Attachment 23

2009 MICHIGAN Business Tax Qualified Affordable Housing Seller's Deduction

Issued under authority of Public Act 36 of 2007.

PART 1: SELLER/BUYER IDENTIFICATION

Note: Seller must obtain buyer's signature and attach this form, and a copy of the buyer's operation agreement, to the seller's MBT Annual Return (Form 4567).

Seller Name (If Unitary Business Group, Name of Designated Member)	Federal Employer Identification Number (FEIN) or TR Number
Unitary Business Groups Only: Name of Unitary Business Group Member Reporting on This Form	Federal Employer Identification Number (FEIN) or TR Number
Buyer Name	Federal Employer Identification Number (FEIN) or TR Number

PART 2: QUALIFIED AFFORDABLE HOUSING DEDUCTION PROPERTY INFORMATION

Street Address of Property			Property Tax Parcel Identification Number
City	State MI	ZIP Code	

PART 3: CALCULATION OF SELLER'S DEDUCTION

1. Gain from the sale as reported on seller's federal tax return for this period ..... 1. ____ 00
2. Number of residential rental units in this property that the buyer committed in the operation agreement to operate as rent restricted units ..... 2. ____
3. Total number of residential rental units in this property ..... 3. ____
4. Divide line 2 by line 3 and enter as a percentage ..... 4. ____ %
5. Multiply the percentage on line 4 by line 1. Carry this amount to the seller's Form 4567, line 48i ..... 5. ____ 00

PART 4: CALCULATION OF LIEN FOR INSTALLMENT SALES

Complete only if this is the first year of an installment sale.

6. Total gain over life of installment note ..... 6. ____ 00
7. Multiply line 6 by line 4 ..... 7. ____ 00

PART 5: SELLER/BUYER CERTIFICATION

SELLER CERTIFICATION

I certify, under penalty of perjury, that the information in this return and attachments is true and complete to the best of my knowledge.

Seller Signature	Seller Name (print or type)	Date
	Title	Telephone Number

BUYER CERTIFICATION

- I certify that the buyer of the property identified above is a *limited dividend housing association, corporation, or cooperative* organized and qualified pursuant to Chapter 7 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1491 to 125.1496.
- I certify that the buyer of the property identified above is a qualified affordable housing project as defined in MCL 208.1201(9)(b), including having a limitation on the amount of dividends or other distributions that may be distributed to its owners in any given year and having received funding, subsidies, grants, operating support, or construction or permanent funding through one or more sources and programs named in that statute.
- I understand that the deductable amount of seller's gain, as identified on line 5 or 7 above (whichever applies), proportionately reduced with the passage of time, must be reported by the buyer as recaptured tax liability if the buyer fails to qualify and operate as provided in the operation agreement within 15 years after the purchase.
- I understand that promptly after receiving this form the Michigan Department of Treasury will record a lien on this property in the amount identified on line 5 or 7 above (whichever applies), and maintain its lien for 15 years, to secure payment in the event recapture occurs during that time.
- I certify, under penalty of perjury, that the information in this return and attachments is true and complete to the best of my knowledge.

Buyer Signature	Buyer Name (print or type)	Date
	Title	Telephone Number

Instructions for Form 4579
Michigan Business Tax (MBT) Qualified Affordable Housing Seller's Deduction

Purpose

Public Act (PA) 168 of 2008 provides for deductions from the Business Income Tax base and Modified Gross Receipts Tax base for certain amounts associated with the sale of residential rental units to – and operation of those units by – a qualified affordable housing project.

This form is used to calculate the seller's deduction and establish the maximum recapture that the buyer may be liable for if it fails to qualify as a qualified affordable housing project or fails to operate in accordance with the operation agreement.

Eligibility

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, including those listed below:

- Mortgage or other financing provided by the Michigan State Housing Development Authority, the Federal Department of Housing and Urban Development (HUD), the Federal Department of Agriculture for Rural Housing Service, the Michigan Interfaith Housing Trust Fund, Michigan Housing and Community Development Fund, Federal Home Loan Bank, Housing Commission Loan, Community Development Financial Institution, or mortgage or other funding or guaranteed by Fannie, Ginnie, Federal Housing Association, United States Department of Agriculture, or Federal Home Loan Mortgage Corporation.
- A tax exempt bond issued by a nonprofit organization, local government, or other authority.
- A payment in lieu of tax agreement or other tax abatement.
- Funding from the state or local government unit through a HOME investments partnership program.
- A grant or other funding from a federal home loan bank's affordable housing program.
- Financing or funding under the Federal New Markets Tax Credit Program.
- Financing under HUD's Hope VI Program as authorized by Section 803 of the National Affordable Housing Act, HUD's Section 202 program authorized by Section 202 of the National Housing Act, and under the Low-Income Housing Tax Credit program under Internal Revenue Code § 42.
- Financing or other subsidies from any new programs similar to any of the above.

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

The seller and buyer of affordable rental units must enter into an "operation agreement" 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.

If these requirements are satisfied, the seller may take a deduction from its Business Income Tax base – after apportionment – of the gain from the sale of the residential rental units to the qualified affordable housing project. If, under the agreement, the buyer agrees to operate something less than the full amount of the rental units as rent restricted units, then the deduction is limited to the gain on the sale of the rental units multiplied by a fraction, which is the number of rental units sold to be operated as rent restricted units over the total number of residential rental units sold.

If a sale of qualifying property is reported on the installment method for Federal Income Tax purposes the gain – or a proportional amount of the gain – may be deducted over time under the installment method so long as this treatment is consistent with the seller's treatment of the transaction for Federal Income Tax purposes.

Liens and Recapture

The Michigan Department of Treasury must record a statutory lien against the property subject to the operation agreement for the full (maximum) amount of the deduction from the Business Income Tax base of the seller. If a sale of qualifying property is reported on the installment method for Federal Income Tax purposes the lien will be filed in the initial year of the sale for the full amount of the cumulative deductions.

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 becomes payable to the State. A qualified affordable housing project that converts some but not all of its rent restricted units to free market units in violation of the operation agreement would experience recapture. Failure to operate just one residential rental unit in accordance with an operation agreement constitutes failure to operate "all or some" of the residential rental units as rent restricted units in accordance with the operation agreement. 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 amount of which is equal to the full amount of the deduction allowed the seller multiplied by a fraction, which is the difference between 15 and the years the affordable housing project qualified and complied with the terms of the agreement over 15. This recapture is reported on the *MBT Schedule of Recapture of Certain Business Tax Credits and Deductions* (Form 4587) and is mandatory even if a taxpayer does not meet the MBT gross receipts filing threshold.

Line-by-Line Instructions

Lines not listed are explained on the form.

Name and Account Number: Enter name and account number as reported on page 1 of Form 4567.

Unitary Business Groups (UBGs): Complete one form for each member for whom this schedule applies. Enter the Designated Member (DM) name in the Taxpayer Name field and the specific member of the UBG for which this form is filed on the line below.

Line 5: Multiply the percentage on line 4 by line 1. Carry this amount to the seller's Form 4567, line 48i.

UBGs: Carry amount on line 5 to the *MBT Unitary Business Group Combined Filing Schedule for Standard Members* (Form 4580), Part 2A, line 44i.