.

If property is located both in this State and one or more other states, if more than 50 percent of the fair market value of the real property is located within this State.

*A borrower is considered located in this State if the borrower's billing address is in this State.

If more than 50 percent of the fair market value of the real property is not located within any one state, if the borrower is located in this State.

The determination of whether the real property securing a loan is located in this State will be made at the time the original agreement was made and any and all subsequent substitutions of collateral will be disregarded

Interest from a loan not secured by real property

Borrower is located in this State

Gains from sale of a loan not secured by real property, including income recorded under coupon stripping rules of IRC 1286

Borrower is located in this State

Credit card receivables, including interest, fees, and penalties from credit card receivables and receipts from fees charged to cardholders, such as annual fees

Billing address of the cardholder is located in this State

Sale of credit card or other receivables

Billing address of the customer is located in this State

Credit card issuer's reimbursements fees

Billing address of the cardholder is located in this State.

Merchant discounts, computed net of any cardholder chargebacks, but not reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its cardholders

Commercial domicile of the merchant is located in this State.

Loan servicing fees derived from loans of another secured by real property

Real property is located in this State.

Real property is located both in and out of this State and one or more states if more than 50 percent of the fair market value of the real property is located in this State.

More than 50 percent of the fair market value of the real property is not located in any one state, and the borrower is located in this State.

If the location of the security cannot be determined, then loan servicing fees for servicing either the secured or the unsecured loans of another are in this State if the lender to whom the loan servicing service is provided is located in this State.

Loan servicing fees derived from loans of another not secured by real property

Borrower is located in this State.

If location of the security cannot be determined, then loan servicing fees for servicing either the secured or the unsecured loans of another are in this State if the lender to whom the loan servicing service is provided is located in this State.

Sale of securities and other assets from investment and trading activities, including, but not limited to, interest, dividends, and gains

Attributable to the State if the person's customer is in this State, or if the location of the person's customer cannot be determined, both of the following:

- Interest, dividends, and other income from investment assets and activities and from trading assets and activities, including, but not limited to, investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions are in this State if the average value of the assets is assigned to a regular place of business of the taxpayer within this State.
 - Interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements are in this State if the average value of the assets is assigned to a regular place of business of the taxpayer within this State.
 - Amount of receipts and other income from investment assets and activities is in this State if assets are assigned to a regular place of business of the taxpayer within this State.
- Amount of receipts from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts otherwise sourced in this section, are in this State if the assets are assigned to a regular place of business of the taxpayer within this State.

TRANSPORTATION SERVICES**Receipts from transportation services**

Generally, receipts will be proportioned based on the ratio that revenue miles of the person in this State bear to the revenue miles of the person everywhere.

Receipts from maritime transportation services will be attributable to this State as follows:

- 50 percent of those receipts that either originate or terminate in this State.
- 100 percent of those receipts that both originate and terminate in this State.

Receipts attributable to this State of a person whose business activity consists of the transportation of:

- Property and of individuals – Proportioned based on the total gross receipts for passenger miles and ton mile fractions, separately computed and individually weighted by the ratio of gross receipts from passenger transportation to total gross receipts from all transportation, and by the ratio of gross receipts from freight transportation to total gross receipts from all transportation, respectively.

$\frac{\text{Michigan Ton Miles}}{\text{Total ton miles}}$	X	$\frac{\text{Gross Receipts for Property}}{\text{Total Gross Receipts}}$
	+	
$\frac{\text{Michigan Passenger Miles}}{\text{Total Passenger Miles}}$	X	$\frac{\text{Gross Receipts for People}}{\text{Total Gross Receipts}}$
= Apportionment Percentage		

- Oil by pipeline – Proportioned based on the ratio that the gross receipts for the barrel miles transported in this State bear to the gross receipts for the barrel miles transported by the person everywhere.
- Gas by pipeline – Proportioned based on the ratio that the gross receipts for the 1,000 cubic feet miles transported in this State bear to the gross receipts for the 1,000 cubic feet miles transported by the person everywhere.

NOTE: If a taxpayer can show that revenue mile information is not available or cannot be obtained without unreasonable expense to the taxpayer, receipts attributable to this State will be that portion of the revenue derived from transportation services everywhere performed that the miles of transportation services performed in this State bears to the miles of transportation services performed everywhere. If the Department determines that the information required for the calculations above are not available or cannot be obtained without unreasonable expense to the taxpayer, the Department may use other available information that in the opinion of the Department will result in an equitable allocation of the taxpayer's receipts to this State.

TELECOMMUNICATIONS SERVICES**Sale of telecommunications service or mobile telecommunications service, in general**

Customer's place of primary use of the service is in this State. As used here, *place of primary use* means the customer's residential street address or primary business street address where the customer's use of the telecommunications service primarily occurs.

For mobile telecommunications service, the customer's residential street address or primary business street address is the place of primary use only if it is within the licensed service area of the customer's home service provider.

Sale of telecommunications service sold on an individual call-by-call basis

Call both originates and terminates in this State.

Call either originates or terminates in this State and the service address is located in this State.

Sale of postpaid telecommunications service

Origination point of telecommunication signal, as first identified by the service provider's telecommunication system or as identified by information received by the seller from its service provider if system used to transport telecommunication signals is not the seller's, is located in this State.

Sale of prepaid telecommunications service or prepaid mobile telecommunications service

Purchaser obtains the prepaid card or similar means of conveyance at a location in this State.

Recharging a prepaid telecommunications service or mobile telecommunications service

Purchaser's billing information indicates a location in this State.

Sale of private communication services

100 percent of the receipts from the sale of each channel termination point within this State.

100 percent of the receipts from the sale of the total channel mileage between each termination point within this State.

50 percent of the receipts from the sale of service segments for a channel between two customer channel termination points, one of which is located in this State and the other is located outside of this State, which segments are separately charged.

Receipts from the sale of service for segments with a channel termination point located in this State and in two or more other states or equivalent jurisdictions, and which segments are not separately billed, are in this State based on a percentage determined by dividing the number of customer channel termination points in this State by the total number of customer channel termination points.

Sale of billing services and ancillary services for telecommunications service

Based on the location of the purchaser's customers.

If the location of the purchaser's customers is not known or cannot be determined, the sale of billing services and ancillary services for telecommunications service are in this State based on the location of the purchaser.

To access a carrier's network or from the sale of telecommunications services for resale

100 percent of the receipts from access fees attributable to intrastate telecommunications service that both originates and terminates in this State.

50 percent of the receipts from access fees attributable to interstate telecommunications service if the interstate call either originates or terminates in this State.

100 percent of receipts from interstate end user access line charges, if customer's service address is in this State. As used here, "interstate end user access line charges" includes, but is not limited to, the surcharge approved by the federal communications commission and levied pursuant to 47 CFR 69.

Gross receipts from sales of telecommunications services to other telecommunication service providers for resale will be sourced to this State using the apportionment concepts used for non-resale receipts of telecommunications services if the information is readily available to make that determination. If the information is not readily available, then the taxpayer may use any other reasonable and consistent method.

Taxpayer whose business activities include live radio or television programming as described in Subsector Code 7922 of Industry Group 792 or are included in Industry Groups 483, 484, 781, or 782, under the SIC Code as compiled by the U.S. Department of Labor, or any combination of the business activities included in those groups

Media receipts are attributable to this State only if the commercial domicile of the customer is in this State and the customer has a direct connection or relationship with the taxpayer pursuant to a contract under which the media receipts are derived.

Media receipts from the sale of advertising are attributable to this State if the customer of that advertising is commercially domiciled in this State and receives some of the benefit of the sale of that advertising in this State in proportion to the extent that the customer receives the benefit of the advertising in this State.

If the taxpayer is a broadcaster and if the customer receives some of the benefit of the advertising in this State, the media receipts for that sale of advertising from that customer will be proportioned based on the ratio that the broadcaster's viewing or listening audience in this State bears to its total viewing or listening audience everywhere.

Media property means motion pictures, television programs, internet programs and Web sites, other audiovisual works, and any other similar property embodying words, ideas, concepts, images, or sound without regard to the means or methods of distribution or the medium in which the property is embodied.

Media receipts means receipts from the sale, license, broadcast, transmission, distribution, exhibition, or other use of media property and receipts from the sale of media services. Media receipts do not include receipts from the sale of media property that is a consumer product that is ultimately sold at retail.

Media services means services in which the use of the media property is integral to the performance of those services.

NOTE: Terms used to describe the sale of telecommunications service or mobile telecommunications service have the same meaning as those terms defined in the streamlined sales and use tax agreement administered under the Streamlined Sales and Use Tax Administration Act, PA 174 of 2004, MCL 205.801 to 205.833.

OTHER

Default for all other receipts not otherwise sourced here

Sourced based on where the benefit to the customer is received, or if where the benefit to the customer is received cannot be determined, sourced to the customer's location.