SINGLE BUSINESS TAX

OVERVIEW

The Single Business Tax (SBT) is the only general business tax levied by the State of Michigan. It was enacted in 1976 [Michigan Compiled Law (MCL) 208] to replace several previous business taxes, including the corporate income tax, and is administered under the Revenue Act [MCL 205]. The SBT is now repealed for business activity occurring after 2007.

The SBT replaced profits-based taxation with value-added taxation. Value added is simply a product's sale price less the cost of materials used in production. Over the years, political and court decisions have changed the tax. The current SBT is a modified value-added tax.

The SBT base consists of three components: labor cost, capital cost and profit. Labor cost is measured by the compensation and benefits an employer pays its employees; capital cost is measured by depreciation, interest, dividends and royalties deducted by the taxpayer; and profit is measured by the taxpayer's federal taxable income.

All persons engaged in a "business activity" in Michigan are subject to the SBT. "Business activity" is defined broadly and includes activity that might commonly be considered investment. It includes almost any transaction entered into for the purpose of economic benefit, such as:

1. Sales of real or personal property (tangible or intangible).

2. Rental of property, including both real property and personal property.

3. Performance of a service for a fee, except services rendered as an employee to his or her employer or services rendered as a director of a corporation.

The tax rate remains at 1.9 percent.

Filing Requirements

Any "person" engaged in a business activity in Michigan whose gross receipts allocated or apportioned to Michigan are $350,000 or more in a tax year is required to file an annual return. In general, gross receipts include all receipts derived from business activity, including rental and lease receipts, but there are several important exceptions. Gross receipts must be annualized for a tax period of less than 12 months for purposes of determining this filing requirement. However, a business registered as an individual is not required to annualize a short-period return.

"Person" means an individual, firm, bank, financial institution, partnership, limited partnership, co-partnership, joint venture, association, corporation, limited liability company, receiver, estate, trust or any other group or combination acting as a unit.

Special rules apply for controlled groups. Members with adjusted gross receipts of $100,000 or more may be required to file an annual return. *This subject is addressed in greater detail in the "Controlled Groups" section of this chapter.*

Special Filing Issues for 2007-08 Fiscal Year Filers

The SBT is repealed for business activity after December 31, 2007. A fiscal year taxpayer must file a short year SBT return for the period from the beginning of the taxpayer's 2007-08 fiscal year through December 31, 2007. The filing deadline for that final return is April 30, 2008.

If a fiscal year taxpayer files by April 30, 2008, a form 4 APPLICATION FOR EXTENSION OF TIME TO FILE MICHIGAN TAX RETURNS indicating the taxpayer's actual tax year-end from the federal return and estimated payments are paid and indicated on the form, Treasury will adjust the initial deadline for the final return to the last day of the fourth month after the federal tax year closes. Treasury will then grant an extension of 180 days beyond that revised initial deadline. If, on form 4, the taxpayer also indicates an extension to file the taxpayer's federal return has been granted, Treasury will grant an additional 60 days.

Computing the Final Return for a Fiscal Filer

The 2007 SBT Booklet (form 3435) contains an extensive supplemental instruction for fiscal filers. That booklet will be available on Treasury's Web site by early January. **It is essential that fiscal year taxpayers and their tax return preparers read the supplement carefully.** If there are any questions after reading, call Customer Contact Division, SBT Unit, at (517) 636-4700.

A fiscal year taxpayer with a tax year ending in 2008 may elect to compute the tax for the final, short period ending December 31, 2007 in accordance with one of the following methods:

1. **Annual Method.** The tax may be computed as if SBT were effective throughout the taxpayer's 2007-08 federal tax period. Gross receipts and tax base are then multiplied by a fraction, in which the numerator is the number of months of the federal period that falls in 2007, and the denominator is the number of months in the full federal period (typically 12).

2. **Actual Method.** The tax may be computed by determining the actual tax base of the final short period in accordance with the method of accounting used in prior fiscal years.

Under either method, procedures that apply to short tax periods generally, such as prorating and annualizing, must be followed.

Special Forms Guidance for Fiscal Year Taxpayers

Taxpayers with fiscal years ending in 2008 must file form C-8000 to calculate their final fiscal return. Form C-8044 will not be accepted. To file an amended return for a final fiscal year, use the 2007 form C-8000 and print "**Amended**" at the top. There will not be a form C-8000X applicable to this situation.

Type of Form to File

Following is a list of the basic forms used by SBT taxpayers. A complete list is available on Michigan Department of Treasury's (Treasury's) Web site at *www.michigan.gov/taxes* or in the SBT Forms and Instructions Booklet (form 3435).

Note: All eligible SBT returns prepared with software must be e-filed.

C-8000 SINGLE BUSINESS TAX ANNUAL RETURN	Standard form used to calculate SBT annual liability. This form guarantees the lowest tax liability. This is also the only form that can be used to calculate and track a business loss carryforward.
C-8044 SINGLE BUSINESS TAX SIMPLIFIED RETURN (Fiscal year filers with a tax year beginning in 2007 must file form C-8000 for tax year 2007.)	Simplified version of C-8000 used by small businesses qualifying for the alternate tax on adjusted business income. This form may not be used if an apportionment must be reported or if the alternate small business credit must be reduced. This form can also be used if the taxpayer's gross receipts are less than the filing requirement and a refund must be claimed.
C-8030 SINGLE BUSINESS TAX NOTICE OF NO SBT RETURN REQUIRED	Form used to notify Treasury that the taxpayer does not need to file an annual return because gross receipts are less than the filing requirement. (If box 6 is checked, Treasury will make the SBT account inactive.) A refund may not be claimed on this form. Form C-8030 is not a return, and does not affect the statutory limitation period for refunds or assessments.
C-8000X SINGLE BUSINESS TAX AMENDED RETURN or C-8044X SBT SIMPLIFIED AMENDED RETURN	Form used to show adjustments or corrections to an original return filed for the same period.

NEW DEVELOPMENTS

Form Changes

The 2007 SBT booklet (form 3435) again will include forms and instructions for all organization types, both corporate and noncorporate. Instructions that apply only to a particular organization type are identified by bolding the organization type.

As the time this publication went to print, the 2007 SBT booklet had not yet been finalized. The tax rate will again be 1.9 percent. Changes are addressed in greater detail in the "Legislative Changes" section of this chapter.

Visit the Treasury Web site for the current status of the 2007 forms. As soon as forms are available, they may also be requested by calling 1-800-827-4000.

Electronic Filing - General Information

To optimize efficiency and improve customer service, Treasury has mandated electronic filing (e-filing) of all eligible SBT returns that are prepared using computer software.

Software developers must support e-file for all eligible SBT forms that are included in their tax preparation software package. Practitioners using software to prepare their Michigan returns are required to e-file all eligible SBT returns that are supported by their software.

To participate in the SBT Direct e-file or SBT Fed/State e-file programs, e-filers must use software that has successfully completed the Michigan and/or IRS testing process. Confirm that the software chosen was approved for Michigan and that the Michigan e-file program is operational before transmitting returns. A list of approved software companies is available on Treasury's Web site.

An organization or individual interested in participating as a software developer (or transmitter for SBT Direct e-file) is required to file test returns with Michigan using one or both of these e-file programs. Tax preparers are **not** required to file test returns with Michigan unless acting as a transmitter for SBT Direct e-file.

If, after acceptance, a preparer, transmitter or software company has production problems, Treasury reserves the right to disapprove that preparer, transmitter or software company for part or all of the remainder of the filing season.

To avoid posting of duplicate returns, a taxpayer filing electronically should not mail copies of federal and Michigan returns and schedules to Treasury unless requested.

When form 4 needs to be filed, the SBT return can be e-filed, but the form 4 must be mailed.

If tax is due on an e-file return, payments may be mailed along with the SBT-V SBT E-FILE ANNUAL RETURN PAYMENT VOUCHER by the due date. Taxpayers may also make their payments by Electronic Funds Transfer (EFT). Application forms for EFT Debit and EFT Credit are available on Treasury's Web site at *www.michigan.gov/biztaxpayments.*

SBT Direct e-file and SBT Fed/State e-file programs will **not** be available to taxpayers who file the following forms or meet the following conditions:

- Returns for tax year 2001 or before (SBT Direct e-file only)
- Returns for tax year 2005 or before (SBT Fed/State e-file only)
- Returns requiring payment for 2002 (SBT Direct e-file only)
- Taxpayer has not previously filed a paper SBT return with Treasury (SBT Direct e-file/SBT Fed/State e-file Stand-Alone)
- C-8022 SBT Farmland Preservation Tax Credit
- C-8000X SBT Amended Return
- C-8044X SBT Amended Simplified Return
- C-8008 SBT Affiliation Schedule - Consolidated Filing
- C-8000MC SBT Miscellaneous Credits
- 1366 Insurance Company Annual Return for SBT and Retaliatory Tax.

<u>Electronic Michigan Returns</u>

Software developers are required to support e-file for all Michigan SBT returns that are included in their tax preparation software. If preparers use computer software to prepare SBT returns, they must e-file all eligible returns that are supported by their software.

The following Michigan forms and schedules may be e-filed using the SBT Direct e-file and SBT Fed/State e-file programs:

- C-8000 SBT Annual Return
- C-8000C SBT Credit for Small Business and Contribution Credits
- C-8000D SBT Recapture of Capital Acquisition Deduction
- C-8000G SBT Statutory Exemption/Business Income Averaging for Persons Other Than Corporations
- C-8000H SBT Apportionment Formula
- C-8000ITC SBT Investment Tax Credit
- C-8000KC SBT Schedule of Shareholders and Officers
- C-8000KP SBT Schedule of Partners
- C-8000S SBT Reductions to Adjusted Tax Base
- C-8009 SBT Allocation of Statutory Exemption, Standard Small Business Credit and Alternate Tax for Members of Controlled Groups
- C-8010AGR SBT Adjusted Gross Receipts for Controlled Groups
- C-8020 SBT Penalty and Interest Computation for Underpaid Estimated Tax
- C-8030 SBT Notice of No SBT Return Required
- C-8043 SBT Statutory Exemption Schedule
- C-8044 SBT Simplified Return (Fiscal year filers with a tax year beginning in 2007 must file form C-8000 for tax year 2007.)
- 3307 SBT Loss Adjustment Worksheet for the Small Business Credit.

Information from the following federal forms should be included when filing the C-8000, C-8044 or C-8030:

Corporations. U.S. 1120 (pages 1 through 4) or U.S. 1120-A (pages 1 and 2), Schedule D, forms 851, 4562 and 4797. If filing as part of a consolidated federal return, attach a pro forma or consolidated schedule.

S-Corporations. U.S. 1120S (pages 1 though 4), Schedule D, forms 851, 4562, 4797 and 8825.

Partnerships. U.S. 1065 (pages 1 through 4), 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. Treasury will request them if necessary.

Information on SBT e-file is available on the Treasury Web site at *www.michigan.gov/sbtefile.*

SBT Direct E-file

A computer with Internet access and tax preparation software is needed to e-file. The software will need to be purchased and installed.

Returns can be transmitted directly to Treasury or the software provider may be able to transmit the returns. Contact the software company to determine which transmission capabilities are offered before purchasing the software. The software company may charge an additional fee to transmit the returns.

The taxpayer's signature is an electronic signature composed of shared secrets. Treasury provides active SBT taxpayers who have filed form C-8000, C-8030 (for registered taxpayers) or C-8044 in the last two years with their Customer Service Number (CSN), which must be supplied as part of the electronic signature when e-filing a return. The CSN is eight digits comprised of one alpha character and seven numbers. The letters "I" and "O" are not used, and the CSN is case sensitive.

Treasury no longer mails CSN letters to eligible SBT filers. Therefore, if the taxpayer is filing his or her second return with Treasury within the last two years, the taxpayer will need to obtain the CSN using the "Check My Business Tax Info" option on Treasury's Web site or go directly to *www.michigan.gov/bustax.*

If filing an SBT annual return for the first time, the taxpayer will not have a CSN and will not be able to e-file using the SBT Direct program. The taxpayer may e-file using the SBT Fed/State e-file program or file a paper return. A CSN will be assigned to the account if the business is registered to do business in Michigan. Access taxpayer's CSN through the "Check My Business Tax Info" option on Treasury's Web site or go directly to *www.michigan.gov/bustax.*

If, as a first time filer, a business is not registered, the taxpayer must register in Michigan to be eligible to receive a CSN. Taxpayers can register for Michigan business taxes online. Registered taxpayers filing a second Michigan SBT return can find their CSNs through the "Check My Business Tax Info" option on Treasury's Web site or go directly to *www.michigan.gov/bustax.* The CSN should be available in January of the following calendar year. For example, the 2007 SBT return is due on April 30, 2008. The CSN should be available using the "Check My Business Tax Info" option in January 2008.

The CSN is assigned to the registered business account number. Taxpayers should keep their CSNs on file, as they will use the same number for future filings of e-filed SBT returns.

If a CSN has been misplaced, it can be obtained through the "Check My Business Tax Info" option on Treasury's Web site. If Internet access is not available, call (517) 636-4700 and request that a letter containing the CSN is mailed to the taxpayer.

If a taxpayer is having difficulty obtaining a CSN, use the "Ask A Question About My SBT Account" option at *www.michigan.gov/bustax.*

SBT Fed/State E-file Program

Michigan participates in the IRS Fed/State Modernized e-file (MeF) program for SBT corporate (1120) and partnership (1065) filers. Tax preparers and transmitters accepted in the IRS MeF program may participate in the Michigan SBT Fed/State e-file program and file both the federal and State returns together in one transmission to the IRS Service Center. The IRS will issue an acknowledgment (acceptance or rejection) for the federal return. If the federal return is accepted, the IRS will validate the account number against the name control in the State return and issue a notification to the transmitter that the IRS received the State return. The State data will then be made available for retrieval by Treasury. After the data is retrieved, it will be acknowledged and processed by Michigan.

Who May Participate

E-filing of Michigan returns is available to all e-filers who were accepted into the federal e-file program and who transmit returns to an IRS Service Center. Practitioners using software to prepare their Michigan SBT returns are required to e-file all eligible SBT returns that are supported by their software. To e-file using the SBT Fed/State e-file program, the software must support SBT Fed/State e-file filing using the IRS MeF program.

Application Process

To participate, applicants must first apply to the IRS. Anyone who registers with IRS e-Services can create a new (or revised) application online to participate in IRS e-file. A paper form 8633 APPLICATION TO PARTICIPATE IN THE IRS E-FILE PROGRAM may be submitted if the applicant does not use the electronic online option. Individuals are encouraged to register with IRS e-Services and create a new (or revised) IRS e-file application.

The definitions used by the IRS of the various categories of e-filers, electronic originators (EROs), transmitters or software developers also apply for Michigan e-filing purposes.

Upon receipt of a completed 8633 the IRS Service Center assigns an Electronic Filer Identification Number (EFIN) and, if applicable, an Electronic Transmitter Identification Number (ETIN) to the applicant.

After receiving the federal acceptance information, applicants are automatically accepted into the Michigan SBT Fed/State e-file program.

Acceptance Process

Treasury may conduct a suitability check on applicants who have been accepted in the SBT Fed/State e-file program. Participation in the programs may be denied if a company is not registered to conduct business in Michigan, or if there is an outstanding tax liability with Michigan.

Treasury will use the EFIN assigned by the IRS in the SBT Fed/State e-file program. Michigan does not assign any additional identification numbers.

Signature Process for Fed/State Returns

Michigan will accept the federal signature (8453-C, 8453-S, 8453-P or PIN). The State return may be transmitted with the federal return or at a separate time. As long as there is an IRS submission ID that links the two returns together, it is considered a Fed/State filing. Michigan does not require any additional signature documentation. If the taxpayer chooses to sign the Michigan SBT return electronically, the electronic signature is composed of the following shared secrets:

- Business Account Number (Federal Employer Identification Number (FEIN))
- Treasury-Assigned CSN
- Gross receipts or adjusted gross receipts from the most recently filed original SBT return.

Signature Process for State Stand-Alone Returns

State Stand-Alone returns must be signed using the electronic signature composed of the shared secrets described above.

The transmission and acknowledgment process for State Stand-Alone is the same as described for Fed/State e-file. However, the IRS will only validate the FEIN and name control on a State Stand-Alone return before making the data available to Michigan.

For More Information

Visit the federal and Michigan Web sites *www.irs.gov* and *www.michigan.gov/sbtefile* for more information on the IRS MeF program and Michigan's SBT Fed/State e-file program.

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Note: As previously noted, SBT is repealed for business activity occurring after December 31, 2007. However, both the SBT Direct and SBT Fed/State e-file programs will continue to be available for prior year filings as supported by the software.

Recent Legislative Changes

Transferred Jobs Credit. For the 2007 tax year, Public Act (PA) 293 of 2005 created a refundable credit equal to 100 percent of property tax paid on tangible personal property used in the performance of jobs transferred to Michigan. "Transferred jobs" are defined as jobs that involve high-technology activity or manufacturing, previously were located in another state or country and were moved to Michigan in the tax year in which the credit is claimed or the immediately preceding tax year. Personal property tax used to calculate this credit can not also be used in calculating the Industrial Personal Property Tax Credit.

Partial Credit for Industrial Personal Property Taxes. PA 290 of 2005 allows a refundable SBT credit equal to 15 percent of personal property tax paid on industrial personal property, for tax years beginning in 2007. "Industrial personal property" means property classified as industrial personal property under MCL 211.34c. Treasury will rely on property classification as shown on the Notice of Assessment, Taxable Valuation and Property Classification issued by the local assessor. This credit is limited to taxes actually paid (cash basis) in 2007.

Changed Weighting of Apportionment Factors. PA 295 of 2005 changed the weighting of apportionment factors to 92.5 percent sales, 3.75 percent property and 3.75 percent payroll. This applies to tax years beginning in 2006 and 2007.

GENERAL INFORMATION

Extensions

An SBT return is due the last day of the fourth month after the end of the tax year. Except for the 2007-08 year of fiscal year taxpayers, an SBT return must be filed for the same period covered by the federal income tax return. If additional time is needed to file an annual tax return, form 4 must be submitted by the original due date of the return. Form 4 must be filed even if the IRS has approved an extension for filing the federal return.

An extension for filing the annual return will not extend the time to pay the tax. **An extension application will not be processed unless a payment is included or estimated payments have been made and are listed on the form.** Penalty and interest will accrue on the unpaid tax from the original due date of the return.

If a taxpayer has properly filed and paid estimates throughout the year and correctly shown this on form 4, estimated payments will be accepted as payment on a tentative return and an extension may be granted. It is important that form 4 be filled out correctly to be accepted by Treasury's computerized process.

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If a timely application and proper payment have been received, Treasury will grant a 180-day extension on the SBT return. If form 4 is marked to show the taxpayer has a federal extension, Treasury will grant an extension 60 days longer than the federal extension.

For example, if an SBT extension is granted, a 2007 calendar year filer who indicates a federal extension was granted, will have an SBT return due date of December 31, 2008. The same filer who does not indicate a federal extension was granted, will have an SBT due date of October 31, 2008.

Note: A fiscal year filer extension is more complex, due to termination of SBT. This taxpayer's final SBT return will be for a short period ending December 31, 2007, even though the federal tax year continues into 2008. The initial filing deadline for this SBT short period will be April 30, 2008. If this taxpayer files by April 30, 2008, a form 4 indicating the actual tax year-end from the federal return and appropriate estimated payments are received and indicated on the form, Treasury will adjust the initial deadline for filing the final return to the last day of the fourth month after the federal tax year closes. Treasury will then grant an extension of 180 days beyond that revised initial deadline to file the tax return. If, on form 4, the taxpayer also indicates an extension to file the federal return has been granted, Treasury will grant an additional 60 days.

SBT filers will receive a written acknowledgment of a valid extension at their legal address on file with Michigan Treasury. If a valid SBT extension is filed and accepted, but total payments received are less than 90 percent of tax liability, a 10 percent negligence penalty may apply.

Note: If no tax is owed, form 4 does not have to be filed to avoid penalty and interest. However, without an approved extension, the annual return must be filed as soon as the information is available. An extension of time to file will also extend the statute of limitations. In addition, if an affiliated group of corporations intends to request consolidated or combined filing status (or modify membership in an existing group), the parent corporation must file form 4 with payment to extend the deadline for such a request.

Estimates

If a taxpayer's tax liability for the year is over $600, estimated quarterly returns and payments must be filed. For a calendar-year taxpayer, quarterly returns are due the last day of April, July, October and January. For fiscal-year filers, quarterly returns are due the last day of the first month after each quarter.

Treasury sends a personalized form C-8002 MICHIGAN ESTIMATED QUARTERLY PAYMENT FOR SINGLE BUSINESS TAX to each registered estimate filer that has used them in the past. Use of these personalized forms will speed posting of a taxpayer's account and improve accuracy of payment information. Do not duplicate personalized forms or use a form that has someone else's name on it.

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SBT estimated quarterly payments may also be made by EFT. File form 2248 ELECTRONIC FUNDS TRANSFER (EFT) DEBIT APPLICATION or 2328 ELECTRONIC FUNDS TRANSFER (EFT) CREDIT APPLICATION to notify Treasury that the taxpayer intends to pay electronically. Both forms are available on the Treasury's Web site at *www.michigan.gov/biztaxpayments.*

Estimated quarterly payments must approximate tax liability incurred for each quarter, and total payments must equal 85 percent of annual liability or one percent of gross receipts for the tax year. Estimates also may be based on the prior year's tax liability provided payments are made in four timely, equal payments and the preceding year's tax was $20,000 or less.

No estimates are due if a taxpayer had business activity in Michigan in the preceding year but had no tax liability.

Michigan's Apportionment Factors

A taxpayer who has nexus both within and without Michigan must apportion its tax base.

A taxpayer who has nexus only in Michigan is not eligible for apportionment. All sales, regardless of destination, are Michigan sales. A taxpayer is only eligible for apportionment if the taxpayer has nexus with at least one other state.

Revenue Administrative Bulletin (RAB) 1998-1 Single Business Tax Nexus Standard (not included in this text) explains Treasury's standard for determining when a taxpayer has nexus with another state.

The SBT apportionment is based on three factors: property, payroll and sales.

Property Factor

Note: For tax years beginning in 2006 or 2007, the property factor is weighted 3.75 percent.

The property factor includes all real and tangible personal property, including construction in progress, that is owned or rented by the taxpayer during the tax period: land, buildings, machinery, stocks of goods, equipment, tools, implements, wares and merchandise, and other real and tangible personal property. There is no requirement that real and tangible personal property be used, be capable of use, or be available for use by a taxpayer before it is included in the property factor.

Property that is rented by the taxpayer is valued at eight times its net annual rental rate. The net annual rental rate for any item of rented property is the annual rental rate paid by the taxpayer for such property, less the aggregate annual subrental rates received from subtenants of the taxpayer.

Property owned by a taxpayer is valued at its original cost. "Original cost" means basis of the property for federal income tax purposes (before any federal adjustments) at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements and partial dispositions.

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Payroll Factor

Note: For tax years beginning in 2006 or 2007, the property factor is weighted 3.75 percent.

The payroll factor consists of total wages paid by a taxpayer during the tax period. This includes wages only, not fringe benefits, and it is calculated on a cash basis. Wages are considered to be paid in this State if any one of the following tests is met:

1. The employee's service is performed entirely within Michigan.

2. The employee's service is performed both in and out of Michigan, but the service performed outside of Michigan is incidental to the employee's service in Michigan. The word "incidental" means any service which is temporary or transitory in nature or which is rendered in connection with an isolated transaction.

3. The employee's service is performed both in and out of Michigan and any of the following apply:

    - The employee's base of operations is in Michigan.

    - There is no base of operations in any state in which some part of the service is performed, but the place from which the service is directed or controlled is in Michigan.

    - The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in Michigan.

Sales Factor

Note: For tax years beginning in 2006 or 2007, the payroll factor is weighted 92.5 percent.

The sales factor includes amounts received for:

- Transfer of title to, or possession of, property that is stock in trade, other property of a kind that would properly be included in the inventory of a taxpayer if on hand at close of the tax period or property held by a taxpayer primarily for sale to customers in the ordinary course of its trade or business.

- Performance of services which constitute business activity.

- Rental, leasing, licensing or use of tangible or intangible property which constitutes business activity.

Sales do not include:

- Dividends, interest and royalties received by a taxpayer to the extent deducted from the tax base.

- Any royalties received by a franchisor for use outside of Michigan of trade names, trademarks and similar intangible property.

For a taxpayer with nexus in Michigan and at least one other state or country, sales of tangible personal property are attributable to Michigan if the property is delivered or shipped to a purchaser in Michigan regardless of the free-on-board point or other conditions of sale.

Sales other than sale of tangible property are attributable to Michigan if:

- The business activity takes place in Michigan;

- The business activity takes place in Michigan and in other states, but based on the direct costs of performance a greater proportion takes place in Michigan; or

- Receipts are for services performed for planning, designing or construction activities in Michigan.

Note: The last provision was declared unconstitutional by the Michigan Court of Appeals in Fluor Enterprises v. Treasury, 4/14/2005, Dkt. 251005. The Michigan Supreme Court reversed that decision and upheld this provision - Fluor Enterprises v. Treasury, 5/2/2007, Dkt. 129149.

Special Apportionment Formulas

Financial organizations, insurance companies and transportation companies use single factor apportionment formulas based on gross business, premiums received and revenue miles, respectively. Details and examples are available in the SBT Instruction Booklet (form 3435).

Statutory Exemption

Businesses may be allowed a $45,000 exemption from the tax base. An additional exemption of up to $48,000 is available for partnerships and S corporations, based on the number and status of their partners or shareholders. For purposes of calculating this exemption, business income is adjusted to include compensation and directors' fees paid to shareholders and directors, plus federal loss carryovers. The exemption (including the $48,000 additional, if available) is reduced $2 for each $1 that adjusted business income exceeds the amount of the exemption. Thus, it is phased out completely at some point between $67,500 and $139,500, depending on the ownership structure. The statutory exemption is calculated on form C-8043 SINGLE BUSINESS TAX STATUTORY EXEMPTION SCHEDULE.

For purposes of computing a statutory exemption, a member of a limited liability company (LLC) is treated as a partner if the LLC is taxed federally as a partnership and is treated as a shareholder if the LLC is taxed as a corporation.

For a part-year return, the statutory exemption must be prorated, including the additional amount, if available.

SBT CREDITS

Nonrefundable Credits

The following credits are discussed in the order in which they are found on the SBT return.

Investment Tax Credit

A taxpayer may claim an investment tax credit (ITC) for a percentage of costs paid or accrued in a taxable year for qualifying tangible assets physically located in Michigan for use in a business activity in the State. The assets must be of a type that are or will become eligible for depreciation or amortization for federal income tax. Mobile tangible assets, wherever located (apportioned by the same apportionment percentage as the tax base), and assets previously acquired for outside the State but moved into the State during the tax year, also qualify for ITC.

For 2007, ITC is calculated by multiplying net qualified investments during the tax year by 0.826086. The result is multiplied by the appropriate adjusted gross receipts percentage from the following table:

Adjusted Gross Receipts	ITC Adjusted Gross Receipts Percentage (AGR%)
$1,000,000 or less	2.3%
1,000,001 - 2,500,000	1.5
2,500,001 - 5,000,000	1.0
5,000,001 or more	0.85

"Adjusted gross receipts" for the purpose of ITC means:

- Gross receipts, apportioned or allocated to Michigan,
- Plus capital acquisition deduction (CAD) recapture
- Plus ITC recapture.

Adjusted gross receipts must be annualized if the return is for a period of less than 12 months. In addition, adjusted gross receipts for purposes of ITC calculation must be determined on a consolidated basis for the following:

- An affiliated group as defined in the SBT Act, Section 208.3
- A controlled group of corporations as defined in Internal Revenue Code (IRC) Section 1563, or
- Entities under common control as defined in IRC Section 414(c).

(See the "Controlled Groups" section of this chapter.)

Net qualified investment equals cost paid or accrued in a taxable year for:

- Tangible, depreciable assets located in Michigan,
- Mobile tangible assets, wherever located (multiplied by taxpayer's apportionment percentage).
- Federal basis for eligible items moved into the State,
- Less a recapture calculation for like assets upon their sale, disposition or removal from the State.

Under the SBT, if a taxpayer's adjusted tax base exceeds 50 percent of its adjusted gross receipts, the adjusted tax base may be reduced by that excess. The ITC is not available (and ITC recapture is not required) if this "gross receipts reduction" to the adjusted tax base is taken to arrive at tax liability.

Alternatively, the Act allows a taxpayer to reduce the adjusted tax base when more than 63 percent of the tax base consists of compensation. If a taxpayer chooses this "compensation reduction," ITC must be reduced by a percentage (not to exceed 100 percent) determined by dividing the applicable tax rate for the year (1.9 percent) by the ITC percentage determined previously and multiplying that result by the percentage compensation reduction claimed by the taxpayer. As compensation reduction percentage increases, allowable ITC decreases.

These two reductions to adjusted tax base are optional. It is important to choose a reduction method or ITC, based on which is most advantageous to the taxpayer.

Example: Assume a 12-month return ending December 31, 2007, with a tax rate of 1.9 percent and net qualified investments of $100,000. Also assume adjusted gross receipts exceed $5,000,000. In addition, the taxpayer has taken a 25 percent compensation reduction in calculating the tax liability.

Investment Tax Credit =

Net Qualified Investment x Investment Tax Credit Percentage (ITC%)

To calculate the ITC%:

$$\frac{0.826086}{.023\ (2.3\%)} \times \text{Adjusted Gross Receipts Percentage (AGR\%)}$$

OR

$$\text{ITC\%} = \frac{0.826086}{.023\ (2.3\%)} \times .0085\ (0.85\%) = .007022\ (.7022\%)$$

To calculate ITC (before reduction):

Net Qualified Investment of $100,000 x ITC% of .007022 = ITC of $702

To calculate ITC Reduction:

$$\frac{\text{SBT Tax Rate}}{\text{ITC\%}} \times \text{Compensation Reduction \%} \times \text{ITC}$$

OR

$$\text{ITC Reduction} = \frac{0.019\ (1.9\%)}{0.007022\ (.7022\%)} \times 25\% \times \$702 = \$475$$

To calculate Reduced ITC:

ITC of $702 - Reduction amount of $475 = Reduced ITC of $227

This credit is not refundable; however, if ITC exceeds tax liability, it may be carried forward as an offset to Michigan Business Tax (MBT) liability for 2008 and 2009.

For further information and a set of Frequently Asked Questions concerning the ITC, visit the Treasury Web site at www.michigan.gov/taxes.

Small Business Credit

The small business credit is available to taxpayers who meet three criteria: (1) gross receipts $10 million or less, (2) adjusted business income $475,000 or less, and (3) owner- or officer-allocated income $115,000 or less. Eligible taxpayers receive a credit based on the ratio of adjusted business income to 45 percent of the SBT base, to a maximum of 100 percent of tax liability. Adjusted business income is equal to business income plus, for a C-corporation, compensation and directors' fees of officers and active shareholders.

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Taxpayers who qualify for a small business credit can opt to calculate it with an alternate method, often called the "alternate tax." The alternate method effectively turns the SBT into a tax on owners' earnings and is meant to help smaller, low profit firms. Firms that use the alternate method pay a tax of two percent on adjusted business income.

For purposes of computing the small business credit, a member of an LLC is treated as a partner if the LLC is taxed federally as a partnership, but a member of an LLC that is taxed federally as a corporation will not be treated as a shareholder. If an LLC files federal taxes as a C-corporation, however, any member who functions like an officer will be treated as one for small business credit purposes.

Reduction to Small Business Credit Required. There is a reduction of credit when allocated income after loss adjustment (based on the individual/partner/officer/shareholder with the largest amount) is more than $95,000 but not more than $115,000, as follows:

Allocated Income	Reduction to Credit
$ 95,001 to $ 99,999	20%
$100,000 to $104,999	40%
$105,000 to $109,999	60%
$110,000 to $115,000	80%

Small Business Credit Loss Adjustment. A loss adjustment may be used to reduce adjusted business income to determine the business income disqualifier ($475,000) and the individual, partner, shareholder and officer disqualifier ($115,000) used in determining eligibility for the small business credit (regular or alternate method).

A loss adjustment is used only to determine eligibility for the credit or to minimize the reduction percent required when allocated income in the $95,000 to $115,000 range. Loss adjustment is not used, however, to calculate the credit percentage (including alternate method).

Loss adjustment means the amount by which adjusted business income was less than zero in any of the five years immediately preceding the tax year for which eligibility for the credit is being determined. A negative adjusted business income amount cannot be carried from a year in which the taxpayer did not receive a small business credit. A taxpayer may not amend a return to take a small business credit to establish a loss adjustment.

Public Contribution, Community Foundation and Homeless Credits

Taxpayers who are not subject to Michigan personal income tax may take a credit equal to 50 percent of their contributions to Michigan institutions of higher learning, public libraries, public broadcasting stations, the Michigan Colleges Foundation and any nonprofit association organized and operated exclusively for the benefit of institutions of higher learning (Public Contribution Credit).

A credit also may be taken equal to 50 percent of a contribution to an endowment fund of a Michigan community foundation. This credit cannot be taken if claimed on an individual income tax return.

In addition, a taxpayer may take a credit equal to 50 percent of a cash contribution to an organization whose "primary purpose is to provide overnight accommodation, food or meals to persons who are indigent" (Homeless Credit). Each of these three credits is limited to the smaller of 50 percent of the contribution, 5 percent of tax liability or $5,000.

Public Utility Property Tax Credit

A Public Utility Property Tax Credit is available to corporate taxpayers for 5 percent of the amount of taxes assessed for the year under PA 282 of 1905 on properties of railroad, telegraph and other public utility companies. Taxpayers whose business activities consist of transportation services other than oil or gas by pipeline are not eligible for this credit.

Unincorporated and S Corporation Credit

A taxpayer who is unincorporated or who elects S corporation status under the IRC is entitled to a credit under Section 37 of the SBT Act. Business income must be annualized for short-period tax years.

Business Income	Credit
0 to $20,000	20% of SBT liability
$20,001 to $39,999	15% of SBT liability
$40,000 or more	10% of SBT liability

Enterprise Zone Credit

The Enterprise Zone Credit was created to encourage businesses to locate and expand in areas with high unemployment, low income, high property taxes and low property value. A certified business is eligible for a credit equal to the amount of tax liability attributable to business activity in an Enterprise Zone for 10 years from the date that the business was certified. No applications for certification were accepted after 1996. The Benton Harbor area was the only Enterprise Zone created. *(See RAB 1993-10 at www.michigan.gov/treasury which describes the SBT Enterprise Zone credit.*)

Historic Preservation Credit

A credit against SBT is available to taxpayers based upon qualified expenditures made for rehabilitating an historic resource in Michigan. A certification is required from the Michigan Historical Center stating the historic significance, rehabilitation plan and completed rehabilitation of the historic resource meet certain criteria.

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The amount of credit hinges upon whether the taxpayer is eligible for and claimed a credit on the federal return. A taxpayer with qualified expenditures eligible for federal credit must claim and receive the federal credit to be eligible for the Michigan credit. The SBT credit is equal to 25 percent of qualified expenditures eligible for federal credit, less the amount of federal credit received for the same qualified expenditures.

A taxpayer not eligible for federal credit may claim 25 percent of qualified expenditures as the Michigan credit under MCL 208.39c. A copy of form 3581 MICHIGAN HISTORIC PRESERVATION CREDIT, a certification from the Michigan Historical Center and a detailed list of expenditures must be attached to claim the credit.

The credit is nonrefundable; however, any unused portion may be carried forward to the Michigan Business Tax (MBT), for a maximum (combined SBT and MBT) of ten years.

Questions regarding federal and State certification may be directed to the State Historic Preservation Office at (517) 373-1630, which also has a Web site at www.sos.state.mi.us/history/preserve/index.html.

Low-grade Hematite Credit

A taxpayer may claim a credit against the tax equal to $1 per long ton of qualified low-grade hematite, in pellet form, consumed in an industrial or manufacturing process that is the taxpayer's business activity. If the credit allowed for 2007 exceeds a firm's tax liability, the excess may not be refunded but may be carried forward to MBT for 2008 and 2009.

Next Energy Business Activity Credit

A taxpayer certified under the Michigan Next Energy Authority Act may claim a nonrefundable credit equal to the amount by which tax liability attributable to qualified business activity for the tax year exceeds the taxpayer's baseline tax liability attributable to qualified business activity. A taxpayer's baseline tax liability attributable to qualified business activity is determined by a formula specified in the act. Qualified business activity is defined as research, development or manufacturing of an alternative energy marine propulsion system, an alternative energy system, an alternative energy vehicle, alternative energy technology or renewable fuel.

An approved business will receive a certificate from Michigan Next Energy Authority which must be attached to the return.

For more information, contact Michigan Economic Development Corporation (MEDC) at (517) 373-9808 or visit the MEDC Web site at www.michigan.org/medc.

Pharmaceutical Credit

A credit is available for qualified research expenses (as defined in IRC Section 41) related to the taxpayer's pharmaceutical-based business activity in Michigan. An eligible taxpayer must be engaged primarily in manufacturing, research and development, and sale of pharmaceuticals. The taxpayer must have at least 8,500 employees in Michigan whose primary place of employment is within a 100-mile radius of each other. At least 5,000 of these Michigan employees must be engaged primarily in research and development of pharmaceuticals. The credit is equal to 6.5 percent of the amount by which the taxpayer's qualified research expenses relating to pharmaceutical-based business activity in this State for the tax year exceed the average of those expenses for the proceeding three tax years. The credit may not exceed 200 percent of the average qualified research expenses relating to pharmaceutical-based business activity in this State for the three proceeding tax years. If the credit exceeds tax liability for 2007, the excess may be carried forward to MBT for 2008 and 2009.

Qualified Start-Up Business Credit

PA 126 of 2004 adds an SBT credit for a "qualified start-up business" that does not have business income for two consecutive years. The credit is equal to the taxpayer's SBT liability for the year. It may not be claimed for more than five tax years. Compensation, director's fees and distributive shares of an owner or officer may not exceed $135,000. If the taxpayer leaves the State within three years after the last tax year in which it took the credit, some or all of the credit is recaptured.

A "qualified start-up business" must be certified by MEDC as meeting all of the following criteria:

- Fewer than 25 full-time equivalent employees
- Sales of less than $1,000,000 in the year for which the credit is claimed
- Not publicly traded
- Research and development make up at least 15 percent of its expenses in the year of the credit
- During the immediately preceding seven years it was in one of the first two years of contribution liability under the Michigan Employment Security Act.

Donated Automobile Credit

PA 302 of 2004 adds a nonrefundable credit equal to 50 percent of the fair market value of an automobile donated to a qualified organization that intends to provide the auto to a qualified recipient for transportation to work. A qualified organization is one certified by Treasury for this credit. The vehicle's value will be determined by the qualified organization or by the appropriate guide published by the National Automobile Dealers Association, whichever is less. Maximum credit for a year is $100.

Old Brownfield Credit

The "old" Brownfield Credit was available for tax years that began after 1996 and before 2001. The credit carryforwards from credits that were previously approved may still be applied to the current tax liability until the credit is consumed or the ten-year limitation (combining SBT and MBT years) has been reached.

Renaissance Zone Credit

A business located and conducting business activity within a renaissance zone may claim a credit. The calculation method is different for businesses first locating and conducting business activity within a renaissance zone before December 1, 2002, and those first doing so after November 30, 2002. Any business activity related to a casino, including operating a parking lot, hotel, motel or retail store, cannot be used to calculate this credit. To calculate this credit see the Renaissance Zone worksheet in form C-8000MC SBT MISCELLANEOUS CREDITS.

A business is not eligible for this credit if, as of December 31 of the prior tax year, it was delinquent in filing or paying a property tax, SBT or city income tax.

A business in a zone that is expiring must, during the last three years of a zone's designation, reduce the credit. Beginning in 2006, there were zones that were subject to the limitation. Check with the local unit of government to determine when the zone is set to expire and see the information provided for the worksheet instructions for form C-8000MC SBT Miscellaneous Credits.

For more information on Renaissance Zones, contact MEDC at 1-800-94NOTAX or (517) 373-9808 or visit the MEDC Web site at www.michigan.org/medc. For information about this credit, contact the Customer Contact Division, SBT Unit, at (517) 636-4700.

New Brownfield Credit

PA 143 of 2000 was enacted to provide a new SBT Brownfield Credit for redevelopment or improvement of a facility (contaminated property) or functionally obsolete or blighted property. A qualified taxpayer may claim this credit provided the taxpayer has a preapproval letter for the project, issued by Michigan Economic Growth Authority (MEGA) after 1999 and before eligible investment begins. The project must be completed within five years after the preapproval letter is issued and completion must be certified by MEGA. The credit must be taken in the tax year in which the Certificate of Completion is issued.

A qualified taxpayer must own or lease eligible property and must certify the Department of Environmental Quality (DEQ) has not sued or issued a unilateral order to the taxpayer to compel response activity on that property. In addition, DEQ may not have expended any State funds for response activity to the property and then demanded reimbursement from the taxpayer.

Any unused credit may be carried forward until it is consumed or the ten-year limitation (combining SBT and MBT years) has been reached.

For information about eligibility requirements or how to file a Brownfield Redevelopment Plan, contact the local Brownfield Redevelopment Authority. For more information on the approval process for Brownfield credit and copies of required forms, see the Treasury Web site at www.michigan.gov/taxes. For questions about the credit, contact the Customer Contact Division, SBT Unit, at (517) 636-4700.

Refundable Credits

MEGA Credit for Business Activity

This credit was created to promote economic growth and jobs in Michigan. Each year, for a period of time not to exceed 20 years, approved businesses will receive a certificate from MEGA showing the amount of credit the business may claim based on payroll. This portion of the credit is refundable. The certificate must be attached to the taxpayer's return.

For more information, contact MEDC at (517) 373-9808 or visit the MEDC Web site at www.michigan.org/medc.

Workers' Disability Supplemental Benefit (WDSB) Credit

The WDSB Credit is available only to employers who self-insure pursuant to the Workers' Disability Compensation Act of 1969, and it must be claimed as an offset against their quarterly estimated SBT payments. The available credit is allowed only in the amount authorized by the Department of Labor and Economic Growth (DLEG), Bureau of Workers' Disability Compensation. Any credit in excess of tax liability may be refunded.

For more information on WDSB Credit eligibility, call DLEG, Bureau of Workers' Disability Compensation, at (517) 322-1879 or 1-888-396-5041 or visit their Web site at www.michigan.gov/wca.

Apprenticeship Credit

This is a refundable credit for employers who, through federally registered apprenticeships, train qualified students. An apprentice must be a resident of Michigan, at least 16 years of age but younger than 20, who has not obtained a high school diploma and is enrolled in high school or a G.E.D. program. The credit equals 50 percent of wage-related costs incurred in a tax year for training an apprentice, and 100 percent of classroom instruction costs which includes tuition, fees and books for college-level courses taken while the apprentice is enrolled in high school. Maximum credit, however, is $2,000 per apprentice per year. A taxpayer who is not required to file an annual SBT return may claim the credit on form C-8044. An approved federal form ETA 671 for each apprentice must be attached to the SBT return.

For companies in the North American Industrial Classification System (NAICS) tool and die company classifications, PA 273 of 2003 amends the SBT Act to increase the maximum credit allowed for apprentice training to $4,000 per apprentice, per year, for tax years beginning after 2003. The maximum credit allowed for all other taxpayers remains at $2,000. In addition, tool and die businesses within these NAICS classifications are allowed a credit of up to $1,000 per year for qualified expenses incurred in the training of a special apprentice. A "special apprentice" is someone who does not satisfy the statutory definition of "apprentice," but is a Michigan resident, at least 16 years old but younger than 25, and is trained through a program that meets all statutory criteria.

For more information, contact Career, Education & Workplace Programs at (517) 241-4000. Additional information is also available at www.michigan.gov/mdcd.

Next Energy Payroll Credit

A taxpayer who is a qualified alternative energy entity located in an alternative energy zone may claim a refundable credit equal to payroll for all qualified employees in the tax year for which the credit is claimed, multiplied by the Michigan individual income tax rate for the year.

CONTROLLED GROUPS

Filing Requirements

In SBT terminology, "controlled group" is a phrase often used to refer to an affiliated group, a controlled group of corporations or a group of entities under common control. A controlled group must consolidate gross receipts of members who have apportioned or allocated gross receipts of $100,000 or more to determine if the members must pay a tax or file a return. A member of a controlled group is not required to file a return or pay tax if that member has apportioned or allocated gross receipts of less than $100,000.

All members of a controlled group, however, must be included in calculation of the small business credit on form C-8009 ALLOCATION OF STATUTORY EXEMPTION, STANDARD SMALL BUSINESS CREDIT, AND ALTERNATE TAX FOR MEMBERS OF CONTROLLED GROUPS. In addition, adjusted gross receipts of all members of a controlled group must be consolidated to determine the adjusted gross receipts percentage for ITC.

How to Determine a Controlled Group of Entities

For SBT purposes a controlled group of entities is:

- An affiliated group as defined in the SBT Act, Section 3(1),
- A controlled group of corporations as defined in IRC Section 1563, or
- A group of entities under common control as defined in IRC Section 414(c).

Affiliated Group. Section 3 of the SBT Act defines "affiliated group" as two or more corporations, one of which owns or controls, directly or indirectly, 80 percent or more of the capital stock with voting rights of the other corporation or corporations.

Section 1563 Controlled Group. IRC Section 1563 defines a controlled group of corporations in a way that is similar to the IRC Section 414 "Entities Under Common Control" tests described below. The key difference is that under IRC Section 1563 only corporations are included, while under IRC Section 414 all types of entities (corporation, partnership, LLC, etc.) may be included.

Entities Under Common Control. RAB 1989-48 Single Business Tax Entities Under Common Control (not in this text) addresses the definition of "entities under common control" for SBT purposes. Treasury has adopted U.S. Department of Treasury Regulation 1.414(c) for the purpose of determining entities under common control. Entities under common control include any person as defined in MCL 208.6(1) including "an individual, firm, bank, financial institution, limited partnership, copartnership, partnership, joint venture, association, corporation, receiver, estate, trust, or any other group or combination acting as a unit."

Following are the three sub-types of entities under common control.

1. **Parent-Subsidiary Group of Entities Under Common Control** - One or more chains of organizations conducting trades or businesses connected through ownership of a controlling interest ($\geq$80 percent) with a common parent.

   A controlling interest means:

   - Corporations: Ownership or control of 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of the shares of all classes of stock.

   - Trusts and estates: Ownership of an actuarial interest of at least 80 percent of the trust or estate.

   - Partnerships: 80 percent of the profit or capital interests.

   - Sole proprietorships: Ownership of the proprietorship.

2. **Brother-Sister Group of Entities Under Common Control** - Two or more entities engaged in a business activity which meet the following tests:

   - The same five or fewer individuals, estates and/or trusts own (directly or indirectly) a controlling interest in each entity ($\geq$80% test, as above), and

   - Taking into account the ownership of each person only to the extent that it is identical in each entity, the same five or fewer persons are in "effective control" of each entity (> 50% test, see below).

     Effective Control means these five or fewer persons own:

- Corporations: Greater than 50 percent of the total combined voting power of all classes of stock entitled to vote, or greater than 50 percent of the total value of all classes of stock.

- Trusts and estates: More than 50 percent of interests in the trust, measured by actuarial value.

- Partnerships: More than 50 percent of the profit or capital interests.

- Sole proprietorships: Ownership of the proprietorship.

3. **Combined Group of Entities Under Common Control** - Any group of three or more entities, each of which is a member of either a parent-subsidiary group or a brother-sister group of entities under common control, as described above, and at least one entity is the common parent of a parent-subsidiary group and is also a member of a brother-sister group of entities under common control.

Examples of Entities Under Common Control:

Example 1: Parent-Subsidiary Group of Entities Under Common Control:

Owners	K Corporation
ABC Partnership	80%
Chris Jones	20%

ABC Partnership is the common parent of a parent-subsidiary group of entities under common control consisting of ABC Partnership and K Corporation.

Example 2: Parent-Subsidiary Group of Entities Under Common Control:

Owners	K Corporation	DEF Partnership
ABC Partnership	80%	-
K Corporation	-	80%

ABC Partnership is the common parent of K Corporation, and K Corporation is the parent of DEF Partnership. The three entities are part of a group of entities under common control. The result would be the same if ABC Partnership, rather than K Corporation, owned 80 percent of DEF Partnership.

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Example 3: Brother-Sister Group of Entities Under Common Control:

Unrelated individuals A, B, and C own the following interest in AB Partnership, Corporation X and LLC Z.

Owners	P-ship AB	Corp X	LLC Z	Identical Common Ownership (>50% test)
A	50%	40%	60%	40%
B	50%	40%	25%	25%
C	0	20%	15%	N/A*
Total Combined Ownership (≥80% test)	100%	80%*	85%*	65%

AB, X and Z constitute a brother-sister group of entities under common control.

* An important but little-known rule is that an individual cannot be included in this analysis unless he or she owns more than zero in each entity in a proposed group. Therefore, the analysis for this group cannot be based upon C's ownership interests.

In Group AB-X-Z, individuals A and B together have **effective control** of each organization because their combined identical ownership of AB, X and Z is greater than 50 percent. (A's identical ownership of AB, X and Z is 40 percent, because A owns at least a 40 percent interest in each organization. B's identical ownership of AB, X and Z is 25 percent.)

In addition, individuals A and B (persons whose ownership is considered for the effective control requirement) together own a **controlling interest** in each organization because they own at least 80 percent of each entity.

Example 4: Failure of Controlling Interest (≥ 80%) Test:

Owners	Corp U	Corp V	Identical Common Ownership (>50% test)
A	13%	13%	13%
B	13%	13%	13%
C	13%	13%	13%
D	13%	13%	13%
E	13%	13%	13%
F	12%	12%	N/A*
G	12%	12%	N/A*
H	11%	11%	N/A*
Total Combined Ownership (≥80% test)	65%	65%	65%

* Ownership interests of shareholders F, G and H are not included in the analysis because only five or fewer owners can be included.

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The five largest shareholders own more than 50 percent of the stock in each corporation in identical holdings, thus satisfying the effective control test. However, U and V are not a brother-sister group of entities under common control because at least 80 percent of the stock of each corporation is not owned by the same five or fewer persons, thus failing the controlling interest (≥80%) test.

Example 5: Failure of Effective Control (> 50%) Test:

Owners	LLC X	P-ship Y	Identical Common Ownership (>50% test)
A	20%	5%	5%
B	20%	5%	5%
C	25%	5%	5%
D	5%	35%	5%
E	30%	50%	30%
Total Combined Ownership (≥80% test)	100%	100%	50%

These five individuals easily satisfy the controlling interest (≥80%) test; however, the effective control test requires **more than** 50% ownership and these facts provide exactly 50%. The effective control test is failed, and these entities are not entities under common control.

Family Relationships and Constructive Ownership

Treasury follows IRS Rules for determining constructive ownership. This means ownership attributed from partnerships, estates, trusts, corporations, spouse and relatives is used in determining entities under common control, as indicated in the following chart.

Family Constructive Ownership Chart (For Purposes of Determining Members of a Group of Entities Under Common Control)

Relationship to Actual Owner	Family Attribution
Spouse	Yes
Minor Children	Yes
Children 21 or older	*
Grandchildren	*
Parent	*
Grandparent	*
Sibling	No
Stepchild	No
In-Laws	No
Uncles/Aunts/Cousins	No

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*If the actual owner (shareholder, partner, etc.) has effective control (>50%), alone or with other methods of attribution, then he or she is also considered to own the interests of parents, children over 21, grandparents and grandchildren.

Example:

Owners	**ABC**	**DEF**
Mike	30%	100%
Betty (wife)	10	-
Jack (minor son)	6	-
Ann (minor daughter)	5	-
Bill (25-year-old son)	15	-
Alice (27-year-old daughter)	15	-
Eric (friend)	19	-
	100%	100%

Mike has effective control of ABC Company through his wife and minor children (30+10+6+5 = 51 percent). As a result, interests owned by his adult children also will be attributed to him (51+15+15.) He now has 81 percent ownership of ABC Company.

A brother-sister group of entities under common control exists between ABC and DEF. The same five or fewer individuals (in this case, Mike alone) own at least 80 percent of each entity (controlling interest test) and, taking into account the ownership only to the extent that it is identical in each entity, Mike also owns more than 50 percent of the stock of each entity (effective control test).

Note: A different set of attribution rules, from IRC Section 318(a)(1), is used in calculating the small business credit.

Exception to spousal attribution. Generally, an individual is considered to own an interest in a business owned by his or her spouse. An individual is not considered to own an interest owned by his or her spouse, however, if all of the following conditions exist:

1. The individual does not at any time during the taxable year directly own any interest in his or her spouse's business;

2. The individual is not a member of the board of directors, a fiduciary or an employee of his or her spouse's business and does not participate in management of the spouse's business at any time during the taxable year;

3. Not more than 50 percent of gross income of the business for the taxable year was derived from royalties, rent, dividends, interest and annuities; and

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4. Interest in the organization is not, at any time during the taxable year, subject to conditions which substantially restrict or limit the spouse's right to dispose of his or her interest and which run in favor of the individual or the individual's children who have not attained the age of 21 years.

BASIC STEPS FOR COMPLETING FORM C-8000 SINGLE BUSINESS TAX ANNUAL RETURN

Following are steps for completing an SBT return (form C-8000) for individuals, partnerships, fiduciaries, estates, corporations and limited liability companies. This guide is most useful if read with a form C-8000 in hand.

1. Determine **gross receipts** using the checklist provided in the SBT booklet (form 3435) and write the amount on line 10.

2. Determine **business income** and write the amount on line 11. For a C-corporation, business income is federal taxable income on federal form U.S. 1120 or 1120A. For all other taxpayers, use the worksheets provided in the SBT booklet.

3. Calculate **compensation** paid to all employees of the taxpayer. Salaries and wages for employees should be calculated on a cash basis and entered on line 12 of form C-8000. Other forms of compensation, such as fringe benefits, are determined on a cash or accrual basis consistent with the method of federal income tax reporting. A portion of an employer's cost (insured or self-insured) of providing medical benefits to employees who are Michigan residents is excluded from the tax base. The excludable portion for tax years that begin in 2006 is 40 percent, and for tax years that begin in 2007 is 50 percent. Compensation, calculated within these rules, is entered on lines 13 through 15.

4. Calculate **additions and subtractions** to complete the SBT tax base. Additions are required for certain items which were deducted to arrive at business income. Subtractions are allowed for certain income which was included in business income but is not part of the SBT tax base.

5. Combine business income on line 11, total compensation on line 16 and total additions on line 26; then subtract total subtractions on line 31 to arrive at the **tax base.**

6. If taxpayer has nexus (by Michigan standards) with another state, use the **apportionment percentage** calculated on form C-8000H to determine the amount of tax base apportioned to Michigan. Enter this on line 33.

7. Add **recapture of capital acquisition deduction**. If the taxpayer disposed of tangible, depreciable real or personal property that was acquired in tax years beginning after 1975 and before 2000, complete form C-8000D to determine the adjustment to the tax base on line 35.

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8. Subtract any unused **business loss** carryover from SBT returns for preceding year(s) on line 37. If the current year's adjusted tax base is negative, then it becomes a business loss carryforward. Note that SBT business loss is **not** the same as a federal net operating loss.

9. Use form C-8043 to calculate whether a **statutory exemption** is allowable. The result of subtracting any statutory exemption on Line 39 is the **adjusted tax base.**

10. Compute a reduction to the adjusted tax base on form C-8000S by using either the **compensation reduction** or **gross receipts reduction**. Adjusted tax base may be reduced if compensation comprises more than 63 percent of the tax base, or if adjusted tax base is greater than 50 percent of adjusted gross receipts (apportioned gross receipts plus recapture of capital acquisition deduction).

    Note: Each of these two reductions is optional but both cannot be used on the same return. In addition, if a gross receipts reduction is used, ITC is not available (and ITC recapture is not required). Also, if a compensation reduction is used, ITC will be reduced proportionately. A taxpayer is entitled to choose a reduction method or ITC based on which is most advantageous.

11. Compute tax before credits by multiplying the reduced adjusted tax base by the 1.9 percent SBT tax rate on line 43.

12. Calculate any allowable **investment tax credit** on form C-8000ITC. If a taxpayer is a member of a controlled group, complete form C-8010AGR to determine the adjusted gross receipts percentage for the credit. Reduce the tax computed on line 43 by the credit. A net recapture of ITC will increase the tax.

13. Calculate any **small business credit** or **contribution credits** the taxpayer is eligible for on form C-8000C. If taxpayer is a member of a controlled group of entities, complete form C-8009 to calculate the small business credit.

14. Subtract from the tax due any nonrefundable credits calculated on form C-8000MC.

15. Determine overpayment credited from prior years, estimated payments made during the year, payment made with extension request and refundable credits calculated on form C-8000MC. Subtract this amount from the tax liability to determine payment due with the return or an overpayment. If there is an overpayment, indicate whether the overpayment should be refunded or credited forward to the new business tax next year.

    Note: If estimated payments were made during the year and the taxpayer's gross receipts fall under the filing requirements for SBT, a return must be filed to claim a refund or credit forward of payments made.

16. If estimated payments were underpaid, use form C-8020 to determine any penalty or interest due with the return. If this is not calculated by the taxpayer, Treasury will automatically compute penalty and interest due and assess the taxpayer.

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More detailed instructions are available in the SBT booklet of forms and instructions (form 3435). Obtain forms or bulletins by visiting the Treasury Web site at *www.michigan.gov/taxes (see "Search for Forms" on left side of page)*, or by calling 1-800-827-4000.

TAX TIPS FOR TAXPAYERS

Procedural Tips to Expedite Processing of Returns

Tax ID Numbers

All SBT taxpayers, including individuals, should use their FEIN or their State-issued TR number on their SBT returns. Use of a Social Security number will delay processing of a return.

Quarterly Estimate Payment Coupons

These coupons are encoded and computer-scanned to post payments automatically to a taxpayer's account. **Do not use a pre-identified coupon of one taxpayer to file estimates for another.**

Common Errors

To ensure prompt processing of a return, verify accuracy of all entries. Following are some common errors that cause return processing to be delayed:

- An individual SBT taxpayer uses his or her Social Security number on the SBT return. The proper number in this case is a "TR" number assigned by Treasury.
- Failure to claim the correct amount of estimates paid or overpayment credited from a prior year. If an overpayment generated on a prior year's return was adjusted by Treasury, a Notice of Adjustment usually is sent to the legal address of the business. Preparers should make sure they are in possession of all Notices mailed to the taxpayer.
- Use of a pre-identified coupon for someone other than the taxpayer for whom it was printed.
- Failure to attach required schedules (e.g., C-8000H, C-8000D, C-8010AGR, C-8000C, C-8000ITC, C-8000KC or KP, C-8009, C-8000MC).
- Failure to fill out schedules completely.
- Failure to reduce the statutory exemption on form C-8043 for adjusted business income.
- Failure to include an addition for interest expense, depreciation expense, etc., to the extent deducted to arrive at business income.
- Failure to include a federal loss carryover in additions to the tax base.
- Filing of duplicate returns for the same tax year.
- Including in the apportionment factors income or loss that flows through to the taxpayer from partnerships or S-corps.
- Failure to supply an explanation when apportionment is being used and property and payroll are reported to be 100 percent Michigan.
- Filing a consolidated or combined return without prior approval.
- Filing a return to report tax due when gross receipts are less than the filing requirement.

- Estimated payments made on the combined Sales, Use and Withholding (SUW) returns claimed for the incorrect tax year. (For example, calendar year filers should include money paid with the combined returns for return periods January through December.)
- Failure to include business income in calculating the tax base.
- Failure to prorate the statutory exemption for a year less than 12 months.
- Combining incorrect tax years on form C-8009 or C-8010AGR. (All group members' tax years ending within the same calendar year are combined on these forms.)
- Failure to reduce small business credit when compensation and/or share of business income exceeds $95,000.
- Using form C-8044 when gross receipts exceed $9 million or owner's compensation and/or share of business income exceeds $95,000, or the taxpayer is a member of a controlled group. (Form C-8000 must be filed instead.)
- Failure to report 100 percent of stock ownership on form C-8000KC when small business credit taken.
- Failure to request an SBT extension by the original due date of a return. (A federal extension does not automatically extend filing of the SBT.) An SBT return is always due on the last day of the 4th month following the end of the tax year, even if for federal purposes it is automatically extended (*e.g.,* short-period return required due to merger).
- Failure to annualize required information on a short-period return.
- Failure to include guaranteed payments to partners in calculating business income for a partnership.
- Business loss carryforward taken when prior returns were not filed or were filed on the short gross receipts or alternate tax method. Adjusted tax base before loss deduction must be calculated. A C-8030 or C-8044 filed in the prior year will also delay processing until additional information can be received.

SOURCES OF SBT INFORMATION

SBT information including results of State legislation, administrative policy changes, RABs, individual Letter Rulings and judicial decisions are made available to the public through the following:

- Thomson/West Publishing - *Michigan Tax Guide*
- Commerce Clearing House - *Michigan Tax Reporter*
- Research Institute of America - *State Tax Reporter*
- Panel Publishers - *Multistate Corporate Tax Guide*
- Treasury pamphlet - *What Is the Single Business Tax?*
- Treasury's Web Page - *www.michigan.gov/taxes*
- Treasury forms request line - 1-800-827-4000

INTERNAL POLICY DIRECTIVES

Internal Policy Directives are a form of internal Treasury guidance that began in 2003. These Directives are prepared to provide guidance to Treasury staff to insure uniformity in tax administration. They are made available to the public on the Treasury Web site as they are issued.

- 2003-4: Single Business Tax Investment Tax Credit Recapture in a Year That a Gross Receipts Reduction Is Taken.
- 2003-5: Single Business Tax Definition of Interest.
- 2004-9: Calculation of a Tax Liability When Special Tax Base and Apportionment Provisions Apply to One, but Not All, Entities Filing a Single SBT Return
- 2005-1: Film Libraries
- 2005-2: Section 23(f) Mobile Tangible Assets
- 2005-4: Single Business Tax Compensation: Personal Liability Insurance Premiums
- 2006-1: Section 35 Tax Exemption for Flow-Through Entities
- 2006-3: Single Business Tax Request for Consolidated or Combined Filing and Extensions
- 2006-4: Non-corporate Entity Casual Transaction
- 2006-5: Amendment to the Single Business Tax Act Adding Section 35d Industrial Personal Property Tax Credit
- 2006-6: Date of Renaissance Zone Eligibility for Fiscal Year Taxpayers
- 2006-7: IRC Section 199 Deductions
- 2006-8: Sales Apportionment - Costs of Performance
- 2006-9: Transportation Apportionment for Business Activity: 1) Transportation Defined and 2) Treatment of Rail Carrier Trackage and Haulage Miles

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SBT GENERAL OUTLINE

(for tax years beginning in 2007)

Regular Method

Business Income (BI = FTI) __________

Add: Compensation (Wages, fringes, etc.) __________

Add (if deducted for federal taxable income):

Depreciation __________
Dividends, Interest & Royalties Paid __________
Certain other fed. deductions (*Instructions*) __________

Additions Subtotal __________

Subtract (if included in federal taxable income):

Dividends, Interest & Royalties Rec'd __________
Certain other fed. income (*Instructions*) __________

Subtractions Subtotal __________

= Tax Base __________

× Apportionment Percentage (*If taxpayer has nexus in another state; C-8000H*) __________

= Apportioned Tax Base __________

Add: CAD Recapture __________

Subtract:

Business Loss Carryover __________
Statutory Exemption (*$45,000 – $93,000, depending on ownership; Phased out quickly as Adj. BI rises; C-8043*) __________

= Adjusted Tax Base __________

Subtract:

Optional reductions to Adj. Tax Base __________
(*These reduce or eliminate ITC; C-8000S*)

(1) Compensation Reduction
(*Reduce Adj. Tax Base by the percentage by which comp. exceeds 63% of Tax Base*)
-OR-
(2) Gross Receipts Reduction
(*Reduce Adj. Tax Base to 50% of Adj. Gross Receipts*)

= Tax Base __________

× Tax Rate __________

= Tax before credits __________

Regular Method continued on next page

Short Method

Gross Receipts __________

× Apportionment Percentage __________

= App. Tax Base __________

+ CAD Recapture __________

= Adj. Tax Base __________
× 0.5

= Tax Base __________

× Tax Rate 1.9%

= Tax __________

End of Short Method

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SBT GENERAL OUTLINE
(Continued)

Regular Method (continued)

Tax before credits (from preceding page)

Subtract:
Investment Tax Credit (C-8000ITC)
Other Credits:
Small Business Credit
(1) Standard Method (Based on ratio of Adj. BI to 45% of Tax Base. Max. credit = 100% of tax)
-OR-
(2) Alternate Method (Tax – [Adj. BI × 2%])

Other Nonrefundable Credits **(form # ??)**
Community Foundations
Homeless/Food Bank
Public Contributions
Public Utility Property Tax
Unincorporated/S Corp Credit (no form)
Reduces tax liability by:

Business Income	Credit
$20,000 or less	20%
$20,001 – $39,999	15%
$40,000 or more	10%

Nonrefundable credits from C-8000MC ___________

Total subtraction from tax ___________

= Tax after nonrefundable credits ___________

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Michigan Single Business Tax Filing Requirements
(2003-2007)

		MCL Section	RAB, Q & A	2003-2004	2005	2006	2007
Gross Receipts Filing Requirements	(f)(i)	208.73(1), 39e(8)		$350,000	$350,000	$350,000	$350,000
Gross ReceiptsThreshold, Controlled Group	(c)(i)	208.73(5)		$100,000	$100,000	$100,000	$100,000
SBT Tax Rate Percentage		208.31(1)		1.90%	1.90%	1.90%	1.90%
Alternate Tax Rate Percentage		208.36(4)		2%	2%	2%	2%
Apportionment % (Property/Payroll/Sales)		208.45, 45a		5-5-90	5-5-90	(h)	(h)
CAD Apportioment %		208.23, 23b	RAB 92-03	No CAD	No CAD	No CAD	No CAD
Investment Tax Credit		208.35a		Yes	Yes	Yes	Yes
Health & Welfare Plans in Compensation		208.4(3)(f), 4a		(g)	(g)	(g)	(g)
Statutory Exemption		208.35(1)(a)	RAB 89-51	$45,000	$45,000	$45,000	$45,000
Additonal Exemption		208.35(1)(a)	RAB 89-51	$12,000	$12,000	$12,000	$12,000
SBC Gross Receipts Disqualifier		208.36(2)		$10,000,000	$10,000,000	$10,000,000	$10,000,000
SBC Excess Gross Receipts Reduction		208.36(6)		$9,000,000	$9,000,000	$9,000,000	$9,000,000
SBC Adjusted Business Income (ABI) Disqualifier - Corp		208.36(2)		$475,000	$475,000	$475,000	$475,000
SBC ABI & Allocated Income Disqualifier	(d)	208.36(2)(a)(b)(c), 36d		115,000 (d)	115,000 (d)	115,000 (d)	115,000 (d)
Public/College Contrib. Credit (Not Ind/Fdcy)	(a)	208.38	RAB 92-10	(a)	(a)	(a)	(a)
Community Foundation Credit	(a)	208.38c	RAB 92-10	(a)	(a)	(a)	(a)
Homeless Credit	(a)	208.38f	RAB 92-10	(a)	(a)	(a)	(a)
Public Utilities Credit (Corp only)		208.39		5%	5%	5%	5%
Unincorporated/S-Corp Credit		208.37		Yes	Yes	Yes	Yes
Enterprize Zone Credit		208.37a	RAB 88-01, 93-10	Yes	Yes	Yes	Yes
MEGA Credit, (Partially Refundable)		208.37c & d		Yes	Yes	Yes	Yes
Low Grade Hematite Pellet Credit		208.39d		Yes	Yes	Yes	Yes
Renaissance Zone Credit		208.39b		Yes	Yes	Yes	Yes
Michigan Historic Preservation Credit		208.39c		Yes	Yes	Yes	Yes
Brownfield Credit - "old"		208.38d		No	No	No	No
Brownfield Credit - "new"		208.38g		Yes	Yes	Yes	Yes
Workers Comp (WDSB) Refundable Credit		208.38b		Yes	Yes	Yes	Yes
Apprentice Refundable Credit		208.38e		Yes	Yes	Yes	Yes
CAD Credit		208.36c		No	No	No	No
NEXT Energy Credit		208.39e		Yes	Yes	Yes	Yes
Pharmaceutical R&D Credit		208.39f		Yes	Yes	Yes	Yes
Qualified Start-up Business Credit		208.31a			Yes	Yes	Yes
Created Jobs Credit		208.37f			Yes	No	No
Donated Automobile Credit		208.37g			Yes	Yes	Yes
Industrial Personal Property Tax Credit		208.35d-h				Yes	Yes
Research and Development Credit		208.32				Yes	Yes
Transferred Jobs Credit		208.35i-j					Yes
Other Information					(b)	(b)	(b)

(a) Smaller of $5,000, 50 percent of contribution, or 5 percent of tax.
(b) Subtraction allowed for Small Business Innovation Research & Michigan Technology grants (PA 258 of 2004)
(c) If total gross receipts for controlled group are over filing requirement, all members must file returns, effective for all tax years ending after 06/30/94.
Members of controlled groups whose GR are less than $100,000 should not be included in the summing of GRs to determine filing requirement.
These members are not required to file, but are required to be on the C-8009.
(d) Reduce credit by: 20 percent with $95,001-$99,999; 40 percent with $100,000-$104,999; 60 percent with $105,000-$109,999; 80 percent with $110,000-$114,999; no credit if greater than $115,000.
(e) Reserved.
(f) Beginning 2003, gross receipts filing threshold based on apportioned or allocated gross receipts. Prior to 2003, threshold based on apportioned or allocated gross receipts plus CAD recapture.
(g) Exclude a % of payments made for health & welfare plans for the benefit of MI employees:
for years beginning in 2004, 5%; in 2005, 20%; in 2006, 40%; and after 2006, 50%.
(h) For tax years beginning after 2005 and before 2008, 3.75-3.75-92.5.
(i) Definition of Gross Receipts changed for tax years beginning 2001 (PA 477 of 2000) and again for tax years beginning after 9/30/03 (PA 606 of 2002)
See Notice to SBT Filers for calculation of Adjusted Gross Receipts
Nexus standard for MI SBT: Department's position is found in RAB 1998-1 (1989 to current). Throwback sales eliminated for TY beginning 1/1/98.

The column for the year 2007 is based on the law in effect at the time of this printing. PA 325 of 2006 repeals SBT on business activity after 12/31/2007.