Disclaimer: This publication is intended for general education on tax laws enforced by the Michigan Department of Treasury. It does not constitute a revenue administrative bulletin or a letter ruling. While every attempt has been made to ensure the accuracy of this book, it is not an exhaustive review of all applicable local, State, and federal statutes that could affect taxes. In addition, new legislation, regulations, court decisions, notices, and announcements could affect the accuracy of this book. Please be aware that Treasury’s interpretation of the law may change because of legislation, court cases, and other events. Readers are advised to monitor Treasury’s Web site and other authoritative sources for changes that may affect taxes.
# TABLE OF CONTENTS

## ADMINISTRATIVE INFORMATION

- Overview .............................................................................................................................. 1
- Administrative Information .............................................................................................. 1
  - Web Services .................................................................................................................. 1
  - Individual Income Tax (IIT) Web-Services .............................................................. 2
  - IIT Terms .................................................................................................................. 2
- Why Web Services Might Indicate Treasury Has Not Received an Income Tax Return .................................................................................................................. 3
- Business Taxes Web Services ....................................................................................... 3
- New E-Registration for Michigan Taxes ........................................................................ 3
- New Michigan Treasury Online Services ..................................................................... 4
- New Online Filing and Payment Options in 2016 ........................................................ 5
- Disclosure Guidelines ...................................................................................................... 5
- Identity Theft ..................................................................................................................... 6
- Taxpayer Rights and Responsibilities ............................................................................. 7
  - The Billing Process ....................................................................................................... 7
  - Payment of the Additional Tax .................................................................................... 8
  - Jeopardy Assessments for Extreme Cases ............................................................... 8
  - Refunds .................................................................................................................... 8
  - Refund Different Than Expected .............................................................................. 9
  - The Appeals Process ................................................................................................. 9
  - Informal Conference ................................................................................................. 9
  - Michigan Tax Tribunal (MTT) ................................................................................ 10
  - Court of Claims ....................................................................................................... 10
  - Offer in Compromise Program .................................................................................. 13
  - Treasury Reporting Requirements ........................................................................... 13
- Administrative Dispute Resolution .............................................................................. 13
- Forms .................................................................................................................................. 14
  - Availability of Tax Forms ............................................................................................ 14
- Penalty and Interest ............................................................................................................. 15
  - Interest ...................................................................................................................... 16
  - Waiver of Penalty ........................................................................................................ 16
- Intercepting Refunds ......................................................................................................... 17
- Web Site ............................................................................................................................. 17
- Contact Numbers ........................................................................................................... 17
  - Contact Information Online ....................................................................................... 17
- Protect Taxpayer’s Privacy .............................................................................................. 18
### INDIVIDUAL INCOME TAX

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>What’s New</td>
<td>22</td>
</tr>
<tr>
<td>New Revenue Administrative Bulletins and Internal Policy Directives</td>
<td>22</td>
</tr>
<tr>
<td>Senate Bill 0606 of 2015 (Public Act (PA) 144 of 2016) Principal Residence Exemption</td>
<td>23</td>
</tr>
<tr>
<td>House Bill 5131 of 2015 (PA 0158 of 2016) Flow-Through Withholding Repealed</td>
<td>23</td>
</tr>
<tr>
<td>Individual Income Tax Composite Return</td>
<td>23</td>
</tr>
<tr>
<td>Michigan Achieving a Better Life Experience Program (ABLE)</td>
<td>23</td>
</tr>
<tr>
<td>Voluntary Contribution Funds</td>
<td>23</td>
</tr>
<tr>
<td>City of Detroit Individual Income Tax</td>
<td>24</td>
</tr>
<tr>
<td>Forms</td>
<td>24</td>
</tr>
<tr>
<td>Individual Income Tax Forms</td>
<td>24</td>
</tr>
<tr>
<td>Substitute Forms Must Be Approved</td>
<td>24</td>
</tr>
<tr>
<td>Mailing Addresses</td>
<td>24</td>
</tr>
<tr>
<td>Federal/State and State Standalone Electronic Filing Program</td>
<td>25</td>
</tr>
<tr>
<td>How Fed/State (Linked) Electronic Filing Works</td>
<td>26</td>
</tr>
<tr>
<td>How State Standalone (Unlinked) Electronic Filing Works</td>
<td>27</td>
</tr>
<tr>
<td>Who May Participate</td>
<td>27</td>
</tr>
<tr>
<td>Application Process and Acceptance Process</td>
<td>27</td>
</tr>
<tr>
<td>Michigan Portion of the Electronic Return</td>
<td>28</td>
</tr>
<tr>
<td>Electronic Michigan Returns</td>
<td>28</td>
</tr>
<tr>
<td>Nonelectronic Portion of Michigan Returns</td>
<td>31</td>
</tr>
<tr>
<td>Michigan E-file Signature Process</td>
<td>32</td>
</tr>
<tr>
<td>Volunteer Groups</td>
<td>32</td>
</tr>
<tr>
<td>Tax Refund and Payment Information</td>
<td>32</td>
</tr>
<tr>
<td>State Returns</td>
<td>32</td>
</tr>
<tr>
<td>City Returns</td>
<td>34</td>
</tr>
<tr>
<td>Post-Filing Information</td>
<td>35</td>
</tr>
<tr>
<td>Mailing Addresses</td>
<td>35</td>
</tr>
<tr>
<td>Amended Michigan Income Tax Return (MI-1040X or MI-1040X-12)</td>
<td>35</td>
</tr>
<tr>
<td>Summary of Changes for 2016</td>
<td>36</td>
</tr>
<tr>
<td>Summary of Changes for Prior Years</td>
<td>37</td>
</tr>
<tr>
<td>Filing Requirements</td>
<td>37</td>
</tr>
<tr>
<td>Filing a MI-1040 Return</td>
<td>37</td>
</tr>
<tr>
<td>Factors to Determine Domicile</td>
<td>37</td>
</tr>
<tr>
<td>Nonresident Aliens</td>
<td>38</td>
</tr>
<tr>
<td>Taxability of Income Derived Within Indian Country</td>
<td>38</td>
</tr>
<tr>
<td>Estimated Income Tax</td>
<td>39</td>
</tr>
<tr>
<td>e-Payments</td>
<td>41</td>
</tr>
<tr>
<td>Seafarers, Farmers, and Commercial Fishermen</td>
<td>41</td>
</tr>
<tr>
<td>Exemptions</td>
<td>41</td>
</tr>
<tr>
<td>Definitions of Michigan Special Exemptions</td>
<td>42</td>
</tr>
<tr>
<td>Qualified Disabled Veteran Exemption</td>
<td>43</td>
</tr>
<tr>
<td>Part-Year and Nonresident</td>
<td>43</td>
</tr>
<tr>
<td>Claimed as a Dependent</td>
<td>44</td>
</tr>
<tr>
<td>Michigan Income Tax Treatment of Child’s Unearned Income</td>
<td>45</td>
</tr>
<tr>
<td>Adjustments to Arrive at Michigan Taxable Income</td>
<td>45</td>
</tr>
<tr>
<td>Additions</td>
<td>45</td>
</tr>
</tbody>
</table>
Principal Residence Exemption ................................................................. 74
  Principal Residence Exemption Records Review ................................... 74
  Verifying Documentation ...................................................................... 75
  Conditional Rescission of Principal Residence Exemption .................. 75
  Nursing Home or Assisted Living Facility Resident ......................... 76
  PA 144 of 2016 ..................................................................................... 76
  Foreclosure Entity Conditional Rescission of a Principal Residence Exemption ........................................................................ 77
  Forms for Principal Residence Exemption ........................................... 77

Nonrefundable Credits ........................................................................... 78
  Credit for Income Tax Imposed by Qualified Government
    Units Outside Michigan ................................................................. 78
  Historic Preservation Income Tax Credit ............................................. 78

Refundable Credits ................................................................................ 78
  Total Household Resources ............................................................... 78
  Property Tax Credit ........................................................................... 82
  Senior Credit Reduction ..................................................................... 83
  Homestead Property Tax Credit Phase Out ........................................ 84
  Special Situations ............................................................................... 86
  Agricultural Gross Receipts ............................................................... 86
  Farmland Preservation Tax Credit ..................................................... 93
  Tips to Expedite Processing ............................................................. 93
  Sale of Land ..................................................................................... 98
  Reinstatement of Development Rights Agreement .......................... 99
  Farmland Preservation Tax Credit When Land Is Inherited ............... 99
  Taxable Portion of Farmland Preservation Tax Credit ..................... 99
  Farmland Taxes Eligibility Chart ...................................................... 100
  Repayments Under the Claim of Right Doctrine .............................. 101
  Earned Income Tax Credit ............................................................... 101
  Home Heating Credit ........................................................................ 101

Cancellation of Debt .............................................................................. 103

Relief From Tax Liability ........................................................................ 105
  Nonobligated Spouse Allocation ...................................................... 105
  Relief From Joint and Several Liability on Joint Returns ................. 105

Fiduciary Information .......................................................................... 106
  General Information .......................................................................... 106
  Resident Estate or Trust ..................................................................... 106
  Nonresident Estate or Trust ............................................................. 106
  Grantor Trust ................................................................................... 106
  Allocation of Michigan Net Adjustments to Trust Beneficiaries ....... 106
  Taxable Income of Nonresident Beneficiary of Michigan Trust ....... 107

IRS Match ............................................................................................. 107

Taxability of Federal Obligations .......................................................... 108

Income Allocation Chart .................................................................... 111

Income and Deductible Items, Summary Chart ................................... 112

Michigan Cities Levying an Income Tax .............................................. 118
# FLOW-THROUGH WITHHOLDING

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>What’s New</td>
<td>155</td>
</tr>
<tr>
<td>Overview</td>
<td>155</td>
</tr>
<tr>
<td>Forms</td>
<td>155</td>
</tr>
<tr>
<td>Mailing Addresses</td>
<td>156</td>
</tr>
<tr>
<td>Withholding Requirements</td>
<td>156</td>
</tr>
<tr>
<td>Filing and Payment Requirements</td>
<td>158</td>
</tr>
<tr>
<td>Quarterly Payments</td>
<td>158</td>
</tr>
<tr>
<td>Annual Reconciliation Form</td>
<td>158</td>
</tr>
<tr>
<td>Reporting Withholding to Members</td>
<td>158</td>
</tr>
<tr>
<td>Flow-Through Withholding for Members That Are Corporations or</td>
<td>159</td>
</tr>
<tr>
<td>Other Flow-Through Entities</td>
<td></td>
</tr>
<tr>
<td>Flow-Through Withholding for Members That Are Nonresident Individuals</td>
<td>160</td>
</tr>
<tr>
<td>Composite Tax Return for Nonresident Individual Members</td>
<td>162</td>
</tr>
<tr>
<td>Exemptions From Flow-Through Withholding</td>
<td>162</td>
</tr>
<tr>
<td>Contacting Treasury</td>
<td>163</td>
</tr>
</tbody>
</table>
SALES, USE, AND WITHHOLDING TAXES

Sales Tax ........................................................................................................................ 164
Use Tax .......................................................................................................................... 164
Exemptions .................................................................................................................... 165
Administrative ............................................................................................................... 165
Michigan Treasury Online (MTO) ................................................................................. 166
  Registration Information .......................................................................................... 166
  Changes to Accounts .............................................................................................. 166
  Filing Returns ........................................................................................................... 167
  Amending Returns ................................................................................................... 167
  Electronic Payments ............................................................................................... 168
  ACH Debit ................................................................................................................ 168
  ACH Credit .............................................................................................................. 168
  Credit Card/Debit Card ........................................................................................... 168
  Check Payments ..................................................................................................... 169
  W-2 Data Reporting ................................................................................................ 169
Streamlined Sales and Use Tax Agreement ................................................................. 169
Legislation .................................................................................................................... 171
  Key Court Case ....................................................................................................... 172
Revenue Administrative Bulletins ............................................................................... 173
  RAB 2015-17 Sales Tax Treatment of Delivery and Installation Services
    Provided by Retailers ............................................................................................. 173
  RAB 2015-22 Sales and Use Tax Nexus Standards for Out-of-State Sellers ....... 173
  RAB 2015-25 Sales and Use Tax-Lessors ............................................................. 173
  RAB 2016-2 Sales and Use Treatment of Interstate Motor Carriers ................. 174
  RAB 2016-4 Determination of Tangible Personal Property or Real Property .... 174
<table>
<thead>
<tr>
<th>Due Date of Return</th>
<th>195</th>
</tr>
</thead>
<tbody>
<tr>
<td>Penalty and Interest Provisions</td>
<td>195</td>
</tr>
<tr>
<td>Lease Agreements</td>
<td>195</td>
</tr>
<tr>
<td>Discontinuance of Business</td>
<td>196</td>
</tr>
<tr>
<td>Oil and Gas Severance Tax</td>
<td>197</td>
</tr>
<tr>
<td>General Information</td>
<td>197</td>
</tr>
<tr>
<td>Definition of Key Terms</td>
<td>197</td>
</tr>
<tr>
<td>Tax Rates</td>
<td>197</td>
</tr>
<tr>
<td>Oil and Gas Fee</td>
<td>197</td>
</tr>
<tr>
<td>Tax Returns and Schedules</td>
<td>197</td>
</tr>
<tr>
<td>Tobacco Products Tax</td>
<td>198</td>
</tr>
<tr>
<td>General Information</td>
<td>198</td>
</tr>
<tr>
<td>Tax Rates</td>
<td>198</td>
</tr>
<tr>
<td>Definition of Key Terms Used</td>
<td>198</td>
</tr>
<tr>
<td>Licensing</td>
<td>199</td>
</tr>
<tr>
<td>Stamping Packages of Cigarettes and Shipping Containers of Non-Cigarette Tobacco Products</td>
<td>201</td>
</tr>
<tr>
<td>Reporting</td>
<td>202</td>
</tr>
<tr>
<td>Tobacco Master Settlement Agreement</td>
<td>202</td>
</tr>
<tr>
<td>Escrow Requirement</td>
<td>203</td>
</tr>
<tr>
<td>The Equity Assessment Pre-Payment Requirement</td>
<td>203</td>
</tr>
<tr>
<td>Electronic Filing of Tobacco Tax Returns</td>
<td>203</td>
</tr>
<tr>
<td>State Real Estate Transfer Tax</td>
<td>204</td>
</tr>
<tr>
<td>Health Insurance Claims Assessment</td>
<td>204</td>
</tr>
</tbody>
</table>
The Tax Text manual is prepared by the Michigan Department of Treasury (Treasury) to assist tax preparers in understanding Michigan taxes and in preparing tax returns. In addition to the information in this publication, updates are regularly made to Treasury’s Web site to reflect any changes in the tax law. For the most recent guidance go to www.michigan.gov/taxes.

Treasury aspires to become the best operated treasury department in the United States by creating a culture of taxpayer service, focusing on speedy responses to taxpayer inquiries, consistency of answers, transparency in decision making and simplicity of compliance. Employees are encouraged to continuously improve their work areas. For more information on Treasury Aspirations, go to www.michigan.gov/treasury and choose “About Treasury.”

**ADMINISTRATIVE INFORMATION**

**Web Services**

Treasury’s website offers the most easily accessible (24 hours a day, 7 days a week) and fastest way for taxpayers and authorized representatives to check the status of tax returns, get a summary of estimated payments, or ask questions about tax accounts.

Treasury has stringent security measures in place for customers to access account information. Taxpayers are asked to authenticate by entering a combination of shared secrets for security reasons (e.g., Adjusted Gross Income (AGI), Total Household Resources (THR), Household Income (HHI), Gross Receipts, Account/Social Security number (SSN), etc.) before information can be accessed.

Taxpayers may choose the service they wish to access from the home page of any tax type. Additional shared secrets may be required depending on the request. Tax practitioners should use the Practitioner Web Services at www.michigan.gov/taxes located under “Tax Professionals.”

Tax practitioners with account specific questions on individual or business accounts should use the Practitioner Web Service at www.michigan.gov/taxes located under “Tax Professionals.” The services are for tax preparers only and uses a secured Web site. This information should not be given to others. Call 517-373-0616 to obtain a user name and password. When using the Practitioner Hotline or Practitioner Web Services, leave a detailed message. If the inquiry is account specific, an acceptable online disclosure authorization is required by Treasury before account information will be shared. An Authorized Representative Declaration (Power of Attorney) (Form 151) or written authorization may also be faxed to 517-636-0640. (Refer to the “Disclosure Guidelines” section.)
**Individual Income Tax (IIT) Web Services**

For direct access to IIT account information, call 517-636-4486 or visit Treasury’s IIT page at www.michigan.gov/iit and choose “Check my Income Tax Information.” Information available includes:

- Dates of returns currently being processed
- If and when a refund, credit claim, or energy draft has been issued for the current year and three prior years
- If a refund, credit, or energy draft has been returned to Treasury, direct deposited into an account, or offset against a debt
- Estimated tax payments
- Status of a letter sent to Treasury
- Status of a service request related to the account
- Tax preparation questions.

**IIT Terms**

**Current Tax Year:** The current tax year is 2016.

**Date Processed:** The date Treasury posted the return to its computer system. This does not indicate the return has been completed.

**Completed:** Treasury has completed processing the return. The transaction screen will indicate what the taxpayer can expect from Treasury. This includes refund information and whether a refund was direct deposited, applied as a credit to the following year, or offset and applied to a debt.

**Issued:** A check or Direct Deposit has been issued. Please allow ten to 14 business days for mail to be received. Direct Deposits can take up to five days from the completed date to post to the taxpayer’s account. Verify the refund amount is the amount Treasury has indicated. If the refund amount is not in the account after five days, the taxpayer should contact their financial institution. If there is a problem with the Direct Deposit, Treasury will normally issue a refund check.

**Manual or Pending Review:** By law (Michigan Compiled Law (MCL) 205.28(1)(f)), Treasury cannot disclose to anyone why a return has been selected for manual review. Treasury has established procedures for selecting returns for manual review both to protect taxpayers and to ensure appropriate amounts are being refunded. If a taxpayer’s return has been selected for review, additional time for processing is required.

**Pending Response:** Treasury is unable to complete the return without additional information from the taxpayer. It could take an additional 12 weeks from the date a response is received by Treasury for the return to be completed. If more than 12 weeks have passed, contact Practitioner Web Services.

**State Debt or Third-Party Debt:** If Treasury indicates a refund was used to pay a “State debt or third-party debt,” it could take three to four months (depending on the type of debt) for the refund amount to be applied to the debt. The message on Web-Services will provide taxpayers with a phone number to call and they will also receive a letter.

**Emergency Refunds or Hardship Cases:** Taxpayers requesting an expedited refund due to a hardship situation must provide documentation of foreclosure, eviction, or utility shutoff with their requests.
Why Web Services Might Indicate Treasury Has Not Received an Income Tax Return

Web-Service may indicate an Income Tax return has not been received due to the following reasons:

- SSN provided may not match Treasury records.
- Taxpayer filed an amended return. Amended returns are reviewed late in the year; they should be entered into Treasury’s computer system within eight weeks of receipt.
- Taxpayer’s information is in the process of being posted. The system is updated once every business day. It is possible to call on Monday and find no record of a taxpayer’s return and then call on Tuesday and learn the return posted overnight.
- It can take eight weeks for paper return information to be entered into Treasury’s computer system. If the Web site or Customer Contact number does not state a return has been received ten weeks after the return was mailed, contact Practitioner Web Services through e-Service.

Note: Timelines are approximate.

Business Taxes Web Services

For direct access to business tax account information, visit Treasury’s Web site at www.michigan.gov/bustax choose a tax type on the left and choose “Check my Account Information.” You can also call 517-636-6925 for Sales Use and Withholding (SUW) taxes (including payroll withholding, pension withholding, and flow-through withholding), Michigan Business Tax (MBT), Single Business Tax (SBT), Corporate Income Tax (CIT) or Business Tax Registration. Information available includes:

- Tax payments
- Change of address
- Information about payments made by Electronic Funds Transfer
- Request for additional copies of SUW returns
- Request for additional copies of Sales Tax Licenses
- Sales Tax License number
- Status of a letter sent to Treasury
- Status of returns
- Status of a service request related to the account
- Tax preparation questions.

New E-Registration for Michigan Taxes

E-Registration is a fast, easy, convenient and secure way to register a business on-line for taxes in Michigan. The site allows taxpayers to perform a variety of tasks involved in starting and operating a business, including applying for permits and licenses. Businesses must have a Federal Employer Identification Number (FEIN) to register and may register for most Michigan business taxes, as well as an Unemployment Insurance Agency (UIA) account number, or a Sales Tax License using the online e-Registration application at www.michigan.gov/business.
This process eliminates the need to mail a *Registration For Business Taxes* (Form 518). After completing the online application, taxpayers will receive a confirmation number for their electronic submission. Businesses can receive:

- Sales/Use Tax license within seven to ten days.
- New UIA employer account number within three business days.

Use e-Registration when starting a new business that will engage in any of the following activities:

- Sell or lease tangible personal property in Michigan to the final consumer
- Will owe SUW, Motor Fuel, MBT, IIT, or Tobacco taxes
- Will have employees performing services in Michigan
- Will have employees working in Michigan
- Submit notice of change of entity type for an existing business or when acquiring all or any part of the assets, organization, trade, or business of an existing business having employees in Michigan.

**Note:** A taxpayer cannot continue to use the FEIN of a prior owner; the taxpayer must register for their own FEIN.

*Do not* use e-Registration to register if the business has previously mailed a paper copy of Form 518 to Treasury.

Begin the process by setting up a User Account. Business representatives can create their own User Accounts enabling them to complete and store multiple applications. Completed tax registration applications will be stored for viewing for 30 days; incomplete applications will be stored for six months.

**New Michigan Treasury Online Services**

In January 2016, Treasury released the first set of three enhancements to the Michigan Treasury Online (MTO) e-services. A major change was the elimination of the Michigan Business One Stop, which was Michigan’s business registration application. This also led to a reduction in the number of steps required to create a profile and establish a business relationship. MTO users now will only need one username and password to enter the site, file a return and make a payment. Authorized users now have the ability to self-delegate to a business by selecting an appropriate user role and answering respective security questions. User-friendliness improvements were made allowing users to self-manage password resets and retrieve forgotten usernames and passwords. This change created several benefits including but not limited to: A single sign-on process, streamlined business authentication, real-time access to paying or filing a return, and the ability to self-delegate.

Under the new MTO users will still be able to view the following:

**Tax Types:** A taxpayer/representative will be allowed to view the taxes for which the account is registered. Taxpayers can also register for a new tax, discontinue any or all tax types, and/or edit the estimated monthly payment amount (e.g., to register for a new tax, businesses simply click the “new” button and fill in the appropriate fields).
Correspondence: A user is able to view any outgoing mail from the Michigan Integrated Tax Administration System. Users will not see any correspondence issued from other processes such as the Office of Collections. Selecting the correspondence opens it in a new window in PDF format. If an additional copy of a sales tax license is needed, it is now only a few clicks away.

Track Updates: A confirmation or submission number is given for any submission that is made on the account. Users can check the status of the item to see if it is pending or completed.

New Online Filing and Payment Options in 2016

Online filing and payment options became available to SUW taxpayers in 2015. These enhanced services became available for filing periods beginning January 2015 and later. SUW taxpayers will not be able to use MTO for periods prior to January 2015 and will need to file using the prior filing method. Payment history will also be available to assist taxpayers in managing their Treasury accounts. Users with a tax period that is being serviced by the Office of Collections may access account information at www.michigan.gov/treasury by selecting the link for Collections e-Service.

Note: With the availability of online filing and payment services, preprinted SUW forms will no longer be generated and mailed. For further information and updates on MTO, visit www.michigan.gov/mtobusiness.

DISCLOSURE GUIDELINES

Treasury employees are bound by disclosure laws as stated in Michigan Compiled Law [MCL 205.28(1)(f)] and the federal penal code. Employees of the Michigan Accounts Receivable Collection System (MARCS), an agency under contract with Treasury, are bound by the same disclosure requirements as Treasury employees. The law prohibits the disclosure of confidential tax information to any person other than the taxpayer of record, unless the taxpayer authorizes the disclosure of their information to another individual.

Acceptable disclosure authorizations are:

- Correctly completing Form 151, Authorized Representative Declaration (Power of Attorney)
- For businesses, adding an authorized representative declaration through MTO
- Copy of Internal Revenue Service (IRS) Form 2848 Power of Attorney and Declaration of Representative if modified to reference Michigan tax return information.
- Checking the authorization box on the Michigan income tax return(s) (This applies only to the individual named as the preparer on the return and does not extend to others in the preparer’s office or firm. In addition, it authorizes the tax preparer to provide Treasury with missing information, contact Treasury to obtain information about processing or status of refunds and payment, and request copies of notices related to the return.)
- Written consent with taxpayer’s signature.
- Verbal/implied consent (e.g., conference call, interpreter, translator).
Form 151 is available on Treasury’s Web site at www.michigan.gov/taxes, by calling 517-636-4486, or by writing to:

Michigan Department of Treasury
P.O. Box 30757
Lansing, MI 48909

Direct disclosure related inquiries by calling 517-636-4239, faxing 517-636-5340, or by writing to:

Michigan Department of Treasury
Office of Privacy and Security
Disclosure Unit
430 W. Allegan
Lansing, MI 48922

IDENTITY THEFT

In recent years, both the IRS and Treasury have seen an increase in the number of identity theft returns being filed by individuals using stolen identities or false SSNs. Unfortunately, legitimate filers’ returns are often received after the fraudulent return, which can slow down the issuance of accurate refunds claimed by the “legitimate” filer.

In 2016, Treasury increased security measures to protect Michigan taxpayers and the state from tax-related identity theft. If an income tax return has been selected for identity confirmation, the taxpayer will receive a letter from Treasury asking them to confirm their identity by completing a short online quiz. As of July 1, 2016 over 48,000 taxpayers have successfully taken the online quiz and their refunds have been issued. Treasury will continue exploring enhancements to improve the process and allow more taxpayers to access and successfully complete the online quiz for next year.

Indicators of fraud are:

- Upon filing, the legitimate taxpayer receives a message that the return has already been filed, either by letter (if a paper return is filed) or by the transmitter of an electronically filed return.

- An original return filed by the legitimate taxpayer is processed as an amended return, even though the original return (ID theft return) reports different figures.

- The refund return is processed as a tax due return because of a previous refund issued on the fraudulent return.

- The legitimate taxpayer receives a refund they did not request or a letter of inquiry from Treasury about a return they did not file.
If a taxpayer or a preparer’s client receives any indication that the original return is rejected as a duplicate or an amended or tax due return, please submit any information requested by Treasury. Treasury will request items of documentation such as W-2 and 1099 statements, drivers’ licenses or state-issued identification cards, and any information provided to the filer by the IRS to verify the valid return. If the taxpayer is requesting a property tax credit, Treasury will request copies of their property tax bills and/or lease agreement. If a taxpayer is requesting a heating credit, Treasury will request copies of their heat bills or statement from the taxpayer’s heat provider. Do not send originals when submitting documents to Treasury for review.

Refer to Treasury’s Web site at www.michigan.gov/taxes, choose “Individual Income Tax” and then choose “Taxpayer’s Guide to Identity Protection”.

**TAXPAYER RIGHTS AND RESPONSIBILITIES**

Treasury employees comply with Michigan law by providing:

- Prompt, fair, and courteous service
- Confidentiality
- Timely processing of returns
- Copies of tax returns and related documents from a taxpayer’s file.

If Treasury fails to provide these services, taxpayers have the right to file a complaint. Taxpayers should note the name of the person they dealt with so the complaint can be handled properly. It is the taxpayer’s responsibility to:

- File returns on time with the correct payment (if necessary)
- Make sure returns are correct, no matter who prepares them.

**The Billing Process**

If Treasury believes additional tax is owed, the following actions will be taken:

1. A Letter of Inquiry is sent stating the amount due and why it is due. If the taxpayer agrees with the amount due, it should be paid immediately. If the taxpayer has questions or is in disagreement with the amount due, they should contact Treasury right away using the address or telephone number listed in the letter.

2. If the taxpayer does not respond to the letter or if their response does not resolve the matter, then Treasury issues a Notice of Intent to Assess. If the taxpayer disagrees with the amount due, they may request an informal conference within 60 days of this notice (refer to The Appeals Process section).

3. If an informal conference is not sought or if the Notice of Intent to Assess is upheld in the informal conference, Treasury will issue a Final Assessment (Bill for Taxes Due). A Final Assessment may be appealed to the Michigan Tax Tribunal (MTT) within 60 days of the Notice or the Michigan Court of Claims within 90 days of the Notice (refer to The Appeals Process section).


**Payment of the Additional Tax**

1. Payments may be made at any time during the billing process. If all the taxes due cannot be paid, contact the Office of Collections at the telephone number on the notice to request an installment agreement.

2. Payment **must** be made within 35 days of the Final Assessment. If full payment is not made, the following actions may be taken by Treasury (whether or not there is an installment agreement):
   - Intercept paychecks or levy bank accounts
   - Place liens on home, business, or personal property to protect the State’s interest as a creditor
   - Refer the account to Treasury Field staff or MARCS to actively pursue collection of the debt
   - Intercept any money the State owes a taxpayer (such as an income tax refund or overpayment) and apply it to the debt
   - Apply penalty and interest for as long as there is a tax balance.

   **Note:** All payments are applied first to interest, then to penalty, then to tax.

**Jeopardy Assessments for Extreme Cases**

If, at any time, Treasury believes a taxpayer plans to sell, remove, and/or hide property to avoid seizure, a jeopardy assessment will be issued making the tax immediately due and payable, and lien(s) will be issued to freeze assets. This means the taxpayer will not be able to withdraw money from bank accounts or transfer the title of any property. If a taxpayer wishes to sell property, Treasury will send a representative to the sale to accept payment of the liability. The actions of levy and jeopardy assessment are severe. Give prompt attention to resolving a debt when contacted.

**Refunds**

Income tax refund claims filed on or before the applicable due date that are accurate and complete are usually processed by June 1. Interest is added to the refund beginning 45 days after the claim is filed, or 45 days after the due date established by law for filing the return, whichever is later.

1. Taxpayers have four years from the date the original return is due to claim a refund.

2. Filing a tax return that shows an overpayment is a claim for refund. A claim for refund can be made on an original return, an amended return, or by filing a petition with Treasury.
3. If Treasury disagrees with a claimed refund, the taxpayer will receive a statement explaining the reason the refund amount is different. For adjustments to IIT and CIT/MBT returns, letters will include line changes to assist taxpayers in understanding adjustments.

**Refund Different Than Expected**

Treasury will send a statement explaining the reason the refund amount is different than expected. If a taxpayer disagrees with the adjustment, they may request an informal conference by writing to Hearings Division within 60 days of the date of the notice of refund adjustment or denial, or seek relief in the Michigan Tax Tribunal (MTT) within 60 days, or file suit within 90 days in the Court of Claims of the date.

**The Appeals Process**

Taxpayers are provided with several forums to appeal determinations of Treasury. The time periods for exercising these opportunities are set forth in statute and the failure to timely exercise a right to appeal may result in the denial of an appeal without consideration of its merits.

Assessments, orders, or decisions of Treasury are appealable to the MTT within 60 days or to the Michigan Court of Claims within 90 days of the assessment, decision or order. The discussion presented here addresses a taxpayer’s appeal rights for the most common type of disputes which are:

- Efforts by Treasury to seek additional tax (see Billing Process section), and
- Refund denials including adjustments to refunds (see Refunds section).

**Informal Conference**

An Informal Conference is available to a taxpayer who has received a Notice of Intent to Assess or a notice of refund denial or adjustment. As the name suggests, the Informal Conference is informal. There is no fee and a taxpayer may be assisted by any person of their choosing by filing Form 151. No form is needed if the assisting person appears with the taxpayer.

A taxpayer may seek an Informal Conference by serving a written notice to Treasury within 60 days of the date of the Notice of Intent to Assess or notice of refund denial or adjustment. If the 60-day deadline is near and a taxpayer needs additional time to gather information, they should immediately send a request for more time. This will preserve the right to an Informal Conference. Additional information may be sent at a later date.

A written request should include:

- A statement explaining that an Informal Conference is being requested
- The taxpayer’s name
- The taxpayer’s SSN or FEIN for a business
- A brief explanation of the taxpayer’s position
- Copies of any documents that support the taxpayer’s position, and
- A copy of the notification received by the taxpayer.
Written requests for Informal Conferences are received only by U.S. mail or facsimile. E-mail and telephone requests are not accepted.

Send the Informal Conference request to:

Michigan Department of Treasury
Hearings Division
430 W. Allegan St.
Lansing, MI 48922
Fax: 517-636-4115

Treasury will respond to all requests for an Informal Conference. The response will indicate if the request was received within the 60-day timeframe and qualifies for an Informal Conference. The response may also provide an additional explanation of the adjustment to the refund or ask for additional information from the taxpayer. If the request for an Informal Conference is not made within the 60-day timeframe, a taxpayer will not receive an Informal Conference.

**Michigan Tax Tribunal (MTT)**

Taxpayers may appeal a decision, order, Final Assessment or a refund denial or adjustment by filing an appeal with the MTT within 60 days of the date of a Final Assessment or a notice of refund adjustment or denial. Appeal of a Final Assessment to the MTT requires that any uncontested portion be paid.

Contact MTT at:

Michigan Tax Tribunal
P.O. Box 30232
Lansing, MI 48909

**Court of Claims**

Taxpayers may appeal a decision, order, Final Assessment or a refund denial or adjustment by filing suit in the Court of Claims within 90 days of the date of a Notice of Final Assessment or notice of refund adjustment or denial. Appeal of a Final Assessment requires that any uncontested portion of the assessment be paid.

Contact information for the Court of Claims District Office is available at www.courts.mi.gov/courts/coc.

This overview represents the most common appeal paths for taxpayers. For more information on appeals visit www.michigan.gov/taxpayerrights.
Offer in Compromise Program

Treasury provides an Offer-In-Compromise program that allows taxpayers to submit an offer to compromise a tax debt for less than the amount due based on one or more of these specific criteria:

- A doubt exists as to the liability based on evidence provided by the taxpayer.
- A doubt exists as to the collectability of the tax due based on the taxpayer’s financial condition.
- A federal offer-in-compromise has been given for the same tax year(s).

To submit an offer-in-compromise, all of the following must be true:

- The taxpayer must have filed returns for all tax periods.
- The taxpayer must have been assessed and the time period for all appeals must have expired.
- The taxpayer must have no open bankruptcy proceedings.

When submitting an offer-in-compromise taxpayers **must** submit a non-refundable initial offer payment of $100.00 or 20 percent of the offer, whichever is greater, and use the official Treasury forms and schedules found on the Web site at [www.michigan.gov/oic](http://www.michigan.gov/oic).

Treasury Reporting Requirements

Treasury is required by law (MCL 205.23a(2)) to publish on its Web site a written report of each accepted offer-in-compromise.

Treasury is also required by law (MCL 205.23a(5)) to, upon request, disclose return information to members of the general public for the extent necessary to permit inspection of any accepted offer-in-compromise relating to the liability for a tax imposed by the State of Michigan.

ADMINISTRATIVE DISPUTE RESOLUTION

Treasury makes every effort to resolve taxpayer account problems/disputes at the lowest possible level. If a taxpayer has been unsuccessful in resolving a problem despite making multiple attempts through normal channels, they should contact the Office of Taxpayer Advocate as a resource of last resort. The Taxpayer Advocate is charged with prompt resolution of disputes, including return problems, billing issues, and collection disputes. The Taxpayer Advocate represents the interests of individual taxpayers, business taxpayers, and the taxpaying public in the policy and operations areas.

Tax preparers receive priority service from the Problem Resolution Office (PRO) within the Office of Taxpayer Advocate. They can contact the PRO by telephone through the Practitioner Hotline and leave a voice mail, or online through Practitioner Web Services. This ensures immediate acknowledgment of the tax preparer’s inquiry. Tax preparers **must not** give the telephone number, user ID, and password to their clients.
Contact information for these areas includes:

Michigan Department of Treasury  
Office of the Taxpayer Advocate  
  Lansing, MI 48922  
  Fax:  517-636- 0640

Practitioner Hotline (Not for Public Use)  517-373-0616  
Practitioner Web Services (Not for Public Use)  www.michigan.gov/taxes  
Choose “Tax Professionals”

**FORMS**

**Availability of Tax Forms**

Current and prior year forms are available on Treasury’s Web site at [www.michigan.gov/taxes](http://www.michigan.gov/taxes).

Address mail orders to:

Michigan Department of Treasury  
Tax Processing Bureau  
P.O. Box 30757  
Lansing, MI 48909

Use personalized forms whenever possible. Personalized forms ensure the correct account is credited. Personalized forms are coded with the taxpayer’s SSN(s) or account numbers (FEIN, Michigan Establishment (ME), or Treasury-assigned (TR) numbers) and are specifically assigned to taxpayers and optically scanned. Never copy personalized forms for someone else’s use and do not use prior year forms. This can result in payments being credited to an incorrect account or the incorrect tax year.
**PENALTY AND INTEREST**

The Revenue Act’s provisions for penalty and interest are as follows:

**Penalties and Interest Imposed**
Under the Revenue Act
/Public Act 122 of 1941, as Amended/

<table>
<thead>
<tr>
<th>Section No.</th>
<th>Condition</th>
<th>Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>19(3)</td>
<td>Nonnegotiable remittance</td>
<td>$50</td>
</tr>
<tr>
<td>21(4)</td>
<td>Frivolous protest</td>
<td>$25 or 25% of the amount of tax under protest, whichever is greater</td>
</tr>
<tr>
<td>23(2)</td>
<td>Interest</td>
<td>1% above the prime interest rate to be adjusted on January 1 and July 1 of each year</td>
</tr>
<tr>
<td>23(3)</td>
<td>Negligence</td>
<td>10% of the deficiency (minimum $10)</td>
</tr>
<tr>
<td>23(4)</td>
<td>Intentional disregard of the law</td>
<td>25% of the deficiency (minimum $25)</td>
</tr>
<tr>
<td>23(5)</td>
<td>Civil fraud</td>
<td>100% of the deficiency</td>
</tr>
<tr>
<td>24(2)</td>
<td>Failure or refusal to file a return</td>
<td>5% of the tax due for the first two months, then 5% per month of the tax due (maximum 25%)</td>
</tr>
<tr>
<td>24(2)</td>
<td>Failure or refusal to pay a tax</td>
<td>5% of the tax due for the first two months, then 5% per month of the tax due (maximum 25%)</td>
</tr>
<tr>
<td>24(5)</td>
<td>Failure or refusal to file an informational return</td>
<td>$10 per day (maximum $400)</td>
</tr>
<tr>
<td>30</td>
<td>Interest on refund returns</td>
<td>1% above the prime interest rate to be adjusted on January 1 and July 1 of each year</td>
</tr>
</tbody>
</table>
## Criminal Penalties and Interest Imposed

### Under the Revenue Act

**(Public Act 122 of 1941, as Amended)**

<table>
<thead>
<tr>
<th>Section No.</th>
<th>Condition</th>
<th>Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>27(2)</td>
<td>False or fraudulent return or false statement in return</td>
<td>Felony (maximum fine of $5,000, imprisonment for not more than five years, or both)</td>
</tr>
<tr>
<td>27(1)(b)(c)</td>
<td>Aid, abet, or assist another in attempt to evade the payment of a tax, or part of a tax, or file false claim for credit or refund, either in whole or in part</td>
<td>Felony (maximum fine of $5,000, imprisonment for not more than five years, or both)</td>
</tr>
<tr>
<td>27(3)</td>
<td>Perjury (a person knowingly swears to or verifies a false or fraudulent return or a return containing a false or fraudulent statement, with the intent to aid, abet, or assist in defrauding the State)</td>
<td>Fines and/or imprisonment as provided under the general provisions of the Michigan Compiled Laws. This may be imposed in addition to the provisions of Section 27(1) and (2) of the Revenue Act.</td>
</tr>
<tr>
<td>27(4)</td>
<td>Person is not guilty under subsection (2) but knowingly violates any other provision of the Revenue Act</td>
<td>Misdemeanor (fine of not more than $1,000, or imprisonment for not more than one year, or both)</td>
</tr>
</tbody>
</table>

### Interest

The interest rate for tax due and refunds is the prime rate plus one percent, adjusted on January 1 and July 1. Interest on refunds is computed from 45 days after the return is filed or 45 days after the due date of the return, whichever is later. (Refer to the most current Revenue Administrative Bulletin (RAB) titled “Interest Rate” on Treasury’s Web site at [www.michigan.gov/treasury](http://www.michigan.gov/treasury) or [www.michigan.gov/taxes](http://www.michigan.gov/taxes)).

### Waiver of Penalty

The Revenue Act governs the penalty on tax due. The taxpayer has the option to request waiver of penalty, and Treasury will grant a waiver if the taxpayer demonstrates reasonable cause existed which prevented timely payment of the tax due. Examples of reasonable cause are: death or serious illness of the taxpayer or the individual primarily responsible for filing returns and making tax payments; extenuating circumstances (e.g., fire, theft, or criminal acts against the taxpayer; or misapplication of payments by Treasury). Lack of funds or poor bookkeeping practices do not constitute reasonable cause for waiving penalty.
All requests for waiver of penalty must be made in writing and must explain why the waiver is being requested. Requests for waiver of penalty should be directed to the Tax Processing Bureau for consideration.

**INTERCEPTING REFUNDS**

The Revenue Act requires Treasury to intercept any monies due to a taxpayer and to apply those funds to outstanding tax debts or certain other State debts. Treasury will intercept and apply tax refunds, overpayments from assessments, and vendor payments. Tax debts or money owed to other agencies such as Department of Health and Human Services, Department of Community Health, or Friend of the Court are collected by Treasury, as are defaulted student loans. Treasury also receives court orders for garnishment of tax refunds, which requires Treasury to intercept tax refunds and send those monies to the garnishing agency. If the taxpayer files jointly and their spouse is not liable for the debt, the taxpayer will receive a form which allows the nonobligated spouse to compute and claim their portion of the tax refund.

**WEB SITE**

Treasury’s Web sites [www.michigan.gov/treasury](http://www.michigan.gov/treasury) and [www.michigan.gov/taxes](http://www.michigan.gov/taxes) offer information about property taxes, unclaimed/abandoned property, revenue taxes, local governments, and investments. RABs, tax forms, statutes, court cases, FAQs on a number of issues, and contact names and numbers may also be found by visiting the Web sites.

**CONTACT NUMBERS**

For answers to specific tax questions, call the appropriate number listed below:

- Income Tax 517-636-4486
- Motor Fuel Tax 517-636-4600
- Motor Carrier Tax 517-636-4580
- Sales, Use, and Withholding Taxes 517-636-6925
- Tobacco and Cigarette Taxes 517-636-4630

Assistance is available using TTY through the Michigan Relay Service by calling 1-800-649-3777 or 711. Printed material in an alternate format may be obtained by calling 517-636-4486.

For assessments, payments, and/or payment arrangements, contact Office of Collections at 517-636-5265.

**Contact Information Online**

A listing of Treasury Contact Information is available on Treasury’s Web site at [www.michigan.gov/treasury](http://www.michigan.gov/treasury) under “Communications.” This list is updated as changes occur.
Protect Taxpayer’s Privacy

Because the Internet is not a secure environment, never send confidential information (e.g., SSNs, tax account numbers) over the Internet. To further protect taxpayers’ privacy, Treasury will not send sensitive or confidential information over the Internet in response to e-mail inquiries unless the email is sent using encryption.

To ensure the privacy of account information, mail inquiries (via U.S. mail) to the appropriate tax or administrative division at Michigan Department of Treasury, Lansing, Michigan 48922. Include complete name, address, and SSN (or FEIN for businesses).

Treasury is not responsible for the misdirection or misuse of any information which may be transmitted via e-mail across the Internet.

HELPFUL INFORMATION

Calling

Always have the letter, notice of inquiry, notice of adjustment, assessment, etc., available for reference. Always read the entire letter before calling and then call the number provided. If referring to a notice of adjustment that has been faxed, make sure the back of the notice is included. The back of the notice of adjustment includes an explanation of all adjustments to the return and/or payments.

A phone call does not constitute a response to Treasury letters. A valid response is mailing the documentation requested in the correspondence, along with any necessary explanations.

When calling, please have the following information available:

- Taxpayer’s name and phone number
- Taxpayer’s TR number, FEIN, or SSN
- Years for which taxpayer is being contacted
- Any other pertinent information.

Writing

Always mail a copy of Treasury’s correspondence with the response. This will help route correspondence to the proper person in a timely manner.

- Include TR number, FEIN, or SSN on all correspondence.
- Include daytime telephone number.
- Address correspondence to the name or unit listed on the correspondence.
- If mailing returns, always keep a copy. Treasury does not mail back original returns.
- Be sure to submit documentation for all the years in question, not just the years for which there is a liability.
Making a Payment

• Always write TR number, FEIN, or SSN on the check.

• Always indicate the type of tax and the tax year/period being paid (e.g., MBT, CIT, IIT, SUW, etc.). In the event the check gets separated from the return or documentation, the payment can be properly applied to the account.

• If submitting multiple returns for one particular tax, one check can be written for the total amount due.

• If paying more than one type of tax, it is best to write a separate check for each tax and mail the checks to the address indicated on the return.

• Sending a payment without some documentation could cause a lengthy delay in proper application of a payment.

Treasury Letters

Treasury sends letters to taxpayers for a variety of reasons. It is very important for taxpayers to read their letters carefully and respond as directed in the letter. Letters often include information on the front and back of the paper. Some of the more frequent types of letters are:

• Letter of Inquiry: sent requesting additional information if Treasury is unable to process a return with the information previously provided. If a taxpayer receives a Letter of Inquiry, respond in writing within 30 days, sending a copy of the original letter and all the requested information to the address provided in the letter. Failure to respond or provide all of the information requested may result in the denial or reduction of refunds, or additional tax due.

• Letter of Explanation: sent to the taxpayer if the review of a return results in adjustments. If the taxpayer disagrees with the adjustments, they must write to Treasury requesting a re-evaluation. The letter must state why the taxpayer believes the adjustments are incorrect and should include documents to support the claim.

Taxpayers should always keep a copy of any correspondence sent to or received from Treasury. For questions regarding a letter, call the number provided on the letter or the number for the specific tax involved to speak with a customer service representative.

E-mail LISTSERV for Tax Professionals

The Treasury Tax Professionals’ LISTSERV is a free service that disseminates mass e-mail messages to all subscribers. This includes electronic communications on Treasury’s e-file programs and other information of interest. To subscribe to this service or for additional information, visit www.MIfastfile.org and select Tax Preparer.
SUMMARY OF UNCLAIMED PROPERTY LAW

Under Michigan’s Uniform Unclaimed Property Act (Public Act 29 of 1995, MCL 567.221, et. seq.), holders of unclaimed property are required to report and remit unclaimed property belonging to owners whose last known address is in Michigan. Unknown owner or unknown address property must be escheated to the holder’s state of incorporation. Most businesses, including financial institutions, have unclaimed property resulting from normal operations, such as, uncashed checks (e.g., payroll, vendor, dividends, etc.), account receivable credit balances, unredeemed gift certificates, dormant bank accounts, uncashed money orders and travelers checks, unclaimed security deposits, shares of stock and associated dividends, and contents from safe deposit boxes. Businesses must file an annual holder report and remit the property to Treasury, Unclaimed Property.

Who Must Report

Every business or government agency holding unclaimed property belonging to someone whose last known address is in Michigan must report. If the holder is incorporated in Michigan and the owner’s last known address is unknown or is in another state or country and the holder does not report under the provisions of that state or country, then the holder must report those interests to Michigan.

What Must Be Reported

Generally, tangible and intangible property belonging to another party that has gone unclaimed for a specified period of time is considered unclaimed property and must be reported. The dormancy period for most property types is three years with some exceptions. For example, uncashed payroll checks must be turned over after one year of dormancy. Government agencies must also turn over unclaimed property after one year of dormancy. Visit Treasury’s Web site at www.michigan.gov/unclaimedproperty for more information about property types and dormancy periods.

Reporting Due Date and Penalty for Noncompliance

All items considered unclaimed as of March 31 must be reported and remitted by July 1 each year. Businesses that fail to pay or deliver unclaimed property timely to the State may be liable for:

1. Interest at the current monthly rate of one percentage point above the adjusted prime rate on the value of the property from the date the property should have been paid or delivered, and/or

2. Penalty of 25 percent of the value of the property that should have been paid or delivered.

How to Report

The Manual for Reporting Unclaimed Property and forms required for reporting can be found on Treasury’s Web site at www.michigan.gov/unclaimedproperty. Free holder reporting software is also available on the Web to assist holders in reporting unclaimed property.
Noncompliance With Unclaimed Property Reporting Requirements

Section 31(2) of the Uniform Unclaimed Property Act gives the State Treasurer the authority to conduct unclaimed property examinations (audits) to determine compliance with the Act. Unclaimed property audits conducted by Treasury will cover the last ten reporting years and penalty and interest will be assessed as a result of the audit. Businesses with a 20 percent or more presence in Michigan are afforded the option of participating in a streamlined audit. A streamlined audit examines the previous four reporting years and is intended to be completed within 18 months.

How Owners Locate Unclaimed Property Reported to the State of Michigan

The Unclaimed Property Web site provides an option to search statewide and nationwide for unclaimed property. Persons or entities may also call Unclaimed Property at 517-636-5320. Twice each year the State of Michigan publishes a notice in a statewide newspaper, which provides information on the number of new unclaimed properties added since the last publication and how persons and entities can search for and claim property that may belong to them. In addition, Unclaimed Property attempts to locate owners of unclaimed property through its outreach efforts.
INDIVIDUAL INCOME TAX

WHAT’S NEW

New Revenue Administrative Bulletins and Internal Policy Directives

Revenue Administrative Bulletin (RAB) 2015-18 Total Household Resources Defined

RAB 2015-18 defines total household resources used to compute eligibility for a homestead property tax credit or home heating credit.

RAB 2016-3 Treatment of Gambling Gains, Losses, and Expenses

RAB 2016-3 describes the distinction between casual and professional gamblers and the appropriate methods for recording and documenting gambling activity, calculating gains or losses, and reporting gambling income in Michigan.

RAB 2016-13 Railroad Employee Benefits

RAB 2016-13 describes the Michigan income tax treatment of railroad employee benefits received by a resident taxpayer and addresses the relationship between railroad retirement benefits and non-railroad retirement benefits. It updates RAB 1991-13 to reflect changes to the Income Tax Act (ITA) made by 2011 PA 38.

Internal Policy Directive 2016-3 Homestead Property Tax Credit Calculation For Claimants Living in Special Housing

On May 3, 2016, Michigan Department of Treasury (Treasury) rescinded Rule R 206.28(6) and (7). The rule required claimants who resided in housing where the lease includes meals or other services such as housekeeping, transportation, or laundry (special housing) to use a proportionate share of real property taxes to calculate the homestead property tax credit instead of rent paid. This Internal Policy Directive addresses the calculation of the homestead property tax credit for claimants who live in special housing. Treasury will generally require the claimant to use the statutory percentage of rent in the formula to calculate the homestead property tax credit. If the claimant calculates the homestead property tax credit using the statutory percentage of rent, the claimant must receive either a monthly statement from the landlord that separately itemizes rent, food, services and other items, or the claimant must obtain a letter from the landlord that states the portion of the monthly payment that constitutes rent.

Treasury will allow a claimant to use the proportionate share of real property taxes levied on the special housing if the claimant makes a lump sum monthly payment to the landlord for rent, meals, and services and does not know the portion that constitutes rent.

Senior special housing claimants may claim the alternate senior homestead property tax credit if the special housing landlord provides the senior claimant with a document that separates out the rent from other charges.
Senate Bill 0606 of 2015 (Public Act (PA) 144 of 2016) Principal Residence Exemption

PA 144 of 2016, enacted on June 6, 2016, provides homeowners who reside in a nursing home or assisted living facility and military Active Duty Service members with an appeal to claim a Principal Residence Exemption (PRE) which was not on the tax roll on June 1 or November 1. Such appeals may be filed with the July or December Boards of Review in the year that the exemption was claimed, or in the immediately succeeding three years.

House Bill 5131 of 2015 (PA 0158 of 2016) Flow-Through Withholding Repealed

House Bill 5131 of 2015 (PA 0158 of 2016) was signed into law June 8, 2016. The bill amends the ITA to discontinue requirements that flow-through entities withhold tax. The law takes effect July 1, 2016 and eliminates flow-through withholding for entities using a tax year that begins after June 30, 2016.

Individual Income Tax Composite Return

Flow-through withholding is no longer required for flow-through entities using a tax year that begins after June 30, 2016. Flow-through entities who intend to file Composite Individual Income Tax Return (Form 807) must make estimated income tax payments on behalf of members who participate in the composite filing. Estimated payments should be remitted quarterly with Fiduciary Voucher for Estimated Income Tax (Form MI-1041ES).

Michigan Achieving a Better Life Experience Program (ABLE)

The Michigan ABLE Act, signed into law October 28, 2015 and made effective January 26, 2016, created a new savings program under the authority of Internal Revenue Code Section 529A, which is aimed at encouraging and assisting individuals and families to save private funds to support individuals with disabilities. A deduction may be taken on the Michigan income tax return for contributions made to an ABLE account to the extent included in Adjusted Gross Income (AGI). The maximum deduction is $5,000 for a single filer ($10,000 for a jointly filed return). The amount deducted includes total contributions made to the plan less qualified withdrawals made during the tax year. Distributions from the account must be used to pay for qualified disability expenses of the eligible designated beneficiary of the account. The program is administered by Treasury and will be similar to Treasury’s administration of higher education savings accounts (529 Plans).

Voluntary Contributions Funds

Two new funds will be available for contributions on the Michigan Voluntary Contributions Schedule (Form 4642) filed with the 2016 Michigan Individual Income Tax Return (Form MI-1040). The funds are the Michigan Junior Achievement fund and the American Red Cross fund.

Junior Achievement is an organization dedicated to educating students about workforce readiness, entrepreneurship, and financial literacy through experiential, hands-on programs.

The American Red Cross is a humanitarian organization that provides emergency assistance, disaster relief, and education inside the United States.

The contributions will benefit Red Cross chapters and Junior Achievement organizations located in Michigan.
City of Detroit Individual Income Tax Returns

In January 2016, Treasury began processing City of Detroit Individual Income Tax Returns. City of Detroit returns may be e-filed as part of the transmission of the Federal/State (Fed/State) return or it can be e-filed separately when supported by the software. Employers required to withhold City of Detroit income tax must remit payment to Treasury beginning with the 2017 calendar year.

For more information and instructions, visit www.michigan.gov/citytax.

FORMS

Individual Income Tax Forms

Most Individual Income Tax (IIT) forms are designed for electronic scanning, which permits faster processing with fewer errors. The IIT Instruction Booklet contains information on how to correctly complete scannable forms to avoid unnecessary delays caused by manual processing.

Direct deposit of Michigan income tax refunds is available. Information required for requesting the direct deposit of a refund is in the IIT Instruction Booklet.

Direct deposit is only available when Treasury is issuing a State refund and only on the first return filed each year. The Home Heating Credit Program sends the credit in the form of an Energy Draft directly to the energy provider or to the claimant. Only a claimant whose heat is included in rent should use Direct Deposit of Refund (Form 3174).

Substitute Forms Must Be Approved

Before releasing software to tax preparers, software developers must submit forms for review and receive official approval from Forms, Documentation and E-file Services. Approvals are granted for one year only.

Substitute forms filed with Treasury that are not approved will be returned to the taxpayer.

Tax forms are available on Treasury’s Web site at www.michigan.gov/taxes.

Mailing Addresses

All paper-filed individual returns should be mailed to the following addresses:

MI-1040:

For refund, credit, or zero returns:

Michigan Department of Treasury
Lansing, MI  48956

To pay tax due:

Michigan Department of Treasury
Lansing, MI  48929
FEDERAL/STATE AND STATE STANDALONE ELECTRONIC FILING PROGRAM

Treasury partners with the Internal Revenue Service (IRS) to provide electronic filing (e-filing) of IIT returns. The Fed/State e-file Program enables taxpayers to e-file both federal and State (including the City of Detroit) returns through tax preparers as part of the program’s effort to provide “one-stop shopping” for tax preparation and filing. The State and/or City standalone e-file Program enables taxpayers to e-file their State and/or City of Detroit return separately from the federal return.

Nearly 100 million people nationwide know e-filing is the way to go! Over 3.9 million Michigan taxpayers choose to e-file their tax returns. Thank you for making e-file a success.

Tax preparers who complete 11 or more IIT returns are required to e-file all eligible returns. Software developers producing tax preparation software or computer-generated forms must support e-file for all Michigan and City of Detroit IIT forms that are included in the software package.

Michigan along with many other state revenue agencies, is requesting additional information in an effort to combat stolen-identity tax fraud to protect taxpayers and their tax refund. If the taxpayer has a driver’s license or state issued identification card, please provide the requested information from it. Providing the information could help process their return more quickly. The return will not be rejected if the taxpayer’s driver’s license or state-issued identification information is not provided.

There are many benefits to tax preparers who participate in the e-file program:

- **Expanded services offered.** E-file is a valuable addition to a tax preparer’s list of client services, which can mean more clients. In addition, prospective clients can find an authorized e-file provider at [www.IRS.gov](http://www.IRS.gov).

- **Faster refunds for e-file returns.** E-filed returns are processed faster than paper returns. **Allow 14 days** before checking the status of the Michigan e-filed return by visiting [www.michigan.gov/iit](http://www.michigan.gov/iit) and clicking on “Check My Income Tax Info.” Clients can also choose direct deposit and have their State refund deposited directly into their account at the financial institution of their choice. Clients can check the status of their City of Detroit e-filed return by visiting [www.michigan.gov/citytax](http://www.michigan.gov/citytax).

- **Payment with tax due returns.** New for 2016, payment on a tax due return can be made using direct debit at the same time the tax return is e-filed, when supported by software. See the “Tax Due and Refund Information” section for more information on Direct Debit.
• **Improved return accuracy.** Treasury processes the same data the tax preparer enters into the computer. When e-filing federal, State, and City of Detroit returns together, much of the same data is used so information is entered only once, again lessening the possibility of error. Treasury systems automatically check returns for mistakes. When easy-to-fix mistakes like math errors or missing forms are found, the return is sent back for correction. The error can then be fixed and sent back to Treasury which prevents a simple mistake from holding up a refund.

• **Detailed error conditions.** Modernized e-File (MeF) business rules pinpoint the location of the error in the return and provide complete information in the acknowledgement file that is passed back to the transmitter. MeF business rules use simple wording to clarify each error that triggers a rejection. Treasury will provide up to ten business rule errors per return submission.

• **Increased customer satisfaction.** Only tax preparers and their client see the return. Tax information is encrypted and transmitted directly to the IRS and Michigan. Also, an acknowledgment is sent to verify the return was received and accepted for processing.

• **Prior year returns.** Michigan tax returns for 2014, 2015, and 2016 will be accepted during the 2017 processing year. City of Detroit tax returns for 2015 and 2016 will be accepted during the 2017 processing year.

• **PDF attachments.** MeF accepts Portable Document Format (PDF) attachments with e-filed returns. Refer to “Electronic Michigan Returns” for a listing of PDF attachments accepted by Michigan.

**How Fed/State (Linked) Electronic Filing Works**

Tax preparers and transmitters accepted into the IRS Fed/State 1040 MeF Program may file federal and/or State (including City of Detroit) returns together in one transmission to the IRS Service Center. The State submission can be linked to the IRS submission by including the IRS Submission ID of the federal return. If the State submission is linked to an IRS submission (also referred to as the Fed/State return), the IRS will check to see if there is an accepted IRS submission ID. If there is not an accepted federal return, the IRS will deny the State submission and a rejection acknowledgment will be sent to the transmitter. Treasury has no knowledge that the State return was denied (rejected) by the IRS. If there is an accepted federal return under the Submission ID, the IRS will perform minimal validation on the State submission. The State data will then be made available for retrieval by Treasury. After the State data is retrieved, it will be acknowledged and, if accepted, processed by Treasury.

Treasury will acknowledge receipt of all returns retrieved from the IRS. The transmitter should receive the Michigan acknowledgment within three days from the date the return is successfully transmitted to the IRS.

The IRS recommends sending the IRS Submission first and, after it has been accepted, sending the State submission.
How State Standalone (Unlinked) Electronic Filing Works

The federal return does not have to be e-filed and accepted before e-filing the State standalone return. However, the federal tax return should be computed before computing the state tax return. Tax preparers and transmitters accepted in the IRS e-file program may participate in the State standalone e-file program when supported by their software. The IRS will perform minimal validation on the State return and issue an acknowledgment. If the return passes validation, the State data will be made available for retrieval by Treasury. After the data is retrieved, it will be acknowledged and, if accepted, processed by Treasury.

When filing a Michigan return that includes City of Detroit forms, an error occurring in either the State or City forms will cause the entire submission (State and City) to be rejected.

All returns, whether e-filed or paper-filed, are subject to Treasury audit and can be delayed regardless of the acknowledgment code received. Returns are processed and refunds are issued daily.

Who May Participate

E-filing of Michigan returns is available to all individuals who have been accepted into the IRS e-file program and who transmit returns to an IRS Service Center. The IRS mandates preparers filing 11 or more IIT returns to e-file those returns, with minor exceptions. Michigan would expect any preparer e-filing federal returns to also e-file the Michigan and/or City of Detroit returns.

Application and Acceptance Process

To participate, applicants must first apply to the IRS and be accepted. Individuals must register with IRS e-Services and create a new or revised IRS e-file application. Individuals can contact IRS e-help toll-free at 1-866-255-0654 for assistance.

Publication 3112 IRS e-file Application and Participation specifies the application process and requirements for federal participation. The definitions used by the IRS of the various categories of electronic filers, Electronic Return Originators (EROs), transmitters, or software developers also apply for Michigan e-filing purposes.

Once accepted into the IRS e-file program, participation in Michigan’s e-file program is automatic. Michigan will use the Electronic Filer Identification Number (EFIN) assigned by the IRS. Michigan does not assign additional identification numbers.

IRS regulations require paid tax preparers to use Preparer Tax Identification Numbers (PTINs) for all tax returns and refund claims. Visit the IRS Web site at www.irs.gov for more information.

To participate in Michigan e-file programs, e-filers must use software that has successfully completed the IRS and Michigan Assurance Testing System (ATS). Confirm that the software chosen has been approved for Michigan and that the Michigan e-file program is operational before transmitting returns.

If, after acceptance, a tax preparer/transmitter or software company has production problems, Treasury reserves the right to suspend that tax preparer or software company until the problems are resolved to Treasury’s satisfaction.
Treasury may conduct a suitability check on applicants who have been accepted in the Fed/State e-file program. Participation in the program may be denied if a company is not registered to conduct business in Michigan, or if there is an outstanding tax liability with Michigan.

A list of approved software companies is available on Treasury’s Web site. Tax preparers are not required to file test returns with Michigan.

**Michigan Portion of the Electronic Return**

The Michigan portion of an electronic return consists of data transmitted electronically and the supporting paper documents. The paper documents contain information that cannot be transmitted electronically.

**Electronic Michigan Returns**

Michigan e-file supports the following forms and schedules:

<table>
<thead>
<tr>
<th>Form</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>3174</td>
<td>Direct Deposit of Refund</td>
</tr>
<tr>
<td>4013</td>
<td>Resident Tribal Member Annual Sales Tax Credit</td>
</tr>
<tr>
<td>4642</td>
<td>Voluntary Contributions Schedule</td>
</tr>
<tr>
<td>4884</td>
<td>Pension Schedule</td>
</tr>
<tr>
<td>4973</td>
<td>Pension Continuation Schedule</td>
</tr>
<tr>
<td>4976</td>
<td>Home Heating Credit Claim MI-1040CR-7 Supplemental</td>
</tr>
<tr>
<td>5049</td>
<td>Married Filing Separately and Divorced or Separated Claimants Schedule</td>
</tr>
<tr>
<td>MI-1040</td>
<td>Individual Income Tax Return</td>
</tr>
<tr>
<td>MI-1040CR</td>
<td>Homestead Property Tax Credit Claim</td>
</tr>
<tr>
<td>MI-1040CR-2</td>
<td>Homestead Property Tax Credit Claim for Veterans and Blind People</td>
</tr>
<tr>
<td>MI-1040CR-5</td>
<td>Farmland Preservation Tax Credit Claim</td>
</tr>
<tr>
<td>MI-1040CR-7</td>
<td>Home Heating Credit Claim</td>
</tr>
<tr>
<td>MI-1040D</td>
<td>Adjustments of Capital Gains and Losses</td>
</tr>
<tr>
<td>MI-1040H</td>
<td>Schedule of Apportionment (e-file limited to six occurrences)</td>
</tr>
<tr>
<td>MI-2210</td>
<td>Underpayment of Estimated Income Tax</td>
</tr>
<tr>
<td>MI-4797</td>
<td>Adjustments of Capital Gains and Losses from Sales of Business Property</td>
</tr>
<tr>
<td>MI-8949</td>
<td>Sales and Other Dispositions of Capital Assets</td>
</tr>
<tr>
<td>Schedule 1</td>
<td>Additions and Subtractions</td>
</tr>
<tr>
<td>Schedule CR-5</td>
<td>Schedule of Taxes and Allocation to Each Agreement</td>
</tr>
<tr>
<td>Schedule NR</td>
<td>Nonresident and Part-Year Resident</td>
</tr>
<tr>
<td>5118</td>
<td>City Resident Income Tax Return</td>
</tr>
<tr>
<td>5119</td>
<td>City Nonresident Income Tax Return</td>
</tr>
<tr>
<td>5120</td>
<td>City Part-Year Resident Income Tax Return</td>
</tr>
<tr>
<td>5121</td>
<td>City Withholding Tax Schedule (City Schedule W)</td>
</tr>
<tr>
<td>5253</td>
<td>City Withholding Tax Schedule Continuation Schedule</td>
</tr>
</tbody>
</table>

Information from the W-2 and 1099 forms is entered in the software and transmitted with the e-file return. Do not mail W-2 and/or 1099 forms to Treasury. All W-2 and 1099 information, when applicable, is required when submitting a state standalone return.

When the following forms are included, the MI-1040 can be e-filed, but the following forms must be mailed to the address indicated on the form.
Application for Extension of Time to File Michigan Tax Returns

Application for Michigan Net Operating Loss Refund

Claim for Refund Due a Deceased Taxpayer

Michigan Estimated Individual Income Tax Voucher

* If the taxpayer makes either the extension payment or estimated payments electronically, there is no need to mail each of the identified forms to Treasury.

Michigan will accept e-file returns for deceased taxpayers. If a U.S. 1310 is required, that data must be included within the federal folder of the Michigan e-file return. When e-filing on behalf of a single, deceased taxpayer, with a balance due federal return and a refund Michigan return, the Michigan return can be e-filed and the U.S. 1310 or the MI-1310 (and required documents) included as a PDF attachment when supported by the software or mailed to Treasury.

Following is a list of IIT forms, line references, and filing conditions where PDF attachments are accepted by Michigan:

<table>
<thead>
<tr>
<th>Form</th>
<th>Line</th>
<th>Description</th>
<th>File Name</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Returns</td>
<td></td>
<td>Power of Attorney</td>
<td>POA.pdf</td>
<td>No</td>
</tr>
<tr>
<td>City Returns</td>
<td></td>
<td>Power of Attorney</td>
<td>CityPOA.pdf</td>
<td>No</td>
</tr>
<tr>
<td>All Returns</td>
<td>MI-1310</td>
<td>MI-1310.pdf</td>
<td>MI-1310.pdf</td>
<td>No</td>
</tr>
<tr>
<td>MI-1040</td>
<td>18</td>
<td>Other State Returns</td>
<td>OtherStateReturn.pdf</td>
<td>No</td>
</tr>
<tr>
<td>MI-1040</td>
<td>26</td>
<td>Worksheet to allow claimants to identify percentages they are allowed to claim for a farmland preservation tax credit.</td>
<td>FarmlandK1.pdf</td>
<td>No</td>
</tr>
<tr>
<td>MI-1040</td>
<td>26</td>
<td>A breakdown of the taxable value and property taxes for the farmland preservation tax credit.</td>
<td>Assessor.pdf</td>
<td>No</td>
</tr>
<tr>
<td>MI-1040CR</td>
<td>10</td>
<td>Property Tax Statement</td>
<td>PropertyTaxStatement.pdf</td>
<td>No</td>
</tr>
<tr>
<td>MI-1040CR</td>
<td>22</td>
<td>Custodial Party End of Year Statement</td>
<td>FEN851.pdf</td>
<td>No</td>
</tr>
<tr>
<td>MI-1040CR</td>
<td>11</td>
<td>Letter from the landlord that states the portion of the monthly payment that constitutes rent or if not available, the prorated share of property taxes.</td>
<td>SpecialHousingStmt.pdf</td>
<td>No</td>
</tr>
<tr>
<td>Schedule 1</td>
<td></td>
<td>Business Activity Worksheet</td>
<td>BusinessActivity.pdf</td>
<td>No</td>
</tr>
<tr>
<td>Schedule 1</td>
<td>11</td>
<td>Claiming a subtraction of taxable railroad retirement benefits. This can include income from the RRB-1099 and/or RRB-1099R.</td>
<td>RRB1099R.pdf</td>
<td>No</td>
</tr>
<tr>
<td>Form</td>
<td>Line</td>
<td>Description</td>
<td>File Name</td>
<td>Required</td>
</tr>
<tr>
<td>----------</td>
<td>------</td>
<td>-----------------------------------------------------------------------------</td>
<td>----------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Schedule 1</td>
<td>22</td>
<td>Claiming subtraction for federal Schedule R but not required to include Schedule R with federal return.</td>
<td>FedSchR.pdf</td>
<td>No</td>
</tr>
<tr>
<td>MI-1040H</td>
<td>12</td>
<td>Unitary Apportionment Calculation</td>
<td>UnitaryCalculation.pdf</td>
<td>Yes</td>
</tr>
<tr>
<td>5119</td>
<td>Part 5</td>
<td>Finance Director Approval Letter</td>
<td>ApprovalLetter.pdf</td>
<td>Yes</td>
</tr>
<tr>
<td>5121</td>
<td>Part 3</td>
<td>Employer Letter and Work Log</td>
<td>EmployerLetterAndWorkLog.pdf</td>
<td>No</td>
</tr>
<tr>
<td>5119</td>
<td>28</td>
<td>U.S. Form 2106, Employee Business Expenses</td>
<td>FedForm2106.pdf</td>
<td>No</td>
</tr>
<tr>
<td>5120</td>
<td>23</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The taxpayer is not eligible for e-file for the 2016 tax year if:

<table>
<thead>
<tr>
<th>Form</th>
<th>Line</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Various</td>
<td></td>
<td>Filing federal returns or forms excluded in MeF</td>
</tr>
<tr>
<td>All Michigan forms</td>
<td></td>
<td>Prior year return(s) for tax year 2013 or prior.</td>
</tr>
<tr>
<td>MI-1040</td>
<td>19</td>
<td>Claiming the Historic Preservation Tax Credit (Form 3581).</td>
</tr>
</tbody>
</table>
| Schedule 1 | 24   | Claiming both the Michigan Standard Deduction (line 24) and the dividend/interest/capital gain deduction (line 26) as the unmarried surviving spouse of someone born before 1946 who was at least 65 at the time of death.  
Filing and claiming the Michigan Standard Deduction on line 24 with a birthdate of January 1, 1950. |
<p>| Schedule 1 | 25   | Claiming a pension/retirement subtraction using Form 4884 when the oldest of filer or spouse was born in 1949 and died during the tax year before reaching age 67.                                                   |
|           |      | Claiming a pension/retirement subtraction using Section D of Form 4884 when the oldest of the filer or spouse is born January 1, 1955.                                                                       |
|           |      | Claiming a pension/retirement subtraction using Section D of Form 4884 when the taxpayer is required to reduce the deduction limit due to railroad or military benefits subtracted on Schedule 1, line 11. |
| MI-1040CR-5 | 8    | Using different total household resources than on the MI-1040CR, MI-1040CR-2 or MI-1040CR-7.                                                                                                                  |
| MI-8949  | 1    | Filing with more than 36 short-term capital gains/losses.                                                                                                                                                    |
|          | 3    | Filing with more than 48 long-term capital gains/losses.                                                                                                                                                     |
| MI-4797  | 2    | Filing with more than 16 sales/exchanges of property held more than one year.                                                                                                                               |
|          | 10   | Filing with more than 13 ordinary gains/losses of property held one year or less.                                                                                                                             |
|          | 19   | Filing with more than 17 gains from disposition of property under Sections 1245, 1250, 1252, 1254 and 1255.                                                                                                  |</p>
<table>
<thead>
<tr>
<th>Form</th>
<th>Line</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>MI-1040X-12</td>
<td></td>
<td>Filing the Amended Michigan Income Tax Return</td>
</tr>
<tr>
<td>MI-1041</td>
<td></td>
<td>Filing the Fiduciary Income Tax Return</td>
</tr>
<tr>
<td>MI-1040H</td>
<td>12</td>
<td>Filing with more than 28 entities unitary with one another for which combining apportionment.</td>
</tr>
<tr>
<td>Schedule W</td>
<td>Table 3</td>
<td>Reporting Flow-Through Withholding (FTW)</td>
</tr>
<tr>
<td>5119</td>
<td>Part 5</td>
<td>Filing with more than one occurrence of business income apportionment.</td>
</tr>
<tr>
<td>5121</td>
<td>Part 2</td>
<td>Reporting City Tax Paid by a Partnership</td>
</tr>
</tbody>
</table>

**Nonelectronic Portion of Michigan Returns**

The nonelectronic portion of the Michigan return consists of the following supporting documents:

- **Michigan Individual Income Tax Declaration for e-file (Form MI-8453)**. See the “Michigan E-file Signature Process” section for more information on Form MI-8453.

- **Michigan Individual Income Tax e-file Payment Voucher (Form MI-1040-V)**. State tax due returns must submit payment by April 18, 2017. Form MI-1040-V should only be used for e-file payments. For other payment options see the “Tax Refund and Payment Information” section.

- **City Income Tax e-file Payment Voucher (Form City-V)**. City tax due returns must submit payment by April 18, 2017. Form City-V should only be used for e-file payments. For other payment options see the “Tax Refund and Payment Information” section.

- **Michigan Direct Debit of Individual Income Tax (Form 5472)** provides the taxpayer with a copy of their direct debit request entered in the electronic return submission.

- **Farmland Preservation Tax Credit Claim (Form MI-1040CR-5)**. Part 2 of Form MI-1040CR-5 or the signed statement to Treasury. Farmland returns claiming unequal distribution of property taxes on jointly owned land must have a distribution statement signed by all owners.

Do not mail a copy of Form MI-1040CR-5 or the signed statement to Treasury. A copy of the signed statement should be retained to avoid reduction and/or denial of the credit. Treasury may request at a later date a copy of the signed statement to verify the unequal distribution claimed.

- **PDF Attachments** listed in the acceptable PDF attachments table when PDF attachments are not supported by the software.
Michigan E-file Signature Process

For Fed/State Returns

Michigan will accept the federal signature of a Self-Selected Personal Identification Number (PIN) or Practitioner PIN. Michigan does not require any additional signature documentation. If the taxpayer chooses to complete Form MI-8453, Treasury recommends that the tax preparer retain it for six years. Do not mail Form MI-8453 to Treasury.

For State and/or City Standalone Returns:

State and/or City standalone returns can be signed using “shared secrets” or Form MI-8453 signature document. Shared secrets consist of the Social Security numbers (SSNs), previous year’s AGI or total household resources, and the previous year’s tax due or refund amount. If Form MI-8453 is used, the tax preparer should retain a copy of Form MI-8453. Form MI-8453 should not be mailed to Treasury.

The AGI or total household resources and refund or tax due amount must be from the previous year’s return. Treasury can accept this information from the original return, amended return, or return as corrected by Treasury.

If the return is signed using shared secrets and the return is rejected because the shared secrets do not match, the taxpayer/tax preparer may correct the shared secrets information and retransmit. There is no limit on how many times the return can be retransmitted in this circumstance.

After the return has been prepared and before the return is transmitted electronically, the taxpayer (and spouse, if a joint return) must verify the information on the return and sign and date Form MI-8453. The tax preparer or transmitter must provide the taxpayer with a copy of the form. Tax preparers and EROs are prohibited from allowing taxpayers to sign a blank Form MI-8453.

Volunteer Groups

If the taxpayer chooses to complete Form MI-8453, it should not be mailed to Treasury. Volunteer tax preparers must provide taxpayers with the MI-8453 and instruct them to retain a copy with their tax records.

Assistance is available using TTY through the Michigan Relay Service by calling 1-800-649-3777 or 711. Printed material in an alternative format may be obtained by calling 517-636-4486.

TAX REFUND AND PAYMENT INFORMATION

State Returns

State Tax Returns Claiming Refunds

Michigan taxpayers can elect to have their Michigan income tax refunds directly deposited into their checking or savings accounts. When carrying the direct deposit information from the federal return to the Michigan return, verify the information is correct for the Michigan return. This is especially important when taxpayers have a Refund Anticipation Loan and have designated their federal refund to pay their loans. The State refund should not go to pay those loans.
Direct deposit requests associated with a foreign bank account are classified as International Automated Clearing House Transactions. If the income tax refund direct deposit is forwarded or transferred to a financial institution in a foreign country, the direct deposit will be returned to Treasury. If this occurs, the refund will be converted to a check (warrant) and mailed to the address on the tax return. Taxpayers should contact their financial institutions for questions regarding the status of their bank account.

Treasury cannot make any changes to direct deposit information after the return is transmitted.

State Tax Returns with Tax Due

In the event that tax is due on the return, the taxpayer must submit payment by April 18, 2017. If full payment of that tax due is not submitted by April 18, the taxpayer will receive a bill with applicable penalty and interest. Payments can be made by:

- **New for tax year 2016**: Direct debit from a checking or savings account when the return is e-filed and supported by the software. A direct debit is a tax payment electronically withdrawn from the taxpayer’s bank account through the tax software used to electronically file the individual income tax return. Submitting the electronic return with the direct debit information provided, acts as the taxpayer’s authorization to withdraw the funds from their bank account. Requesting the direct payment is voluntary and only applies to the electronic return that is being filed.

  **Important**: When the State return has tax due and the City return has a refund, the City refund cannot be reduced to cover the State tax due.

  **Warehousing a payment**. Warehousing the tax payment allows the taxpayer to designate the date the payment will be withdrawn from their bank account. Treasury will accept a warehoused payment date up to 90 calendar days, but not beyond April 18, 2017. Direct debit requests after April 18, 2017 due date cannot be warehoused and must contain a direct debit date that is equal to the transmission date of the e-filed return. Treasury will not withdraw a payment from the designated bank account prior to the requested debit date. Allow three to four business days from the direct debit date of the payment to be withdrawn from the account.

  Penalty and interest will accrue on any tax due that has not been paid by the due date of the return. The day the return was transmitted, if accepted by Michigan, is the received date.

- **Mailing Form MI-1040-V with a check or money order after e-filing the MI-1040 return**. The MI-1040-V should not be attached to a copy of the return and should not be used for any other payments made to the State of Michigan (such as a City tax due). When the payment is made electronically, there is no need to mail the MI-1040-V to Treasury.
• **Michigan Individual Income Tax e-Payments system by direct debit (e-Check) from a checking or savings account, or by using a credit or debit card.** Michigan IIT filers have the option of making payments electronically using Michigan’s Individual Income Tax e-Payments system. Paying electronically is easy, fast, and secure. The available payment types include IIT tax payments (tax due on the MI-1040), quarterly estimated income tax payments, and individual income tax extension payments. Payments can be made using e-Check from a checking or savings account, or credit or debit card. There is no fee for e-Check payments. Credit and debit payments will be charged a convenience fee of 2.35 percent of the total payment for credit cards and a flat fee of $3.95 for debit cards which is paid directly to the payment processing vendor. Visit [www.michigan.gov/iit](http://www.michigan.gov/iit) for more information.

**City Returns**

**City Tax Returns Claiming Refunds**

Direct deposit **will not** be available for City of Detroit refunds. All City of Detroit tax refunds will be issued as warrants and mailed to the taxpayer.

**City Tax Returns With Tax Due**

In the event that tax is due on the return, the taxpayer must submit payment by April 18, 2017. If full payment of that tax due is not submitted by April 18, the taxpayer will receive a bill with applicable penalty and interest. Payments can be made by:

- **New for tax year 2016:** Direct debit from a checking or savings account when the return is e-filed and supported by the software. A direct debit is a tax payment electronically withdrawn from the taxpayer’s bank account through the tax software used to electronically file the individual income tax return. Submitting the electronic return with the direct debit information provided acts as the taxpayer’s authorization to withdraw the funds from their bank account. Requesting the direct payment is voluntary and only applies to the electronic return that is being filed.

**Important:** When the City return has a tax due and the State return has a refund, the State refund cannot be reduced to cover the City tax due.

**Warehousing a payment.** Warehousing a tax payment allows the taxpayer to designate the date the payment will be withdrawn from their bank account. Treasury will accept a warehoused payment date up to 90 calendar days, but not beyond April 18, 2017. Direct debit requests **after** April 18, 2017 due date cannot be warehoused and must contain a direct debit date that is equal to the transmission date of the e-filed return. Treasury will not withdraw a payment from the designated bank account prior to the requested debit date. Allow three to four business days from the direct debit date for the payment to be withdrawn from the account.

Penalty and interest will accrue on any tax due that has not been paid by the due date of the return. The day the return was transmitted, if accepted by Michigan, is the received date.
- **Mailing Form City-V with a check or money order after e-filing the City of Detroit return.** The City-V should not be attached to a copy of the return and should not be used for any other payment made to the State of Michigan (such as a Michigan tax due on Form MI-1040). When the payment is made electronically, there is no need to mail the City-V to Treasury.

Payment using Michigan’s Individual Income Tax e-Payments system is not available for City of Detroit tax due returns.

**POST-FILING INFORMATION**

**Mailing Addresses**

General income tax correspondence or returning a home heating draft for a check:

Michigan Department of Treasury  
Customer Contact  
P.O. Box 30757  
Lansing, MI  48909

Write “Void” across the draft and include a letter of explanation. When returning home heat drafts, the dollar amount of the check will be 50 percent of the returned draft and there will be further review of the account.

Returning State of Michigan warrants:

Michigan Department of Treasury  
Office of Financial Services  
P.O. Box 30788  
Lansing, MI  48909

Write “Void” across the warrant and include a letter of explanation.

Refer to the Treasury Web site at [www.michigan.gov/treasury](http://www.michigan.gov/treasury) for more information.

**Amended Michigan Income Tax Return (MI-1040X) or (MI-1040X-12)**

Form MI-1040X is used to correct or amend information reported on an MI-1040, credit claims, and schedules for the 2011 and prior tax years. Form MI-1040X-12 is used to correct or amend information reported on Form MI-1040, credit claims and schedules for the 2012 tax year and beyond. When filing either form, indicate the tax year, give an explanation of the change, and provide any supporting documentation.

If the original return was adjusted by Treasury and the taxpayer disagrees with the adjustments, it is not necessary to file an amended return. Simply respond to the adjustment notice with documentation to support the original claim. Treasury will review the documentation for further adjustment.
Exceptions: When correcting a Homestead Property Tax Credit Claim (Form MI-1040CR) when no MI-1040 was filed with the original claim, an MI-1040X/MI-1040X-12 is not required. File the MI-1040CR using the corrected figures and write “Amended” at the top of the form.

When correcting a Home Heating Credit Claim (Form MI-1040CR-7), file an MI-1040CR-7 and write “Amended” at the top of the form. An amended claim requesting an additional heating credit must be submitted by September 30, following the year of the claim.

When correcting a Farmland Preservation Tax Credit Claim (Form MI-1040CR-5), file an MI-1040CR-5 and write “Amended” at the top of the form. Submit the amended form along with a description and any documentation needed to explain the change.

When claiming a refund from a Michigan net operating loss carryback, do not file an amended return. Claim the refund by filing an Application for Michigan Net Operating Loss Refund (MI-1045).

An amended return is not required to change an incorrect SSN or incorrect mailing address. Contact Treasury at www.michigan.gov/iit or call 517-636-4486.

An amended return claiming an additional refund must be filed within four years of the due date of the original return.

SUMMARY OF CHANGES FOR 2016

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax Rate</td>
<td>4.25%</td>
</tr>
<tr>
<td>Personal Exemption</td>
<td>$4,000</td>
</tr>
<tr>
<td>Special Exemption</td>
<td>$2,600</td>
</tr>
<tr>
<td>Qualified Disabled Veteran Deduction</td>
<td>$400</td>
</tr>
</tbody>
</table>

Pension Deduction:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Filer</td>
<td></td>
</tr>
<tr>
<td>Born before 1946: private pension limit</td>
<td>$49,861</td>
</tr>
<tr>
<td>Born in 1946-1949: Standard deduction against all income</td>
<td>$20,000</td>
</tr>
<tr>
<td>Born in 1950 through 1952</td>
<td>$20,000</td>
</tr>
<tr>
<td>Born after 1952, pension not deductible*</td>
<td>0</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Joint Filers</td>
<td></td>
</tr>
<tr>
<td>Born before 1946: private pension limit</td>
<td>$99,723</td>
</tr>
<tr>
<td>Born in 1946-1949: Standard deduction against all income</td>
<td>$40,000</td>
</tr>
<tr>
<td>Born in 1950 through 1952</td>
<td>$40,000</td>
</tr>
<tr>
<td>Born after 1952, pension not deductible*</td>
<td>0</td>
</tr>
</tbody>
</table>

Senior Interest, Dividend, and Capital Gains

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Filer (not available for senior born after 1945)</td>
<td>$11,115</td>
</tr>
<tr>
<td>Joint Filer (not available for senior born after 1945)</td>
<td>$22,229</td>
</tr>
</tbody>
</table>

*Exception: Taxpayers who have reached age 62 and receive pension benefits from Social Security exempt employment may be eligible for a pension deduction. See Pension and Retirement Benefits.
### SUMMARY OF CHANGES FOR PRIOR YEARS

<table>
<thead>
<tr>
<th></th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax Rate</td>
<td>4.33%</td>
<td>4.25%</td>
<td>4.25%</td>
<td>4.25%</td>
</tr>
<tr>
<td>Personal Exemption</td>
<td>$3,763</td>
<td>$3,950</td>
<td>$4,000</td>
<td>$4,000</td>
</tr>
<tr>
<td>Special Exemption</td>
<td>$2,400</td>
<td>$2,500</td>
<td>$2,500</td>
<td>2,600</td>
</tr>
<tr>
<td>Qualified Disabled Veteran Deduction</td>
<td>$300</td>
<td>$300</td>
<td>$400</td>
<td>$400</td>
</tr>
</tbody>
</table>

**Pension Deduction**

- Single Filer:
  - Born before 1946: private pension limit: $47,309 $48,302 $49,027 $49,811
  - Born after 1945 and age 67 or older:
    - Standard deduction against all income: $20,000 $20,000 $20,000
    - Born 1946 through 1952 and age 66 or less: $20,000 $20,000 $20,000 $20,000
    - Born after 1952, pension not deductible: 0 0 0 0

- Joint Filers:
  - Born before 1946: private pension limit: $94,618 $96,605 $98,054 $99,623
  - Born after 1945 and age 67 or older:
    - Standard deduction against all income: $40,000 $40,000 $40,000
    - Born 1947 through 1952 and age 66 or less: $40,000 $40,000 $40,000
    - Born after 1952, pension not deductible: 0 0 0 0

**Senior Interest, Dividend, and Capital Gains**

- Single Filer (not available for senior born after 1945): $10,545 $10,767 $10,929 $11,104
- Joint Filers (not available for senior born after 1945): $21,091 $21,534 $21,857 $22,207

### FILING REQUIREMENTS

#### Filing an MI-1040 Return

An individual should file a Michigan return if they were a Michigan resident all or part of the year and filed a federal return. A nonresident is required to file a Michigan return if all or part of their income was earned in Michigan or was from Michigan sources.

A nonresident or part-year resident must use *Nonresident and Part-Year Resident Schedule* (Schedule NR) to allocate income between Michigan and other states.

Married taxpayers who filed a joint federal return must also file a joint Michigan return. Taxpayers may file either a separate or joint Michigan return if separate federal returns were filed.

#### Factors to Determine Domicile

A person who is domiciled in Michigan is a Michigan resident. Domicile means the fixed and permanent home to which a person, wherever temporarily located, always intends to return. A person may have several residences, but may have only one domicile.
Domicile, once established, is not lost until there is a concurrence of all the following:

1. The specific intent to abandon the old domicile.

2. The intent to acquire a specific new domicile.

3. Actual physical presence in the new state of domicile. Generally, the domicile of the wife follows that of the husband.

Factors to be considered in determining a taxpayer’s residency or domicile include where they keep their most important possessions, house their family, vote, maintain a club or lodge membership, buy automobile licenses, maintain a mailing address, bank, operate a business, or sue for divorce. However, no one of these factors is controlling.

**Nonresident Aliens**

Nonresident aliens must file a Michigan income tax return if their federal AGI is more than their Michigan exemption allowance. A copy of federal form U.S. 1040NR, including all schedules and worksheets, must be attached to the MI-1040. A nonresident alien return cannot be e-filed with the State of Michigan.

Wages or other income received by a nonresident alien working in Michigan are subject to the Michigan income tax as provided for in Michigan Compiled Laws (MCL) 206.110(2). However, due to tax treaty considerations between the U.S. and other countries, wages and other income received by a nonresident alien living and working in Michigan may not be subject to the Michigan income tax if the income is excluded from AGI.

See Federal IRS Publication 901 for information on U.S. tax treaties with other countries.

A nonresident alien must file a U.S. 1040NR. This return reports all income received by the nonresident alien reduced by wages or other income that is exempted by a U.S. tax treaty.

A nonresident alien is not considered domiciled in Michigan and, therefore, may not claim a homestead property tax credit.

**Taxability of Income Derived Within Indian Country**

**Where the Tribal Member’s Tribe Does Not Have an Implemented Tax Agreement With the State of Michigan**

An individual who is a resident of Michigan and has income from Michigan sources is required to file a Michigan income tax return in accordance with MCL 206.315(1). This provision requires every person who is required to file a return under the Internal Revenue Code (IRC) to file a return under the Income Tax Act (ITA) if their AGI is in excess of the personal exemptions allowed under the act.

An exception exists for an enrolled member of a federally recognized Indian Tribe/Band located in Michigan where the member resides within, and the income generating activity occurs within, the member’s own Tribe’s Indian Country (as defined by 18 USC 1151).
Although the State cannot require tribal members to file a Michigan income tax return, if all of their income is earned within their own Indian country and they meet the criteria identified below, it is recommended they file returns to avoid possible contact by Treasury based upon State and federal match programs. A return is required from tribal members if any of the Michigan income is earned outside of their Indian country and/or if any of the criteria below is not met.

Income can be deducted on the Michigan return if all the following conditions exist:

1. Individual is a member of a federally recognized Indian Tribe or Band.
2. Individual resides within their Tribe or Band’s Indian country.
3. Activity creating the income in question occurs within the member’s own Tribe’s Indian country.

Treasury may require additional documentation to support the above assertions.

The following income is subject to Michigan income tax:

1. Tribal member income earned outside of the member’s own Tribe’s Indian country (including income earned within another Tribe’s Indian country).
2. For nontribal members or tribal members not meeting the exemption criteria, all Michigan income is taxable whether earned inside Indian country or not.

Where the Resident Tribal Member’s Tribe Has an Implemented Tax Agreement With the State of Michigan

Refer to the Frequently Asked Questions or terms of the agreement posted on Treasury’s Web site for details on Resident Tribal Member treatment where the member’s Tribe has entered into a tax agreement with the State. Visit Treasury’s Web site at www.michigan.gov/taxes. Click on “Individual Income Tax” or “Business Tax,” and then click on “Native American” found under the “Special Situations” sections. If the Tribe has an implemented agreement, it will be posted at this location. If the Tribe is not listed, there is no implemented agreement for that Tribe or its members.

Estimated Income Tax

Forms

Personalized 2017 Estimated Individual Income Tax Vouchers (Form MI-1040ES) will be mailed to taxpayers (usually in late January or early February) who paid 2016 quarterly IIT estimates and did not use a tax preparer. Tax preparers should use their clients’ personalized forms whenever possible. The personalized forms help ensure the correct account is credited. Never photocopy someone else’s personalized forms. Personalized forms are coded with taxpayers’ SSNs and are optically scanned. Coded information is machine readable on photocopies and through correction tape and fluid.
Requirements for Filing and Paying

Section 301(1) of the ITA of 1967 states:

“Every person on a calendar year basis, if the person’s annual tax can reasonably be expected to exceed the amount withheld under section 351* and the credits allowed under this act by more than $500.00, shall pay to the department installments of estimated tax under this act on or before April 15, June 15, and September 15 of the person’s tax year and January 15 in the following year. Subject to subsection (3), each installment shall be equal to ¼ of the taxpayer’s estimated tax under this act after first deducting the amount estimated to be withheld under section 351*.”

* moved to section 703 under PA 38 of 2011

Interest is due for each quarter if no payment is made or an underpayment exists. Taxpayers who have previously filed estimated tax payments, Underpayment of Estimated Income Tax (Form MI-2210) or were assessed in a prior year for underpayment or failure to file estimates will be assessed penalty as follows:

- 10 percent penalty for underpayment, or
- 25 percent penalty for failure to file estimated tax payments.

Failure to Make Estimated Payments

Use Form MI-2210 to compute the penalty and interest on the underpayment and file with the 2016 return. If estimated payments are due and have not been paid or are underpaid, Treasury will assess penalty and interest not paid by the taxpayer. The assessment will bill interest on the amount of tax that was due for each quarter. An individual may avoid all or part of the penalty and interest if any of the following apply:

1. An individual was not required to file a tax return for 2015.
2. The individual was required to file a return for 2015 but had no tax liability.
3. The amount of tax withheld plus estimated tax payments equal at least:
   - 90 percent of the tax due for 2016, or
   - 100 percent of the tax due for 2015 (110 percent of total tax if your 2015 AGI is more than $150,000 for single filers or married, filing jointly; or more than $75,000 for married filing separately).
4. If income is not received evenly during the year, an individual may annualize their income to determine the quarterly estimated payments. (See 2016 MI-2210 for instructions.)

Annual Estimated Tax Returns

An individual may file an annual return of estimated tax rather than quarterly returns. To use this option, the taxpayer must file the 2017 first quarter MI-1040ES and pay the total estimated annual tax by April 18, 2017.
Overpayments Credited Forward to Year 2016

Treasury will reduce a claimed credit forward to the next year if the return is adjusted. The individual will be notified of the adjustment and the reduction of the credit forward. It is the individual’s responsibility to make up any deficiency that may result.

e-Payments

An individual may choose to make an estimated income tax payment electronically instead of mailing a payment with the personalized form. Paying electronically through the Michigan e-Pay system is easy, fast, and secure. Payment options include direct debit (e-Check) from a checking or savings account, or payment by credit or debit card. If choosing to make a payment electronically, there is no need to mail the MI-1040ES form to Treasury. Visit www.michigan.gov/iit for more information.

Seafarers, Farmers, and Commercial Fishermen

A seafarer, farmer, or commercial fisherman who receives at least two-thirds of his or her gross income from seafaring, farming, or fishing may file a Michigan annual return of estimated tax no later than January 15, and remit the entire amount of estimated tax with the return. This payment date may be ignored if the seafarer, farmer, or fisherman files his or her income tax return and pays the entire amount of tax due by March 1.

If a joint return is filed, the seafarer, farmer, or fisherman must also consider his or her spouse’s gross income in determining if at least two-thirds of gross income is from seafaring, farming, or fishing.

Wages earned and other income received by seafarers domiciled in Michigan and sailing the Great Lakes or other waterways are subject to Michigan income tax as provided for in MCL 206.110(1). As such, seafarers must file an annual Michigan income tax return. Section 46 USCS 11108 precludes the states from withholding state income tax on seafarers’ wages; however, it does not prohibit states from subjecting seafarers’ wages to state income tax.

EXEMPTIONS

The number of exemptions that may be claimed is the number of allowable federal personal and dependency exemptions plus Michigan special exemptions.

The following chart lists the Michigan exemption allowance.

<table>
<thead>
<tr>
<th>Tax Year</th>
<th>Based on Federal Exemptions</th>
<th>Michigan Special Exemptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>3,763</td>
<td>2,400</td>
</tr>
<tr>
<td>2013</td>
<td>3,950</td>
<td>2,500</td>
</tr>
<tr>
<td>2014</td>
<td>4,000</td>
<td>2,500</td>
</tr>
<tr>
<td>2015</td>
<td>4,000</td>
<td>2,600</td>
</tr>
<tr>
<td>2016</td>
<td>4,000</td>
<td>2,600</td>
</tr>
</tbody>
</table>
Definitions of Michigan Special Exemptions

Only taxpayers who have one or more of the impairments described below may claim a special exemption. If the taxpayer’s dependent is eligible for a special exemption, the taxpayer and the dependent may not both claim that exemption.

Deaf. An individual whose hearing is totally impaired or whose hearing, with or without amplification, is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including but not limited to lip reading, sign language, finger spelling, or reading. [Reference: MCL 206.30(3)(a) and 393.502]

Paraplegic. An individual who has paralysis of the lower half of the body. [Reference: MCL 206.30(3)(a)]

Quadriplegic. An individual who has paralysis of both arms and legs. [Reference: MCL 206.30(3)(a)]

Hemiplegic. An individual who has paralysis of one side of the body. [Reference: MCL 206.30(3)(a)]

Blind. An individual who has a permanent impairment of both eyes of the following status: central visual acuity of 20/200 or less in the better eye with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance of not greater than 20 degrees in the better eye. [Reference: MCL 206.30(3)(a) and 206.504(1)]

Totally and Permanently Disabled. An individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months.

Support for this exemption is the receipt of any of the following types of income:

- Social Security Disability benefits
- Supplemental Security Income (SSI) disability benefits
- Veterans’ Administration disability retirement payments.

A taxpayer who does not receive any of the above income may be required to furnish a physician’s statement to certify total and permanent disability. [Reference MCL 206.30(3)(a), 206.522(4) and 42 U.S.C. 416]

A taxpayer who is age 66 or older may not claim a totally and permanently disabled exemption
**Example 1:** Jacob is 66, but before he turned age 66 he received Social Security Disability for being totally and permanently disabled. Assuming Jacob is not deaf, blind, or para/quadri/hemiplegic, Jacob’s exemption allowance is limited to the personal exemption. He is not eligible to receive a special exemption because the normal retirement age of individuals born between 1943 and 1954 is 66. Since Jacob has reached normal retirement age, he is no longer considered to be receiving disability income, but is instead considered a retired senior. Although Jacob’s condition did not change when he reached the age of 66, he may no longer claim an exemption for being totally and permanently disabled.

**Example 2:** Judy is 67 and is deaf and blind. She received Social Security Disability until the age of 66. Judy’s exemption allowance for 2016 would be computed as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Exemption (one x $4,000)</td>
<td>$4,000</td>
</tr>
<tr>
<td>Michigan Special Exemptions (one for blind or deaf)</td>
<td>2,600</td>
</tr>
<tr>
<td><strong>Total Exemption Allowance</strong></td>
<td><strong>$6,600</strong></td>
</tr>
</tbody>
</table>

**Qualified Disabled Veteran Exemption**

Qualified disabled veterans or taxpayers who have a dependent who is a qualified disabled veteran are eligible for a $400 exemption. Qualified veteran means a veteran with a service-connected disability. A service-connected disability means a disability incurred or aggravated in the line of duty in the active military, naval, or air service as described in 38 USC 101(16). The exemption is available to qualified veterans of any age and with any percentage of disability.

**Part-Year and Nonresident**

The exemption allowance for a part-year resident or a nonresident is prorated based on the taxpayer’s Michigan income subject to tax divided by total AGI.

For a couple filing a joint return, if one spouse is a full-year resident and the other is a part-year resident or nonresident, the full-year resident is entitled to one full $4,000 exemption. The part-year resident or nonresident must prorate the $4,000 exemption by the ratio of their Michigan income subject to tax to their AGI from all sources. Exemptions for dependents must be prorated by the ratio of combined (both spouses’) Michigan income subject to tax to combined AGI from all sources.

**Example:** Jack and Jill were married June 30, 2016. Jill has two dependent children. Jill worked and lived in Georgia prior to their marriage. She continued to work after moving to Michigan in June 2016. Her interest was received equally throughout the year. Jack was a Michigan resident for all of 2016. Their income was as follows:

<table>
<thead>
<tr>
<th></th>
<th>Jack</th>
<th>Jill</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wages</td>
<td>$56,000</td>
<td>$25,000</td>
</tr>
<tr>
<td>Interest</td>
<td>3,000</td>
<td>5,000</td>
</tr>
<tr>
<td><strong>Total AGI</strong></td>
<td><strong>$59,000</strong></td>
<td><strong>$30,000</strong></td>
</tr>
</tbody>
</table>
The exemption allowance is computed as follows:

Jack was a Michigan resident all year and is entitled to a $4,000 exemption allowance. Jill earned wages of $15,000 while she was a Georgia resident and 50 percent of her interest income is allocated to Georgia.

\[
\text{Jill’s Michigan income} \quad \frac{12,500}{30,000} = 42\%
\]

\[
42\% \text{ Michigan sourced income} \times \$4,000 = \$1,680
\]

Dependents - Combined Michigan source to all sources

\[
\text{Combined Michigan income} \quad \frac{59,000 + 12,500}{89,000} = 80\%
\]

\[
80\% \text{ Michigan source income} \times \$8,000 = \$6,400
\]

Total exemption allowance for 2016 joint Michigan income tax return is:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Jack</td>
<td>$4,000</td>
</tr>
<tr>
<td>Jill</td>
<td>1,680</td>
</tr>
<tr>
<td>Dependents</td>
<td>6,400</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$12,080</strong></td>
</tr>
</tbody>
</table>

**Claimed as a Dependent**

An individual cannot claim a personal exemption if another taxpayer (usually a parent) can claim a dependency exemption for that person. This is true even when the individual is not actually claimed as a dependent on the other’s return. However, an individual who is eligible to be claimed as a dependent on someone else’s return and has an AGI of **$1,500 or less** is entitled to a **refund** of all Michigan tax withheld. An individual who is eligible to be claimed as a dependent on someone else’s return and has an AGI of **more than $1,500** is entitled to a $1,500 exemption allowance.

A dependent who may not claim a personal exemption may still claim one or more of the special exemptions. If a dependent claims a special exemption, the same special exemption may not be claimed on another tax return by another taxpayer.
Example 1: Carlton (age 16 and can be claimed as a dependent on his parents’ return) earned $6,800 during 2016. He is considered deaf, as defined in MCL 206.30(3)(a) and MCL 393.502. His AGI is $6,800 and his Michigan income tax withholding is $165. Carlton’s Michigan income tax liability is computed as follows:

<table>
<thead>
<tr>
<th>AGI</th>
<th>$6,800</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less: Deduction</td>
<td>(1,500)</td>
</tr>
<tr>
<td>Michigan Special Exemption</td>
<td>(2,600)</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>$2,700</td>
</tr>
<tr>
<td>x Tax Rate</td>
<td>x 0.0425</td>
</tr>
<tr>
<td>Michigan Income Tax (Rounded)</td>
<td>$115</td>
</tr>
<tr>
<td>Less Michigan Income Tax Withheld</td>
<td>(165)</td>
</tr>
<tr>
<td>Refund</td>
<td>$50</td>
</tr>
</tbody>
</table>

Example 2: Terri is 17 and can be claimed as a dependent by her parents. Terri’s AGI for 2016 is $1,250 and her Michigan income tax withholding is $80. Terri’s Michigan income tax liability is computed as follows:

<table>
<thead>
<tr>
<th>AGI</th>
<th>$1,250</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less: Deduction</td>
<td>(1,500)</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>0</td>
</tr>
<tr>
<td>x Tax Rate</td>
<td>x 0.0425</td>
</tr>
<tr>
<td>Michigan Income Tax (Rounded)</td>
<td>$0</td>
</tr>
<tr>
<td>Less Michigan Income Tax Withheld</td>
<td>(80)</td>
</tr>
<tr>
<td>Refund</td>
<td>$80</td>
</tr>
</tbody>
</table>

MICHIGAN INCOME TAX TREATMENT OF CHILD’S UNEARNED INCOME

IRC Section 1(g)7 provides for an election that allows parents to include unearned income of a child on the parents’ return when the child: (1) is under the age of 19 or the age of 24 if a full-time student whose earned income does not exceed half of their own support; (2) has no income other than interest, dividends, and/or capital gain distributions; (3) has gross income less than $10,500; and (4) has no estimated payment or withholding made on behalf of the child.

If the parents take the IRC Section 1(g)7 election, the amount of the child’s unearned income in the parents’ AGI is subject to Michigan income tax. The amount must also be included in total household resources when computing the property tax and home heating credits.

ADJUSTMENTS TO ARRIVE AT MICHIGAN TAXABLE INCOME

The following is a list of common additions and subtractions made on the Michigan income tax return.

Additions

Interest and dividend income from non-Michigan municipal obligations (add this income even if it comes through a fund, partnership, S corporation, estate, or trust)
Capital gain adjustments (from Michigan column of Adjustments of Capital Gains and Losses (Form MI-1040D) or Adjustments of Capital Gains and Losses From Sales of Business Property (Form MI-4797))

Losses from a business or property located in another state

Losses from the disposal of U.S. obligations to the extent used in arriving at AGI

Taxes on or measured by income (e.g., deduction for self-employment tax)

An unqualified withdrawal from education savings accounts under the Michigan Education Savings Program (MESP) Act if the amount was not included in AGI

Amount of federal net operating loss deduction (NOLD) used to reduce AGI

Refund received from a Michigan Education Trust (MET) contract.

**Subtractions**

Income from U.S. government obligations reduced by any expenses in carrying the obligation used in arriving at AGI

Income from a business or property located in another state

Compensation and retirement benefits received for services in the U.S. Armed Forces to the extent included in AGI. (Do not deduct compensation received from the U.S. Public Health Service.)

Retirement or pension benefits received from the service in the Michigan National Guard to the extent included in AGI

Retirement or pension benefits and sick pay received under the Railroad Retirement Act of 1974, 45 USC 231 to 231v to the extent included in AGI

Capital gain adjustments (from federal column of MI-1040D or MI-4797)

Retirement or pension benefits (these benefits are limited and are discussed in detail in a separate section on Retirement and Pension Benefits)

Dividend/interest/capital gains deduction for senior citizens (this subtraction is no longer available for individuals born after 1945)

Michigan state and local income tax refunds to the extent included in AGI

Property tax credit to the extent included in AGI

Social Security benefits to the extent included in AGI

Income earned while a resident of a Renaissance Zone that was certified or renewed before January 1, 2012
Contributions made to the MESP, not to exceed $5,000 for a single return or $10,000 for a joint return per year

The amount of an advance payment under a MET contract during the tax year

Contributions made to a Michigan ABLE savings account, not to exceed $5,000 for a single return or $10,000 for a joint return per year

Michigan net operating loss (NOL).

**Items Not Allowed as Subtractions**

Wages earned by a Michigan resident working in another state (a credit for taxes paid to another state may be available)

Itemized deductions from federal Schedule A

Unemployment benefits included in AGI

Sick pay, disability benefits, and wage continuation benefits paid to a taxpayer by their employer or by an insurance company under contract with the employer

Distributions from deferred compensation

Lottery winnings won on January 1, 1989 or later

Out-of-state gambling winnings taxed by another state (a credit for taxes paid may be available).

**MISCELLANEOUS DEDUCTIONS**

**Income From Oil and Gas Production and Nonferrous Metallic Minerals Extraction**

Beginning in 2012, the subtraction of gross oil and gas income from AGI as set forth in *Elenbaas v Department of Treasury*, 235 Mich App 372 (1999) was repealed. Individuals may now deduct the gross oil and gas income subject to Michigan severance tax, from AGI and must add back the related expenses to AGI.

Beginning January 1, 2013, taxpayers may deduct the gross income and add back the related expenses included in AGI from nonferrous metallic minerals extraction subject to Michigan severance tax.

**RENAISSANCE ZONES**

The Michigan Renaissance Zone Act, PA 376 of 1996, permitted the designation of specific regions in Michigan as Renaissance Zones. The Michigan Economic Development Corporation (MEDC) administers the Renaissance Zone program and conducts the zone selection process.
Generally, an individual living in or a business located and conducting business activities in a Renaissance Zone certified or renewed before January 1, 2012 will receive an exemption, deduction, or credit from the following State and local taxes:

**Individuals:**
- Michigan Income Tax
- Property Tax (except debt mills)
- City Income Tax (if applicable)
- Utility Users Tax (Detroit only)

**Businesses:**
- Property Tax (except debt mills)
- Portion of Michigan Business Tax and City Income Tax attributable to business activity in the zone.

No deduction or credit will be allowed if the taxpayer is delinquent in any taxes covered in the Renaissance Zone Act.

A designated zone may be located within the boundaries of a city or county, but there are no established zones that include an entire city or county. Contact the local authority to determine if you or your client lives within the boundaries of a zone.

Residents of a Renaissance Zone are eligible for a deduction on the Michigan income tax return after meeting the Zone residency requirement of at least 183 consecutive days. Persons whose gross income exceeds $1 million for the tax year are not eligible for the deduction. The taxpayer can deduct most income earned and received while a resident of the Zone. Form MI-1040 must be filed to claim the deduction. Once an individual has completed the 183-day residency requirement in a Zone, that individual should file a revised *Employee’s Michigan Withholding Exemption Certificate* (Form MI-W4) to claim exemption from Michigan income tax withholding. The employer should stop Michigan income tax withholding upon receipt of a revised MI-W4 and must forward a copy of the MI-W4 to Treasury.

Zones began phasing out in 2006. The tax exemption is phased out in 25 percent increments during the zone’s final three years of existence. Check with the client’s local unit of government to determine if the phase out has begun. The credit is reduced as follows:

- 25 percent for the tax year that is two years before the final year of the designation as a renaissance zone.
- 50 percent for the tax year immediately preceding the final year of the designation as a renaissance zone.
- 75 percent for the tax year that is the final year of the designation as a renaissance zone.

For information regarding the specific zones, visit the MEDC Web site at [www.michiganbusiness.org/renaissance-zones/](http://www.michiganbusiness.org/renaissance-zones/). For tax questions relating to the zones, contact Treasury at 517-636-4280.
RETIREMENT AND PENSION BENEFITS

For purposes of this section, the term “pension” will include retirement and pension benefits.

A subtraction may be allowed on the Michigan return for qualifying distributions from pension plans. Pension plans include private and public employer plans, and individual accounts governed by various sections of the IRC.

The pension subtraction involves two steps:

- **First**, the pension distribution must meet certain requirements to be characterized as a qualified distribution.

- **Second**, a qualified distribution may be subject to a dollar limitation on the amount of the subtraction. Beginning in 2012, the benefit may be further limited based on the date of birth of the retiree on a single return or the date of birth of the oldest spouse on a joint return.

**Step 1: Qualified Distribution Requirements**

Employer plans and individual plans each have rules for receiving pension distributions. For a pension distribution to qualify for the Michigan subtraction it must comply with the specific distribution rules under its plan.

**Employer Plans**

Employer plans are created by private companies and by public entities. The employer plan establishes the rules that govern retirement age and the pension formula for their employees. For both public and private employer plans, an employee must retire under the provisions of the plan, the pension benefits must be paid from a pension trust fund, and the payment must be made to either the employee or the surviving spouse. (Payments made to the surviving spouse are only deductible if the employee qualified for the subtraction at the time of death.)

Although traditional employer plans are defined contribution and defined benefit plans, many employers use 401(k) or 403(b) plans that incorporate employee match provisions.

Distributions from a 401(k) or 403(b) plan are qualified distributions to the extent that they are attributable to the employer’s contributions or employee’s contributions that were mandated by the plan. An employee’s contribution required by the plan to elicit an employer match is considered mandated. Amounts distributed from a 401(k) or 403(b) plan that allows the employee to set the amount of compensation to be deferred and does not prescribe retirement age or years of service do not qualify as pension benefits.

**Individual Plans**

Individuals may also have pension accounts created under various sections of the IRC that may or may not be part of an employer plan. To qualify for the Michigan pension subtraction, the distributions must meet the requirements set forth in the relevant section of the IRC.
**Individual Retirement Account (IRA) IRC 408 Distribution Requirements**

1. 59½ or older, or
2. Disability, or
3. Death - Distributions after the death of the participant may only be subtracted by a surviving spouse, and only if the distributions qualified as a subtraction for the participant at the time of death; or

Distributions from a Roth IRA are not included in AGI and are not subtractable on the Michigan return. Roth IRAs are discussed in more detail later in the text.

**Senior Citizen Annuity IRC 72 Distribution Requirements**

1. Received from a retirement annuity policy, and
2. For life, and
3. To a senior citizen.

For purposes of the retirement annuity subtraction, a senior citizen is defined in MCL 206.514(1) as an “individual . . . who is 65 years of age or older at the close of the tax year. The term also includes the unremarried surviving spouse of a person who was 65 years of age or older at the time of death.”

**Keogh or HR 10 Plans for the Self-Employed**

Distributions are subject to the same general rules for other retirement plans, usually not made until a participant separates from service, the plan is discontinued, or the participant reaches age 59½.

**The following distributions do not qualify for the pension subtraction:**

1. Deferred compensation plans that allow the employee to set the amount of compensation to be deferred and do not prescribe retirement age or years of service e.g. 401(k), 403(b), and 457 plans if all the contributions are made by the employee or if the employee makes contributions that do not elicit contributions by the employer.
2. Commercial Annuity Policies (unless the payments are made for life to a senior citizen)
3. Premature separation, withdrawal, or discontinuance of a plan prior to the earliest date the recipient could have retired under the provisions of the plan
4. Payments received as an incentive to retire early unless the distributions are from a pension trust
5. Eligible distributions received by a beneficiary of the decedent except the surviving spouse

6. Distributions that are sourced to rollovers from plans or contributions that do not qualify. (i.e., IRA distributions that are sourced to rollovers from a 457 plan.)

**Step 2: Dollar Limitations on Pension Subtractions**

Once it has been determined that a pension distribution has met the requirements of a qualified distribution set forth in Step 1, the next step is to determine if there are any dollar limitations on the amount of the Michigan pension subtraction.

For 2012 and future tax years, additional limitations on pension deductions have been added based on the year of birth of the retiree who is a single filer or on the year of birth of the oldest spouse for joint filers. The sections that follow first discuss dollar limitations based on year of birth. After the date of birth limitations have been discussed, the private pension limitations will be reviewed.

**Pension Limitations Based on Date of Birth**

MCL 206.30(8) defines “retirement or pension benefits.” MCL 206.30(9) provides limitations to the deduction, depending upon the birth year of the retiree, as well as filing status and marital status. Retirees are divided into three tiers based on date of birth of the taxpayer or the date of birth of the oldest spouse on a joint return.

**Tier 1:** For a taxpayer born before 1946, the additional restrictions or limitations imposed by PA 38 of 2011 to the deduction allowed under MCL 206.30(1)(f) do not apply.

**Tier 2:** For a taxpayer born in 1946 through 1952, the maximum pension deduction is $20,000 for a single return or $40,000 for a joint return. At age 67, the deduction is no longer restricted to pensions but can be applied to all income. This general deduction is sometimes referred to as a “standard deduction” because it is applied against all income. Taxpayers born during the period January 1, 1946 through December 31, 1949 and who have reached age 67 on or before January 1, 2017 are eligible for the standard deduction; however, the standard deduction against all types of income is not available to the extent the deduction for U.S. Armed Forces compensation and pension benefits, Railroad Retirement Act benefits or pension benefits from Michigan National Guard services is claimed. A taxpayer is considered to have reached age 67 on the day before their birthday.

Taxpayers who claim the standard deduction should not complete Pension Schedule (Form 4884).

Taxpayers who file a joint return and the older spouse was born prior to 1946 (Tier 1) are not eligible for the standard deduction.

If a taxpayer receives a pension from employment with a governmental agency that was not covered by the federal Social Security Act (SSA), the maximum pension deduction is increased. The “uncovered” taxpayer may deduct up to $35,000 of pension income on a single return and up to $55,000 of pension income on a joint return ($70,000 on a joint return only if both spouses were “uncovered”). At age 67, this taxpayer may deduct these increased amounts as the “standard deduction” against all income; however, the deduction against all types of income is not available to the extent the deduction for U.S. Armed Forces compensation and pension benefits, Railroad Retirement Act benefits or pension benefits from Michigan National Guard Services is claimed.
Tier 3: For most taxpayers born after 1952, there is no pension deduction in 2016. However, for some taxpayers in Tier 3, at age 62 there is the limited deduction if a taxpayer receives a pension from employment with a governmental agency that was not covered by the federal SSA. The “uncovered” taxpayer, who is at least 62, may deduct up to $15,000 or up to $30,000 if both spouses were “uncovered.”

All taxpayers in Tier 3 are eligible for the $20,000 single/$40,000 joint standard deduction upon reaching age 67.

<table>
<thead>
<tr>
<th>INCOME TAX FOR RETIREMENT BENEFITS</th>
<th>EFFECTIVE FOR TAX YEAR 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxpayers born before 1946 (Tier 1)</td>
<td>Taxpayers born 1946 through 1952 (Tier 2) Before the taxpayer reaches age 67</td>
</tr>
<tr>
<td>• Social Security is exempt.</td>
<td>• Social Security is exempt.</td>
</tr>
<tr>
<td>• Senior citizen subtraction for interest, dividends, and capital gains up to $11,115 for single filers and $22,229 for joint filers.*</td>
<td>• Railroad and Michigan National Guard pension is exempt.</td>
</tr>
<tr>
<td>• Public pensions exempt.</td>
<td>• Military compensation and pension is exempt.</td>
</tr>
<tr>
<td>• Private pensions, subtract up to $49,861 for single filers and $99,723 for joint filers.</td>
<td>• Not eligible for the senior citizen subtraction for interest, dividends, and capital gains.</td>
</tr>
<tr>
<td>*Subtraction may be limited if pension benefits are also subtracted.</td>
<td>• Public and private pension limited subtraction of $20,000 for single filers or $40,000 for joint filers.</td>
</tr>
<tr>
<td></td>
<td>• Pensions from employment with governmental agencies not covered by the Social Security Act. $35,000 for single filer, $55,000 for joint filers, or $70,000 for joint filers if both spouses worked for an “uncovered” agency.</td>
</tr>
<tr>
<td>After the taxpayer reaches Age 67</td>
<td>After the taxpayer reaches Age 67 (will first occur in 2020)</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>----------------------------------------------------------</td>
</tr>
<tr>
<td>• Social Security is exempt.</td>
<td>• Not eligible for the senior citizen subtraction for interest, dividends, and capital gains.</td>
</tr>
<tr>
<td>• Railroad and Michigan National Guard pension is exempt (see below).</td>
<td>• Not eligible for public or private pension subtraction.</td>
</tr>
<tr>
<td>• Military compensation and pension is exempt (see below).</td>
<td>• Income exemption election:</td>
</tr>
<tr>
<td>• Not eligible for the senior citizen subtraction for interest, dividends, and capital gains.</td>
<td></td>
</tr>
<tr>
<td>Eligible for <strong>Standard deduction:</strong></td>
<td></td>
</tr>
<tr>
<td>• Subtraction against all income of $20,000 for single filers and $40,000 for joint filers.</td>
<td>Elect exemption against all income of $20,000 for single filers or $40,000 for joint filer</td>
</tr>
<tr>
<td>• Subtraction increased to $35,000 for single filers and $55,000 for joint filers with pensions from employment with governmental agencies not covered by the Social Security Act, or to $70,000 for joint filers if both spouses worked for an “uncovered” agency.</td>
<td>Note: No exemption for Social Security, Military compensation and pension, and Railroad/Michigan National Guard pension. No personal exemptions</td>
</tr>
<tr>
<td>• Not eligible for this income subtraction to the extent Military income and Railroad/Michigan National Guard pension exemption is claimed.</td>
<td>OR</td>
</tr>
<tr>
<td></td>
<td>Elect to exempt Social Security, Military compensation and pension, and Railroad/Michigan National Guard pension. May claim personal exemptions.</td>
</tr>
</tbody>
</table>

**Unlimited Public Pension Subtraction**

Applies only to retirees born before 1946 (Tier 1).

**Michigan and Federal Public Pensions**

Federal or Michigan public pensions are no longer totally exempt for all taxpayers. The amount that may be deducted depends on the year of birth for a retiree who is single filer or on the year of birth of the oldest spouse for joint filers.

Public pensions include benefits received from the federal civil service, State of Michigan, political subdivisions of Michigan, military, and railroad pensions. If the requirements of the plans under Step 1 are met, these distributions may be deductible depending on the age of the filers.
Public Pensions From Other States

Michigan allows a pension subtraction for public pensions earned in other states by Tier 1 retirees if the other state permits a deduction, or exemption of a retirement or pension benefit received from a Michigan public retirement system. To the extent included in AGI, Michigan allows the greater of:

- $49,861 for a single return or $99,723 for a joint return for the 2016 tax year (private pension limits)

  OR

- Amount allowed as a deduction or exemption by the other state to its residents on public pensions received from Michigan.

For most public pensions from other states, the Michigan subtraction for Tier 1 retirees will be limited to the private pension limits of $49,861 or $99,723. However, there are 14 states that allow a complete exemption for public pensions earned in Michigan and one state that has a higher pension deduction than Michigan’s private pension limits.

The following states allow a 100 percent deduction or exemption for their residents who receive Michigan public pensions. Therefore, for Tier 1 retirees (those born before 1946), the full amount of the pension distribution included in AGI is subtractable on the Michigan return for public pensions received by Michigan residents from the following states:

- Alaska
- New Hampshire
- Florida
- Pennsylvania
- Hawaii
- South Dakota
- Illinois
- Tennessee
- Massachusetts
- Texas
- Mississippi
- Washington
- Nevada
- Wyoming

For all other public pensions from states other than the 14 with complete exemptions, the Michigan private pension limits will be the maximum subtraction allowed for Tier 1 retirees. For all other retirees the pension limitations are based solely on date of birth and there is no difference between a private and a public pension.

Combined Public and Private Pension

Applies only to retirees born before 1946 (Tier 1).

A taxpayer with a pension from both public and private sources must reduce the maximum allowable subtraction for the private pension by any claimed subtraction for military compensation and pension benefits, and railroad, Michigan National Guard, or other public pension distribution.

Private Pensions

Private pensions include employer plans and individual plans such as IRAs and senior citizen annuities. The maximum subtraction allowed for a Tier 1 retiree with a private pension is adjusted annually by the percentage increase in the U.S. Consumer Price Index. The maximum deduction for the 2016 tax year is $49,861 on a single return and $99,723 for a joint return.
The following table outlines the annual maximum private pension deductions for retirees born before 1946 (Tier 1):

<table>
<thead>
<tr>
<th>Tax Year</th>
<th>Single Return</th>
<th>Joint Return</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>47,309</td>
<td>94,618</td>
</tr>
<tr>
<td>2013</td>
<td>48,302</td>
<td>96,605</td>
</tr>
<tr>
<td>2014</td>
<td>49,027</td>
<td>98,054</td>
</tr>
<tr>
<td>2015</td>
<td>49,811</td>
<td>99,623</td>
</tr>
<tr>
<td>2016</td>
<td>49,861</td>
<td>99,723</td>
</tr>
</tbody>
</table>

**Railroad Pension Benefits**

The taxable amount of railroad pension income included in AGI may be subtracted on the Michigan return. Portions of a railroad pension are reported as Social Security on the federal return; however, these benefits should be subtracted as railroad pension on the Michigan return, not as Social Security.

**Pension Subtraction Examples**

**Example 1: Combined Public and Private Pension distributions.**

Sam is retired and single and born before 1946. He has a State of Michigan pension of $33,000 and a private pension of $18,000. His total pension deduction for 2016 is determined as follows:

- Maximum Private Pension Deduction $49,861
- Less: Public Pension -33,000
- Allowable Private Pension Subtraction $16,861

Sam’s total pension subtraction is:
- Public $33,000
- Private 16,861

Total $49,861

If Sam’s public pension was more than $49,861, he would not be able to subtract any of his private pension.

**Example 2: Employer and Employee contributions to a 401(k) plan.**

Stuart’s employer established a 401(k) plan for its employees. The plan provides for a 50 percent employer match of employee contributions up to the maximum employer match of 3 percent of the employee’s salary. The plan also allows the employees to make additional unmatched contributions up to the annual percentage rate allowed by the IRC. In 2016, Stuart retired under the provisions of the retirement plan at age 60. At the time of his retirement, Stuart received an annual statement from the 401(k) plan showing total contributions of $400,000, of which $100,000 were employer contributions. Stuart took a distribution of $25,000 in 2016, the year he retired.
Since the plan includes unmatched employee contributions, Stuart must determine what amount of the $25,000 distribution is attributed to the unmatched contributions. The plan called for a 50 percent employer match; therefore, $200,000 of the employee contributions was required to elicit $100,000 employer matching contributions. The remaining account balance of $100,000 is unmatched employee contributions. The deductible amount of the 2016 distribution is determined as follows:

\[
\frac{100,000}{400,000} \times 25,000 = 6,250 \text{ (distribution attributed to unmatched contributions)}
\]

\[
25,000 - 6,250 = 18,750 \text{ (Maximum allowable pension subtraction. Actual subtraction may be further limited based on the date of birth of the retiree.)}
\]

**Conversion of Roth IRAs**

A Roth IRA is treated differently than a traditional IRA under the IRC. Under a traditional IRA, the contributions are excluded from AGI but the distributions are taxed. Under a Roth IRA the reverse occurs; the contributions are taxed and the distributions are not.

Contributions to a Roth IRA are not tax exempt and are subject to the Michigan income tax to the extent the contributions are included in federal AGI.

A conversion from a regular IRA to a Roth IRA is subject to Michigan income tax to the extent the conversion is included in federal AGI. If an individual is 59½ when the conversion occurs, the individual may deduct the conversion as a pension deduction within the statutory limits for deducting pension income.

A conversion from a regular IRA to a Roth IRA is subject to Michigan income tax for a taxpayer moving into and domiciled in Michigan to the extent the conversion is included in AGI. A taxpayer moving from Michigan to another state is not taxed on the amount of a conversion from a regular IRA to a Roth IRA during the years the taxpayer is not domiciled in Michigan.

A qualified distribution from a Roth IRA is not subject to Michigan income tax because the distribution is not included in federal AGI.

A conversion from a regular IRA to a Roth IRA is included in total household resources in the year the income is included in the taxpayer’s federal AGI. The amount of a qualified distribution in excess of a taxpayer’s contributions (conversion or regular contributions) must be included in total household resources. A nonqualified or taxable distribution from a Roth IRA must be included in total household resources to the extent it is included in a taxpayer’s federal AGI. Investment losses from the liquidation of a Roth IRA are not allowed in total household resources.

**Note:** All pension income must be included in total household resources except for any nondeductible contributions that are included in the pension distribution and any amounts that are rolled over into other plans. Generally, only the taxable portion of the pension benefits from the 1099-R is included in total household resources.
Litigation Affecting Rollover Into an IRA

*Magen v Dep’t of Treasury*, Mich App. Docket No. 302771 (2013) held that distributions from an IRA are not taxable where the entire principle in the IRA originally came from a tax-free (public) retirement plan. The taxpayer’s deceased husband had, prior to death, transferred his Michigan State University 403(b) retirement account (a tax exempt plan at the time) into a private IRA from which the taxpayer received distributions after her husband’s death. Although the IRA distributions exceeded the private pension limits, the taxpayer deducted the IRA distributions from her Michigan taxable income in 2011. Treasury disallowed the deductions to the extent they exceeded the maximum private pension subtraction limit. The court held that distributions from an IRA are not taxable where the entire principal in the IRA originally came from a tax-free retirement plan.

The impact of this decision depends, in large part, on the age of the recipient and how much of the public pension is exempt from taxation. However, practitioners should be aware of the flipside of this decision, which requires Treasury to “look through” the IRA distribution to the source of any rollovers. Thus previously when a taxpayer rolled a non-qualified 457 plan over to an IRA, if the distribution were qualified, Treasury would have allowed a subtraction up to the private pension limits. Under *Magen*, Treasury is required to look through the IRA distribution to its source, the 457 plan, for which no subtraction from taxable income is allowed.

Prior to January 1, 2012 public pensions were not subject to taxation in Michigan. Public Act 38 of 2011 made public pensions subject to income tax and conditioned eligibility for the exemption on the taxpayer’s date of birth.
2016 Pension Subtraction Table for Tier 1 Retirees

The 2016 deductible pension benefits are limited to the lesser of the amount included in AGI or the amounts shown below.

<table>
<thead>
<tr>
<th>Source of Pension Benefits</th>
<th>Single</th>
<th>Joint</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Civil Service</td>
<td>Amount included in AGI</td>
<td>Amount included in AGI</td>
</tr>
<tr>
<td>State of Michigan</td>
<td>Amount included in AGI</td>
<td>Amount included in AGI</td>
</tr>
<tr>
<td>Michigan political subdivisions</td>
<td>Amount included in AGI</td>
<td>Amount included in AGI</td>
</tr>
<tr>
<td>Private</td>
<td>$49,861</td>
<td>$99,723</td>
</tr>
<tr>
<td>Public pensions (from other states)</td>
<td>$49,861 or reciprocal limit, whichever is greater</td>
<td>$99,723 or reciprocal limit, whichever is greater</td>
</tr>
<tr>
<td>Qualified senior citizen retirement annuities</td>
<td>$49,861</td>
<td>$99,723</td>
</tr>
<tr>
<td>Public and private</td>
<td>Limited to public pension or $49,861, whichever is greater (cannot exceed actual qualified distributions received)</td>
<td>Limited to public pension or $99,723, whichever is greater (cannot exceed actual qualified distributions received).</td>
</tr>
</tbody>
</table>
### 1099 R Distribution Codes

Recipients of a pension distribution receive Form 1099R. There is a box on Form 1099R titled “Distribution code(s).” Look in the Distribution code(s) box for the number that describes the condition under which the pension or retirement benefit was paid.

<table>
<thead>
<tr>
<th>1099R Dist. Code</th>
<th>Description</th>
<th>Is the condition eligible for Michigan tax exemption? (Dollar and date of birth limits may still apply)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Early distribution, no known exception</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td>Early distribution, exception applies</td>
<td>No, unless:</td>
</tr>
<tr>
<td></td>
<td>- Part of a series of substantially equal periodic payments made for the life of the employee or the joint lives of the employee and employee’s beneficiary.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Early retirement under the terms of the plan.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Disability</td>
<td>Yes</td>
</tr>
<tr>
<td>4</td>
<td>Death</td>
<td>• Yes, for surviving spouse only and only if the decedent would have also qualified for a normal distribution under Distribution Code 7 at the time of death. This may be subject to limitations based on the year of birth of the decedent.</td>
</tr>
<tr>
<td></td>
<td>- No, for all other beneficiaries.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- No, if paid as a death benefit payment made by an employer but not made as part of a pension, profit-sharing, or retirement plan.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Prohibited transaction</td>
<td>No</td>
</tr>
<tr>
<td>6</td>
<td>Section 1035 exchange: tax-free exchange of life insurance, endowment insurance, and annuity contracts</td>
<td>No</td>
</tr>
<tr>
<td>7</td>
<td>Normal distribution: normal distribution from a plan; distribution from a traditional IRA if the participant is at least 59½; Roth conversion if the participant is at least age 59½; or distribution from a life insurance, annuity, or endowment contract</td>
<td>Yes</td>
</tr>
<tr>
<td>8</td>
<td>Taxable excess contribution plus earnings/excess deferrals and/or earnings</td>
<td>No</td>
</tr>
<tr>
<td>9</td>
<td>Cost of current life insurance protection</td>
<td>No</td>
</tr>
</tbody>
</table>

### DEFERRED COMPENSATION

Distributions received from deferred compensation plans which allow the employee to set the amount of compensation to be deferred and do not prescribe retirement age or years of service are treated as ordinary income. Deferred compensation distributions are usually not considered pension income and may not be subtracted on the Michigan return even when a distribution code 7 is indicated on the 1099R.
Federal law, 4 USC 114, prohibits a state from taxing certain deferred compensation distributions received by a nonresident. Therefore, nonresidents are not subject to Michigan income tax on distributions from deferred compensation plans as defined in IRC Sections 401(k), 457, and 3121(v)(2)(c).

**INTEREST, DIVIDENDS, AND CAPITAL GAINS DEDUCTION FOR SENIOR CITIZENS BORN BEFORE 1946**

Senior citizens born before 1946 may take a deduction for interest, dividends, and capital gains up to $11,115 for a single return and $22,229 for a joint return for the 2016 tax year. The deduction is adjusted by the percent increase in the U.S. Consumer Price Index each year. This maximum deduction must be reduced by the amount of deduction taken for pension income.

**Example:**

**Step 1:** James and Joanne are married and file a joint income tax return. James was born before 1946. A partial listing of their income is as follows:

- Pension Income: $6,000
- Capital Gains: $13,000
- Dividend Income: $1,800
- Interest Income: $3,800

**Step 2:** Calculation of interest, dividend, and capital gains deduction:

- Maximum Deduction: $22,229
- Less: Pension Subtraction: $6,000
- Maximum Allowable Deduction: $16,229

**Step 3:** Total interest, dividends, and capital gains = $18,600

**Step 4:** Use the lesser of the total interest, dividends, and capital gains ($18,600) or the maximum allowable deduction ($16,229).

**Step 5:** The interest, dividends, and capital gains deduction for James and Joanne is $16,229.

The term “senior citizen” for purposes of this deduction, refers to a person 65 years of age or older or an unremarried surviving spouse of an individual who was 65 years of age or older at the time of death. Beginning in 2012, this deduction is available only to taxpayers born before 1946 or the surviving spouse.

**529 EDUCATION PLANS**

**Michigan Education Savings Program**

MESP is administered by Treasury and managed by Teachers Insurance Annuity Association-College Retirement Equities Fund (TIAA-CREF). To open an education savings account, an individual must enter into an agreement with the program manager. The total of all account balances on any beneficiary cannot exceed $500,000.
Distributions from the account must be used to pay qualified higher education expenses incurred after the account is established. A nonqualified distribution will be subject to a penalty of 10 percent of the distribution if no federal penalty is imposed on the nonqualified withdrawal.

A deduction may be taken on the Michigan income tax return for contributions made to the MESP on or after October 1, 2000. The maximum deduction is $5,000 for a single filer ($10,000 for a jointly filed return). The amount deducted includes total contributions made to the plan less qualified withdrawals made during the tax year. A taxpayer must add to federal AGI any nonqualified withdrawal from the MESP in the year of the withdrawal.

Interest earned on contributions made to an MESP account may be deducted to the extent included in AGI. The beneficiary of the MESP account may deduct qualified withdrawals to the extent included in AGI.

For more information on the MESP contact MESP at 1-877-861-MESP, info@misaves.com, or www.misaves.com.

**Michigan Education Trust**

MET allows parents, grandparents, and others to prepurchase undergraduate in-state and in-district tuition for a child at any Michigan public college, university, junior college, or community college.

Payments made under an advance payment contract in MET during the tax year are deductible to the extent they are included in federal AGI on a purchaser’s Michigan income tax return. The contract processing fee may also be subtracted on the Michigan return. Interest payments made on loans to finance the contract are not deductible. MET contracts are only set up in specified enrollment periods.

Earnings on the qualified distributions are tax-free on the beneficiary’s federal and State income tax returns. A nonqualified distribution is subject to federal and State income tax.

For more information or contract materials, contact MET at 1-800-MET-4-KID, treasMET@michigan.gov, or www.michigan.gov/setwithmet.

**Coverdell Educational Savings Account (formerly Educational IRA)**

The Coverdell Educational Savings Account (Coverdell ESA) is structured as a trust or a custodial account for the purpose of paying educational expenses of a designated beneficiary and follows the same general rules as other IRAs.

The contributions made to a Coverdell ESA are not tax deductible. The contributions are limited to $2,000 a year.

The distributions from a Coverdell ESA are tax-free if they do not exceed the beneficiary’s qualified educational expenses to an approved educational institution. An approved institution is any accredited postsecondary educational institution offering credit towards an associates, bachelors, graduate level, or professional degree.

Any investment earnings will accrue tax-deferred or tax-free. However, any distribution that is included in AGI is taxable in Michigan.
Michigan Achieving a Better Life Experience Program (ABLE)

The Michigan ABLE Act, signed into law October 28, 2015 and made effective January 26, 2016, created a new savings program under the authority of Internal Revenue Code Section 529A, which is aimed at encouraging and assisting individuals and families to save private funds to support individuals with disabilities. The program is administered by Treasury and will be similar to Treasury’s administration of higher education savings accounts (529 Plans). At the time of publication of this manual, Treasury was in the process of identifying a program manager and will provide more information on how to set up an ABLE account once that process is complete.

Contributions to an ABLE account are made with after-tax dollars and may not exceed the annual federal gift tax exclusion amount (currently $14,000) per single contributor for each designated beneficiary. Total aggregate contributions may not exceed $500,000 for all accounts of the same designated beneficiary.

Distributions from the account must be used to pay for the qualified disability expenses of the eligible designated beneficiary of the account. To the extent that distributions exceed a designated beneficiary’s qualified disability expenses, the earnings portion of distributions is includible in the gross income of the designated beneficiary. A taxpayer must add to federal AGI any nonqualified withdrawal from an ABLE account in the year of the withdrawal to the extent a deduction was claimed for the amount withdrawn.

A deduction may be taken on the Michigan income tax return for contributions made to an ABLE account. The maximum deduction is $5,000 for a single filer ($10,000 for a jointly filed return). The amount deducted includes total contributions made to the plan less qualified withdrawals made during the tax year.

Interest earned on contributions made to an ABLE account may be deducted to the extent included in AGI. The beneficiary of the ABLE account may deduct qualified withdrawals to the extent included in AGI.

NONRESIDENTS’ TAXABLE INCOME

The following income of nonresidents is subject to the Michigan income tax:

1. Salary, wages, commissions, and other personal service income for work performed in Michigan.

2. Income allocable or apportionable to Michigan, including portfolio income, from partnerships, S corporations, and limited liability companies having business activity in Michigan, or business or farm income from a sole proprietorship or farm located in Michigan. Significant changes to the apportionment of business income have occurred as a result of legislative changes taking effect in 2012 and the Michigan Supreme Court holding that combined apportionment under the unitary business principle may be used to calculate an individual’s taxable income at the election of the taxpayer. Malpass v Department of Treasury, 494 Mich 237 (2013). (See Flow-Through Entities Distribution of Income and Losses and Apportionment of Flow-Through Entities under the Unitary Business Principle section for more information.)
3. Rent and royalty income from real and tangible personal property located in Michigan.

4. Capital gains/losses from the sale or exchange of real or tangible personal property located in Michigan.

5. Patent or copyright royalties if the patent or copyright is used in Michigan or has a commercial domicile in Michigan.


7. Michigan casino winnings and winnings from pari-mutuel wagering at licensed horse racing meetings in Michigan.

8. Distributable net income received from a trust attributable to Michigan, including business income and gain from property located in Michigan.

Michigan has reciprocal agreements with Illinois, Indiana, Kentucky, Minnesota, Ohio, and Wisconsin that exempt nonresidents from income taxes imposed by each state on salaries, wages, and other employee compensation. Business income and gambling income are not subject to these reciprocal agreements. Business income is subject to the allocation and apportionment provisions in Chapter 3 of the ITA.

**Withholding for Nonresidents**

PA 21 of 2003 requires nonresidents to pay Michigan income taxes on winnings from casinos and pari-mutuel wagering at licensed horse racing meetings.

The act applies to winnings from casinos regulated under the Michigan Gaming Control and Revenue Act, tribal casinos where gaming is conducted under the federal Indian Gaming and Regulatory Act, and horse racing licensed under the Horse Racing Act of 1995.

PA 22 of 2003 amended the ITA to extend the withholding requirements that are currently imposed on employers so that they apply to:

1. Distributive share income from a flow through entity (FTE) earned by nonresident members

2. Winnings of nonresidents reportable under federal casino law by casinos licensed under the Michigan Gaming Control and Revenue Act, and

3. Winnings of nonresidents reportable under the federal law by race meeting licensees and track licensees operating under the Horse Racing law of 1995.

Beginning in 2012, the withholding requirements for FTEs with individual nonresident members were reenacted by the legislature as MCL 206.703. The withholding and reporting obligations of an FTE are discussed in detail in the Flow-Through Withholding chapter of this publication. An FTE is required to furnish to a nonresident individual member information about the taxable Michigan portion of the member’s distributive share and the amount of withholding in some manner, such as in the supplemental information to the federal schedule K-1 that the member receives from the FTE.
FLOW-THROUGH ENTITY DISTRIBUTION OF INCOME AND LOSSES

Business income derived from business activity in Michigan is subject to income tax. Business income can be sourced to a sole proprietorship or to an FTE. Income received from a “C corporation” is not business income if it is received as wages or dividends.

Modifications to the apportionment of business income have occurred because of a legislative change requiring the use of only the sales factor beginning in 2012. Changes to the apportionment of business income have also occurred as result of the Michigan Supreme Court holding that combined apportionment under the unitary business principle may be used to calculate taxable income at the election of the taxpayer. Malpass v Department of Treasury, 494 Mich 237 (2013). Combined apportionment is discussed in detail under a separate heading on apportionment of unitary businesses.

Income flowing through to a shareholder of an S corporation, a partner of a partnership, a member of a limited liability company, or the owner of any other FTE is business income and is subject to the allocation and apportionment provisions of the Michigan Income Tax Act.

The taxpayer’s distributive share of such income and losses shall be allocated or apportioned to the state where the business activity takes place using the three-factor apportionment formula for 2011 and earlier years and on only the sales factor beginning in 2012. The apportionment is computed on the Schedule of Apportionment (Form MI-1040H). Business income allocated or apportioned to Michigan is taxable to Michigan.

A Michigan resident may subtract from AGI income that is not allocated or apportioned to Michigan. Conversely, losses not allocated or apportioned to Michigan must be added to AGI.

Portfolio income is business income and is subject to allocation or apportionment. Portfolio income includes interest income, dividend income, royalty income, and net short-term and long-term capital gain (loss) reported on the federal Schedule D. Resident or nonresident individual taxpayers having portfolio income from a multistate partnership, S corporation, or other FTE must apportion this income using the apportionment formula as computed on MI-1040H.

A nonresident member of any FTE doing business in Michigan must file a Michigan return to report their distributive share of income from the FTE. To the extent included in AGI, the income is taxable even if it is not actually distributed to the member.

When filing Form MI-1040H, note that the computation of the apportionment percentage is not the same for IIT as for Michigan Business Tax (MBT) or Corporate Income Tax (CIT). When computing the sales factor, throwback sales for IIT follow Public Law (PL) 86-272 standards. Also, foreign sales can be included in the numerator for IIT purposes. The IIT standard for determining if the taxpayer is taxable in another state uses the PL 86-272 nexus criteria. In general, a taxpayer’s business must have property in another state or activity that goes beyond solicitation of sales to be taxable in the other state.

An S corporation is permitted to own a qualified subchapter S subsidiary (QSub). The term includes any domestic corporation that qualifies as an S corporation and is 100 percent owned by an S corporation parent, which elects to treat it as a QSub. The assets, liabilities, and items of income, deduction, and credit of the QSub are treated as those of the parent S corporation.
**Business, Rental, and Royalty Activity Worksheet**

When a taxpayer has non-Michigan business activity and income not subject to tax in Michigan that is included in federal AGI, the taxpayer is required to provide information regarding that income, including the type and location of the business activity and a description of the income not taxable in Michigan. The business activity spreadsheet, Business, Rental, Royalty, Activity Worksheet (Business Activity Worksheet), is intended to aid individuals and tax preparers in providing this information and in reconciling the taxpayer’s MI-1040 to their federal 1040. The Business Activity Worksheet can be obtained by visiting [www.michigan.gov/iit](http://www.michigan.gov/iit) and selecting the “Tax Forms and Instructions” link. The Business Activity Worksheet is not a required attachment, however submitting the worksheet could reduce the need for further correspondence and avoid delays in processing the return.

The Business Activity Worksheet allows taxpayers to identify the location of Michigan and non-Michigan business activity and rental activity. It also allows other non-business income to be identified as Michigan or non-Michigan income. To provide the required information, attach the Business Activity Worksheet to an e-filed or paper filed return. The Business Activity Worksheet, or any similar worksheet that identifies the type and location of Michigan and non-Michigan business activity and income, may be included as a PDF attachment with an e-filed return using the file name “BusinessActivity.pdf.” The Business Activity Worksheet or similar worksheet may also be attached to a mailed paper return.

**Composite Individual Income Tax Return for Nonresident Partners/Shareholders/Members**

Partnerships, S corporations, limited liability companies, and other FTEs can file a *Composite Individual Income Tax Return* (Form 807) for nonresident partners/shareholders/members. The FTE must have two or more nonresident partners/shareholders/members who participate on the Form 807. Form 807 is an individual income tax return ultimately filed on behalf of nonresident individuals or trusts. FTEs may not file Form 807 on behalf of C-corporation members.

FTEs whose tax year begins before July 1, 2016, must withhold income tax on the taxable distributive share of net profits reported on the federal schedule K-1 even if the members do not receive a distribution of income. FTEs required to withhold must register with Treasury and file quarterly withholding returns. The withholding requirements for income tax do not affect any obligation that the entities or their members may have under the MBT Act. FTEs not required to withhold must remit quarterly estimated tax with *Fiduciary Voucher for Estimated Income Tax* (MI-1041ES) vouchers for members who will participate in the composite filing.

The participants can be other FTEs as well as individuals. Individual participants who have other Michigan income which requires them to file a MI-1040 return may not subtract the income reported on the composite return, but may claim a credit on the MI-1040 for their share of the tax paid on a composite return. The credit should be entered on the MI-1040 as if it were tax withheld.

**PA 0158 of 2016 Elimination of Flow-Through Withholding (FTW)**

FTEs whose tax year begins after June 30, 2016 are no longer subject to FTW requirements under the provisions enacted in PA 0158. FTEs with a tax year that begins after June 30, 2016 who file Form 807 may have to file estimated tax vouchers and pay estimated tax on behalf of each participant. Estimated vouchers and payments are required if the annual income tax liability for each participant is expected to exceed $500 after exemptions and credits.
Estimated payments should only be remitted for those members who will participate in the composite filing. The estimated payments must be remitted with a MI-1041ES voucher with the name of the FTE and the FTE’s Federal Employer Identification Number (FEIN). Write “Composite Return” at the top of the voucher.

FTEs using a calendar tax year must file vouchers and pay quarterly estimated tax by April 15, July 15, October 15, and January 15. FTEs that are not using a calendar year must file vouchers and pay quarterly estimated tax on the appropriate due dates that, in the FTEs fiscal year, correspond to the calendar year. Fiscal year filer due dates apply regardless of the tax years of the participants.

**APPORTIONMENT OF INCOME FROM FLOW-THROUGH ENTITIES UNDER THE UNITARY BUSINESS PRINCIPLE**

In 2013, the Michigan Supreme Court held that combined apportionment under the unitary business principle may be used to calculate IIT taxable income at the election of the taxpayer. *Malpass v Department of Treasury; 494 Mich 237 (2013).* Treasury previously applied the unitary business principle to each discrete legal entity’s business operations. The holding by the Michigan Supreme Court is retroactive. Amended returns are required if business income is subject to apportionment and the taxpayer elects to apply the combined method.

The due process and commerce clauses of the U.S. Constitution impose limitations on a state’s power to tax activity beyond its borders. However, when an entity operates in more than one state, the task of assigning income among the various states becomes difficult. The U.S. Supreme Court permits states to tax a business on an apportionable share of the multistate business based on the proportion of activity that took place in the taxing state. This is known as the unitary business principle. A unitary business is one that has a flow of value between its various operations or entities. Factors that establish flow of value include functional integration, economies of scale, and centralized management.

Combined apportionment means that if an FTE operates solely in another state or foreign country and another FTE that is part of the same related or tiered structure has some or all of its activity in Michigan, then the income of all tiers or related FTEs must be combined and apportioned using the combined factors of all FTEs. Prior to the Michigan Supreme Court ruling, an FTE with no activity in Michigan would have no part of its income apportioned to Michigan.

Related or tiered FTEs will be considered unitary if they share centralized management, even if the management is from an outside source that is otherwise independent of the tiered structure, or if they share employee services. Unlike Michigan Corporate Income Tax, there is no “water’s edge.”

The *MI-1040H Unitary Apportionment Worksheet* (Unitary Worksheet) is a simple worksheet that demonstrates the required information taxpayers must provide when apportioning unitary business income. The Unitary Worksheet, or any similar worksheet that identifies the members in the group and shows the combining calculations, may be attached as a PDF file to an e-filed return using the file name “UnitaryCalculation.pdf.” The Unitary Worksheet or similar worksheet may also be attached to a paper filed return. The Unitary Worksheet is not a required attachment, however submitting the required information with the worksheet could reduce the need for further correspondence avoid delays. The Unitary Worksheet can be obtained by visiting [www.michigan.gov/iit](http://www.michigan.gov/iit) and selecting the “Tax Forms and Instructions” link.
ADJUSTMENTS OF CAPITAL GAINS AND LOSSES

The purpose of Adjustments of Capital Gains and Losses (Form MI-1040D) is to exclude from Michigan taxable income gains and losses that are not subject to tax by Michigan. Michigan has had IIT since October 1, 1967. If a taxpayer sells property that they owned prior to that date, only that portion of the gain attributable to the time Michigan has had an income tax can be taxed. Similarly, if the gain was attributable to another state and therefore not subject to Michigan tax, it cannot be included in Michigan taxable income. The MI-1040D adds in the Michigan gain and subtracts out the federal gain so the taxpayer is only taxed on the Michigan portion. If the MI-1040D computes to a loss, the federal loss is added back in the same manner as an out-of-state loss and the Michigan loss is subtracted. Ultimately, the MI-1040D functions to remove the federal gain or loss and replace it with the Michigan gain or loss to arrive at Michigan taxable income. If the Michigan gain or loss is identical to the federal gain or loss, it is not necessary to file the MI-1040D.

MI-1040D for the adjustment of capital gains and losses must be used if any of the following are true:

1. Taxpayer disposes of assets acquired prior to October 1, 1967, and elects to exclude gains or losses under Section 271.
   
   To apportion under Section 271:
   
   Multiply gain or loss by number of months property was held after September 30, 1967. Then divide the result by the total number of months held.

2. Taxpayer has gains or losses from the sale or exchange of U.S. obligations that cannot be taxed by Michigan.

3. Taxpayer has gains or losses from property subject to the allocation and apportionment provisions.

Example: Robert, a Michigan resident, reported the following capital gains on his federal Schedule D:

From sale of stock $9,800
From sale of real property in Phoenix, Arizona 5, 800
Total Schedule D capital gain $15,600

After preparing the MI-1040D, the $15,600 total capital gain is reported as a subtraction from AGI on the MI-1040, and the $9,800 capital gain on the sale of stock is reported as an addition to AGI on the MI-1040. This removes the $5,800 gain from the sale of real property in Phoenix, Arizona from Michigan taxable income.
NET OPERATING LOSS CARRYBACK AND CARRYFORWARD

MCL Sections 206.30(1)(m) and (n) were enacted by legislative amendment in 1987 to provide an NOL deduction for Michigan income tax purposes. Several court cases (Preston v. Department of Treasury, 190 Mich App 4941, 476 NW 2d 455 (1991), and Beznos v. Department of Treasury, 224 Mich App 717; 569 NW 2d 908 (1997)) have clarified the income tax treatment of the Michigan NOL and NOL deduction. In Preston, the Michigan Court of Appeals ruled that a taxpayer could have a Michigan NOL in the absence of a corresponding federal NOL. In Beznos, the Court held that the Michigan NOL deduction was not limited to the smaller of the federal NOL deduction or federal modified taxable income. In so ruling, the Court stated that the Michigan NOL and NOL deduction must be computed without federal itemized deductions.

As a result, Treasury calculates the Michigan NOL and NOL deduction independently of the federal NOL and NOL deduction. The Michigan NOL calculation is computed by applying the NOL provisions of IRC Section 172 to only income, losses, and deductions allocated and apportioned to Michigan under Chapter 3 of the ITA. The Michigan NOL is computed without regard to federal itemized deductions in the year of the loss, or income and losses and related expenses from oil and gas production, and nonferrous metallic minerals extraction that are subject to Michigan severance tax. The Michigan NOL so computed may then be subtracted in full on the Michigan return in the year to which it is properly carried.

For tax years beginning before 2012, the allowed NOL deduction used to reduce household income may not exceed federal modified taxable income, or the federal NOL deduction, whichever is smaller. The inclusion of the allowed NOL deduction in household income may be used to increase the amount of the homestead property tax credit and the farmland preservation tax credit. The NOL carryback cannot be used to claim a home heating credit.

For tax years 2012 and later, “household income” was replaced by “total household resources.” Neither the federal nor the Michigan NOL may be used to reduce total household resources for purpose of the home heating credit or the property tax credit.

Michigan follows the federal provisions in determining the eligible carryback or carryforward years. Generally, the Michigan NOL amount may be carried back two years. Any unused balance may be carried forward 20 years. Any federal domestic production activities deduction under IRC 199, attributable to Michigan, must be added back in calculating a Michigan NOL and also removed from the calculation of NOL carryforwards.

NOL Frequently Asked Questions

1. Q. If a return with an NOL is filed after the four-year statute of limitations for claiming a refund has expired, does the taxpayer lose the benefit of the NOL?

   A. The taxpayer cannot file a claim for a refund for any years that are beyond the four-year statute of limitations. (Exception: If the loss year (NOL year) return is filed within four years of the due date, the NOL may be carried back to a year that is otherwise outside of the statute of limitations and a refund will be issued.) However, the taxpayer must use the Michigan NOL to the extent of Michigan income subject to tax in the closed years to determine the amount that can be carried forward to years that are filed within the four-year statute of limitations and before carrying forward the balance of any remaining NOL.
2. Q. Can a taxpayer create a Michigan NOL if there is no corresponding federal NOL?

A. Yes, based on the Appeals Court decision in *Preston v Michigan Department of Treasury*. Complete *Application for Net Operating Loss Refund* (Form MI-1045) to determine the amount of the Michigan NOL. This may occur when a taxpayer has income from other states or income from oil and gas production and nonferrous metallic minerals extraction that are subject to Michigan severance tax.

3. Q. What are the implications on an NOL carryback/forward when the filing status of an individual changes (e.g., joint to separate or single)?

A. **Year of NOL** | **Year of Carryback/forward**
--- | ---
Joint NOL | Single or separate return filed - determine each individual’s share of the joint NOL and apply their share to their separate or single returns.
Married, Filing Separate | Joint return filed - apply NOL to the joint return.
Single | Joint return filed - separate individuals’ income and deductions and apply NOL to the individual sustaining an NOL as a single individual.

4. Q. Can there be a difference in the amount of a Michigan NOL and a federal NOL?

A. Yes, the Michigan NOL is computed without considering federal itemized deductions as well as income and losses attributable to other states and income and losses from oil and gas production and nonferrous metallic minerals extraction subject to Michigan severance tax.

5. Q. Can an NOL carryback/forward be used to reduce household income? (Applies to years before 2012 and when computing the Farmland Preservation Tax Credit.)

A. Yes, to the extent of a taxpayer’s federal modified taxable income. Remember, the federal NOL deduction is not subject to apportionment for household income purposes. For tax years 2012 and later, “total household resources” replaces “household income.” An NOL cannot be used to reduce “total household resources.”

6. Q. Must Form MI-1045 be filed or can Form MI-1040X/MI-1040X-12 be filed?

A. If carrying the loss back, Form MI-1045 must be filed. A copy of the original Form MI-1045 must also be submitted in years when losses are carried forward.
7. Q. What should be included in income reported on page 1 of the MI-1045?

A. Page 1 should reflect the Michigan portion of federal AGI. It should not include income or losses from other states. It should not include gross income from oil and gas royalties subject to Michigan severance tax and beginning in 2012, it should not include the expenses related to that income subject to severance tax. Beginning in 2013, do not include income and related expenses from nonferrous metallic minerals extraction subject to Michigan severance tax.

8. Q. Should a State or local refund be included even though it is not taxable to Michigan?

A. Yes, any state or local refund included in federal AGI should be included on page 1 of Form MI-1045. It is used in the computation of the MI-1045.

9. Q. Should pension income or SSI be reported even though it may not be taxable on the Michigan return?

A. Yes, any portion of pension or SSI included in federal AGI for the loss year must be included in the MI-1045 computation.

10. Q. What must be sent to verify a taxpayer is a Day Trader?

A. Day Traders must include a copy of an approved 475(f) election from the IRS.

11. Q. Is the NOL amount allowed as a deduction to household income for years before 2012 and for the Farmland Preservation Credit the same as the amount computed on page 1 of the MI-1045?

A. No, the NOL deduction allowed in household income is limited to federal modified taxable income or the federal NOL deduction, whichever is less.

12. Q. What documentation is necessary to support an NOL claim?

A. A copy of the federal return for the loss year, a copy of the completed federal 1045 (if applicable), the state of location for any claimed business losses on federal schedules, a copy of any attachments indicated on federal schedules, K-1’s, Adjustments of Gains and Losses From Sales of Business Property (MI-4797), MI-1040D, and MI-1040H must be submitted to verify any apportionments.

13. Q. How is a carryforward documented in a succeeding tax year?

A. A copy of the original MI-1045 prepared for the year the loss was incurred and a copy of the worksheet showing how the loss has been used in previous and succeeding years should always be submitted to verify the claimed carryforward.
14. Q. After claiming a Michigan NOLD, how is a remaining carryforward determined?

A. To determine how much of a Michigan NOL remains, if any, after being carried to another year, a calculation must be made to determine how much Michigan income was offset in the carryover year. To calculate this amount, determine income subject to Michigan tax (before the exemption allowance) without regard to the subtraction allowed for the Michigan NOLD. If this amount is greater than the Michigan NOLD, the entire NOL is used up and none is available to carry to the next year. If this figure is less than the Michigan NOLD, the difference will be the NOL amount available to be carried to the next year (before any required adjustment to remove Michigan DPAD).

**Tips for Filing**

1. When completing Form MI-1045, exclude income and losses from other states in Part 1.

2. The main concerns when reviewing a return with an NOL deduction are determining if:
   - The allocation and apportionment provisions of the ITA have been complied with
   - For years before 2012 and for the Farmland Preservation Tax Credit, the NOL deduction has been correctly limited to federal modified taxable income in the schedule of household income on the refundable credit claims (e.g., homestead property tax credit). Beginning in 2012, the federal NOL is not part of total household resources.

3. To claim a refund from a carryback of a Michigan NOL, complete and file Form MI-1045. If any of the refundable credits are affected by the NOL carryback, a copy of the revised credit claim form must be attached. Form MI-1040X/MI-1040X-12 is not required to be attached to Form MI-1045.

4. To expedite processing, include copies of pages 1 and 2 of a taxpayer’s federal income tax return and all supporting federal tax schedules and statements when an NOL deduction is claimed for both the year of the loss and the year it is carried to. If the information is not attached, Treasury may write to the taxpayer and request copies of these schedules and statements.

5. When listing an NOL deduction on a 2011 or earlier return, specifically identify the amount. Many times a notation is made, such as miscellaneous deductions, which includes other items (e.g., jury duty, directors’ fees, etc.) that makes it impossible to determine what amount the taxpayer is claiming as an NOL deduction. Beginning in 2012, a Michigan NOL deduction is reported separately on the Schedule 1 and is not included on the miscellaneous subtractions line with these other items.

6. Be sure to attach a calculation of the amount of all NOLs included in the NOL deduction claimed on the Michigan return.

7. For years before 2012, enter allowable NOL deduction on line 25 on the property tax form MI-1040CR as other adjustments to income and write “NOL” on the line.
8. A taxpayer may create a federal NOL when AGI is greater than zero, which will result in a Michigan NOL deduction in the pre-2012 schedule of household income only and for the Farmland Preservation Credit. Itemized deductions may not be used to create a Michigan NOL deduction for Michigan taxable income purposes.

9. Casualty losses, employee business expenses, and other itemized deductions classified as business expenses for federal NOL purposes may create or contribute to a Michigan NOL deduction for pre-2012 household income purposes only and for the Farmland Preservation Tax Credit. Itemized deductions are not part of the calculation of a Michigan NOL. When calculating pre-2012 household income with a federal NOL deduction created in whole or in part by federal itemized deductions, include federal Schedule A and any related schedules (e.g., federal Casualties and Thefts (Form 4684) for the year in which the NOL occurred.

**GAMBLING INCOME**

Income from gambling activities from Indian or privately held casino’s games of chance, horse racing, lottery winnings, etc., is subject to Michigan income tax to the extent the winnings are included in federal AGI.

Both professional and casual gamblers must keep records sufficient to verify wagering gains and gambling losses claimed on their return. An accurate diary or other daily record should be maintained. A gambler deducting losses on his or her return must be able to provide receipts, tickets, statements or other records showing both the amount of winning and losses. Statement generated by gambling establishments and produced to the gambler are insufficient by themselves to document a taxpayer’s total watering gains and gambling losses.

Gambling losses may be deducted as an itemized deduction on federal Schedule A to the extent of gambling winnings on the federal income tax return. However, itemized deductions are deductions from AGI and, therefore, are not included in federal AGI. Because the computation of Michigan taxable income begins with federal AGI, gambling losses cannot reduce Michigan taxable income.

Casual gamblers may not net their gains and losses throughout the year and report only the net amount of gain or loss for the year in AGI. Treasury accepts the session method for purposes of computing a casual gambler’s gambling income resulting from slot machine wagering transactions. A session of play begins when a gambler places the first slot machine wager and ends when the same gambler completes his or her last slot machine wager before the end of the same calendar day at the same gambling establishment. A casual gambler who plays slot machines may net gains and losses at the end of each slot machine session in determining income to report in AGI. Casual gamblers may not subtract gambling losses from AGI in computing Michigan taxable income. Casual gamblers must provide proof of the slot machine sessions according to standards set forth in the IRS Publication 529. Also see RAB-2016-3 Income Tax - Treatment of Gambling Gains, Losses, and Expenses.

Michigan residents who are casual gamblers cannot subtract out-of-state gambling winnings from AGI. However, a credit against the tax may be available. Professional gamblers with gambling winnings in Michigan and other states must apportion their gambling business income according to the apportionment provisions in Chapter 3 of the ITA.
MILITARY PAY

Pay received by members of the U.S. armed forces is not subject to Michigan income tax. Eligible military pay includes:

- Active duty pay and military retirement pay, including Michigan National Guard pension/retirement benefits
- Reserve duty pay
- Michigan National Guard pay only for the following:
  - Weeknight and regular weekend drills
  - Summer camp
  - Pay received for riot duty only if nationalized by the President of the U.S.
  - Public Health Officers pay only for those assigned to the Coast Guard or who are nonresidents of Michigan.
  - Retirement/pension benefits.

The W-2 form will show if the individual’s pay is active duty military pay. If the second set of digits of the employer identification number begins with 997, 998, or 999, the pay is military pay. Military pay may be subtracted on the Michigan return to the extent included in federal AGI.

Military pay does not include:

- W-2 forms from an Officer’s Open Mess or similar establishment
- W-2 forms from the military showing an employer number identifying a civilian employee
- Wages paid to employees of the United States Property and Fiscal Office (USPFO)
- National Guard pay for the following:
  - Riot duty when called to duty by the Governor (paid by the State)
  - Full-time employment for which the taxpayer received a W-2 from the State.
- Resident Public Health Officers (employees of Health and Human Services) for other than the Coast Guard.

Note: Residency of military personnel and Public Health Officers remains with the state from which they entered the service unless they have filed a declaration with the service to change it.

The Military Spouses Relief Act was signed into law on November 11, 2009, effective for tax years beginning on or after January 1, 2009. It may affect the State income tax filing requirements for a spouse of an individual in the military.
Under the Act, the spouse of an individual in the military is a nonresident of a state and consequently not subject to that state’s taxation if:

- The service member is present in that state due to military orders
- The spouse is in that state solely to accompany the service member
- The spouse maintains a domicile in another state.

A military spouse who is a Michigan resident and plans to return to Michigan as their permanent home should include income earned in the other state on their Michigan income tax return. A Michigan military spouse may not claim a credit for the income taxes paid to another state. The military spouse must file a nonresident return with the other state to obtain a refund of taxes paid to that state.

**PRINCIPAL RESIDENCE EXEMPTION**

The Principal Residence Exemption (PRE) statute provides homeowners an exemption from their local school operating millage, lowering their property tax bills. In accordance with PA 237 of 1994, homeowners who claim the exemption and who occupy the property as their principal residence may be exempt from up to 18 mills.

To claim a PRE, a homeowner must file a *Principal Residence Exemption Affidavit* (Form 2368) with the local assessor. A homeowner who owns and occupies a property as a principal residence on or before June 1 and submits Form 2368 to the local tax collecting unit on or before June 1 may qualify for a PRE beginning with the summer tax levy or, if there is only one tax levy, the homeowner will be qualified for the entire year. A homeowner who owns and occupies a property as a principal residence prior to November 1 and submits Form 2368 to the local tax collecting unit on or before November 1 may qualify for a PRE beginning with the winter tax levy.

This program is separate from the Homestead Property Tax Credit, which is claimed annually on the *Homestead Property Tax Credit Claim* (Form MI-1040CR) and filed with a taxpayer’s Michigan income tax return.

**Principal Residence Exemption Records Review**

In many cases, the local unit of government performs administrative audits of the PRE records. PA 105 of 2003 allows county treasurers and equalization directors who have elected to “opt in” with Treasury to perform administrative audits of exemptions within their counties. Treasury performs administrative reviews of records for counties that do not conduct their own audits. In addition, Treasury may choose to audit “opt in” counties.

Periodically, Treasury may contact the homeowner to request information to verify that the property under review was the homeowner’s principal residence for the years in question.

Common reasons for Treasury to request more information are:

- Failure to rescind an exemption when the property is sold (*Request to Rescind Principal Residence Exemption* (Form 2602)).
- The property in question was not a principal residence during the years in question.
• The homeowner is filing annual income tax returns from an address other than the address of the principal residence.

If a homeowner receives Treasury’s request for more information, it is important to respond in writing. The homeowner’s response must be received within 30 calendar days from the date on the letter. Failure to respond may result in a denial of the exemption.

**Verifying Documentation**

Factors to be considered in determining taxpayers’ principal residences include where they keep their most important possessions, house their family, vote, maintain club and lodge memberships, buy automobile licenses, maintain a mailing address and bank, operate a business, or sue for divorce. However, no one of these factors is controlling.

The documentation submitted must show that the property was the homeowner’s principal residence for the year(s) in question. Some examples of verifying documentation are:

• Copy of the front and back of driver’s license with property address

• Copy of voter’s registration record

• Copy of a cancelled check listing the property address. Black out information other than the taxpayer’s name, address and date the check was written.

• Copy of a bank statement, charge account statement, medical billing, etc. The portion identifying the type of document, address and date should be submitted.

• Copy of the income tax return indicating the mailing address

• Copy of an insurance policy. The portion identifying name, address, and date should be submitted.

If the taxpayer never owned the property or if the information on the letter is incorrect, make corrections on the letter and return it to Treasury.

**Conditional Rescission of Principal Residence Exemption**

In accordance with PA 96 of 2008, property owners may be allowed to receive a PRE on their current Michigan property and on previously exempted Michigan property simultaneously if the previously exempted principal residence is (all must apply):

• Not occupied
• For sale
• Not leased
• Not used for any business or commercial purposes.
A conditional rescission may be allowed for up to three years if the property owner submits a Conditional Rescission of Principal Residence Exemption (Form 4640) with the assessor for the city or township in which the property is located on or before June 1 (beginning with the summer tax levy) or November 1 (beginning with the winter tax levy) of the first year of the claim. Form 4640 must be filed annually on or before December 31 to verify to the assessor that the property for which the principal exemption is retained still meets all the above requirements. The property owner must be eligible for and claim an exemption for their new current principal residence. A person renting an apartment is not eligible for a PRE. A person who moves to another state does not qualify for the PRE.

**Nursing Home or Assisted Living Facility Resident**

Form 4640 may be filed with the local assessor to retain the PRE for property owner who previously occupied property as his or her principal residence but who now resides in a nursing home or assisted living facility. The property owner may retain an exemption on that property if the owner manifests an intent to return to the property by satisfying all of the following conditions:

- The owner continues to own that property while residing in the nursing home or assisted living facility,
- The owner has not established a new principal residence,
- The owner maintains or provides for the maintenance of the property while residing in the nursing home or assisted living facility, and
- That property:
  - Is not occupied,
  - Is not leased, and
  - Is not used for any business or commercial purpose.

**PA 144 of 2016**

On June 6, 2016, PA 144 of 2016 was enacted with immediate effect. An eligible property owner may retain a PRE on the principal residence property if the eligible claimant is absent while on active duty as a member of any branch of the United States Armed Forces, as long as the owner establishes an intent to return to the property. The property owner must submit a Principal Residence Exemption Active Duty Military Affidavit (Form 4660) to the local assessor on or before May 1 of the first year of the claim. To claim the Active Duty Military PRE, all of the following conditions must be met:

- The owner must continue to own the property while deployed or stationed elsewhere for active duty,
- The owner has not established a new principal residence,
- The owner maintains or provides for the maintenance of the property while deployed or stationed elsewhere for active duty, and
- The property is not used for any business or commercial purpose.
PA 144 also provides for an appeal to claim a PRE which was not on the tax roll on June 1 or November 1. A property owner who resides in a nursing home or assisted living facility or a property owner who is an active duty member of any branch of the United States Armed Forces may file an appeal to claim a PRE which was not on the tax roll. Such appeals may be filed with the July or December Boards of Review in the year that the exemption was claimed, or in the immediately succeeding three years.

**Foreclosure Entity Conditional Rescission of a Principal Residence Exemption**

In accordance with PA 114 of 2012, a land contract vendor, bank, credit union, or other lending institution may retain a PRE on property if the following conditions are met:

- Must be a land contract vendor, bank, credit union, or other lending institution
- Own the property as a result of a foreclosure
- Property must have been subject to a PRE immediately preceding the foreclosure
- Not occupied
- For sale
- Not leased to any person other than the person who claimed the PRE immediately preceding the foreclosure
- Not used for any business or commercial purpose
- Must pay to the tax-collecting unit an amount equal to the amount of taxes that the foreclosure entity would have paid if the property were not subject to a PRE and must pay an administration fee equal to the property tax administration fee imposed under Section 44 of the General Property Tax Act.

The extra exemption may be allowed for up to three years and is requested by submitting **Foreclosure Entity Conditional Rescission of a Principal Residence Exemption (Form 4983)** with the assessor for the city or township in which the property is located on or before June 1 (beginning with the summer tax levy) or November 1 (beginning with the winter tax levy) of the first year of the claim. Form 4983 must be filed annually on or before December 31 to verify to the assessor that the property for which the principal exemption is retained still meets all the above requirements.

**Forms for Principal Residence Exemption**

Forms are available on Treasury’s Web site at www.michigan.gov/PRE.
NONREFUNDABLE CREDITS

Credit for Income Tax Imposed by Qualified Government Units Outside Michigan

A Michigan resident is allowed a credit for income taxes imposed by another state of the U.S., a political subdivision (city, county, etc.) of another state, the District of Columbia, or a Canadian province. Tax imposed on income that is also subject to Michigan tax may be claimed for the credit. A copy of the other state, city, or county income tax return must be attached.

The credit cannot exceed the smaller of the amount of tax imposed by another state or the percentage of Michigan tax due on salaries, wages, and other income earned and taxed in the other state. Credit is not allowed for taxes paid on income subtracted on the MI-1040.

A Michigan resident who earned wages in a reciprocal state may pay a city or county tax in that state. The city or county income tax paid in that state may be claimed for the credit; however, the state income tax paid to the reciprocal state cannot be claimed. Instead, the Michigan resident should claim a refund from the other state.

A Canadian credit is allowed only if provincial tax was paid. The credit shall be allowed for that portion of the provincial tax not claimed as a credit for United States income tax purposes. Credit is not allowed on the Michigan return for that portion of provincial tax that is a carryover from a previous year or that is being carried over to a future year on the federal return.

Historic Preservation Income Tax Credit

For plans approved before 2012, a nonrefundable credit may be taken based on 25 percent of qualified expenditures for the rehabilitation of a historic resource pursuant to a rehabilitation plan.

The claimant must claim the Historic Preservation Credit in the year the project is certified and completed.

Any unused portion of the credit may be carried forward for a maximum of ten years. For tax years beginning after 2008, a taxpayer may elect to receive a refund of 90 percent of the amount of the credit that exceeds their tax liability instead of carrying the excess forward for projects for which a certificate of completed rehabilitation was issued after 2008 and the credit amount was less than $250,000.

The rehabilitation plan and the completed rehabilitation of the historic resource must be certified by the State Historic Preservation Office.

REFUNDABLE CREDITS

Total Household Resources

As two refundable credits, the homestead property tax credit and the home heating credit, require the computation of total household resources, this topic will be covered first in this section of the text. In general, claimants may be eligible for a homestead property tax credit when their property taxes or statutory percentage of rent exceed 3.5 percent of their total household resources. A claimant’s eligibility for a home heating credit is also dependent on total household resources.
MCL 206.508(3) defines a household as “a claimant and spouse.” Total household resources are defined in MCL 206.508(4) as “all income received by all persons of a household in a tax year while members of a household,” increased by the following deductions from federal gross income:

1. Any net business loss after netting all business income and loss
2. Any net rental or royalty loss
3. Any carryback or carryforward of a net operating loss as defined in Section 172(b)(2) of the internal revenue code.

MCL 206.510 defines income (total household income) as “. . . federal adjusted gross income plus income specifically excluded or exempt from the computation of federal adjusted gross income.”

Items specifically excluded or exempt from the computation of AGI are generally income that will not be subject to tax in the year actually or constructively received or in a subsequent taxable year under the IRC or by federal laws other than the IRC. Excluded or exempt income includes, but is not limited to, income described in IRC Sections 101 through 134, exempt interest dividends, foreign income exclusion, etc.

Following is a partial list of income that must be included in a claimant’s total household resources:

- Wages, salaries, tips, sick or long-term disability pay, strike or supplemental unemployment benefits (SUB pay)
- Interest and dividend income including nontaxable interest income
- Net business income if greater than zero
- Net royalty or rent income if greater than zero
- Farmland preservation tax credit
- Pension income, annuity benefits, and IRA and deferred compensation distributions to the extent they are included in AGI
- Rollovers from a traditional IRA to a Roth IRA in the year the income is included in AGI
- The amount of a qualified distribution from a Roth IRA in excess of a taxpayer’s contributions to the Roth IRA
- Capital gains less capital losses (including nontaxable gain from the sale of a home). Losses cannot exceed $3,000 if single or married filing jointly or $500 if married filing separately
- Alimony received
- The amount over $300 of total awards, prizes, lottery, bingo or gambling winnings received during the year
• Social Security, supplemental security income (SSI), railroad retirement benefits and retirement survivors, and disability insurance (RSDI) benefits received by the taxpayer, the taxpayer’s spouse or minor child

• Child support and foster parent payments

• Unemployment compensation and trade readjustment allowances (TRA) benefits

• The amount over $300 of total gifts of cash or goods received during the year including all payments made on the taxpayer’s or taxpayer’s spouse’s behalf by relatives, friends, and/or other individuals except government payments made directly to third parties such as an educational institution or housing authority

• Inheritance (except from the death of a spouse) or proceeds of a life insurance policy paid on death of the insured (except from the death of a spouse)

• Scholarships, stipends, grants, and payments made directly to an educational institution, except government payments

• Worker’s compensation benefits paid as compensation for personal injuries, sickness, or death, and veteran’s payments for disability, pension, or mustering out

• Cash assistance from a Family Independence Program and DHHS benefits not including food assistance

• Cash assistance from the Department of Education for the payment of child care

• Compensation received for damages to character or for personal injury or sickness

• Death benefits paid by or on behalf of an employer

• Housing allowance for ministers or clergy

• Forgiveness of debt, even if excluded from AGI (for example, mortgage foreclosure)

• Reimbursement from dependent care and/or medical care spending accounts

• Foreign earned income excluded from federal gross income.

Items not included in total household resource (partial list):

• Net operating loss deductions taken on the federal return

• Payments received by participants in the foster grandparent or senior companion program

• Energy assistance grants or tax credits

• Government payments to a third party (for example, Medicaid payments to a doctor, tuition grants, including GI bill, paid directly to an educational institution by a federal or State agency, and most payments from The Step Forward Michigan program)
• Money received from a government unit such as the Federal Emergency Management Agency to repair or improve the homestead

• Surplus food or food assistance program benefits

• State and city income tax refunds and homestead property tax credits

• Chore service payments (these payments are income to the provider of the service)

• The first $300 from gambling, bingo, lottery, awards, or prizes

• The first $300 in gifts of cash or merchandise received, or expenses paid on the household member’s behalf by parents, relatives, or friends

• Amounts deducted from Social Security or Railroad Retirement benefits for Medicare premiums

• Health and accident insurance premiums the taxpayer or taxpayer’s spouse paid for their family’s plan

• Employer’s contributions to life, accident, or health insurance plans

• Loan proceeds

• Inheritance or life insurance proceeds from the death of a spouse

• Payments from a long-term care policy made to a nursing home or other care facility.

Adjustments to total household resources:

1. Payments to IRA, Keogh (HR 10), SEP, or SIMPLE plans
2. Student loan interest deduction
3. Health savings account deduction
4. Medical insurance/HMO premiums claimant paid
5. Moving expenses when moving into Michigan
6. Deduction for self-employment tax
7. Self-employment health insurance deduction
8. Forfeited interest penalty for premature withdrawal
9. Alimony paid
10. Educator expenses
11. Tuition and fees deduction.
12. Add back to AGI:
   • Any net business loss after netting all business income and loss
   • Any net rental or royalty loss
   • Any carryback or carryforward of a federal net operating loss.
Total Household Resources Examples:

**Example 1:** For 2016, Judy has wages of $29,000, nontaxable child support of $6,000, and a net loss of $8,000 for the rental of a second home she owns. The AGI reported on her 2016 federal and Michigan returns is $21,000, which is the wages of $29,000, less the rental loss of $8,000:

Judy’s total household resources are calculated as follows:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>AGI</td>
<td>$21,000</td>
</tr>
<tr>
<td>Add back Net Rental Loss</td>
<td>8,000</td>
</tr>
<tr>
<td>Child Support</td>
<td>6,000</td>
</tr>
<tr>
<td><strong>Total Household Resources</strong></td>
<td><strong>$35,000</strong></td>
</tr>
</tbody>
</table>

**Example 2:** For 2016, Bob and Martha have wages of $26,000, business income of $10,000 reported on federal Schedule C, a farm loss of $12,000 reported on Schedule F, and a rental loss of $4,000 reported on Schedule E. They had no nontaxable income. The AGI reported on their 2016 federal and Michigan return is $20,000 consisting of the wages of $26,000, business income of $10,000, and the farm loss of $12,000, and the rental loss of $4,000.

Bob and Martha’s total household resources are calculated as follows:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>AGI</td>
<td>$20,000</td>
</tr>
<tr>
<td>Add back Net Business Loss</td>
<td>2,000</td>
</tr>
<tr>
<td>Add back Net Rental Loss</td>
<td>4,000</td>
</tr>
<tr>
<td><strong>Total Household Resources</strong></td>
<td><strong>$26,000</strong></td>
</tr>
</tbody>
</table>

Property Tax Credit

An individual may claim a property tax credit if they are a resident of Michigan for at least six months of 2016, rent or own a homestead located in Michigan as their principal residence, and the property is subject to ad valorem property tax or a service fee in lieu of taxes. An individual can have only one principal residence (domicile) at a time and must be the occupant as well as the owner or renter. The maximum credit allowed per claimant cannot exceed $1,200, regardless of the amount of property taxes levied or rent paid.

Senior claimants with income greater than $21,000 receive less than 100 percent of the property tax credit based on a sliding scale. When a senior claimant’s total household resources reaches $30,001, his or her credit is reduced to 60 percent. The credit phase out for all claimants reduces the credit by 10 percent once total household resources reaches $41,001 and an additional 10 percent for each $1,000 of total household resources in excess of $41,001. The property tax credit is completely phased out once total household resources exceed $50,000.

Regardless of a claimant’s total household resources, a homeowner is not eligible for a homestead property tax credit on their home if their home has a taxable value of more than $135,000.

Total household resources has three components:
The **first** component is AGI from the federal return. This consists of wages and other taxable income.

The **next** component is any nontaxable income a taxpayer receives during the year, such as Social Security benefits, workers’ compensation, child support, or public assistance payments.

The **last** component is the elimination of any net rental and royalty losses; any net business loss after netting all business income and losses; and any carryback or carryforward of a net operating loss that is included or reported in AGI on the Michigan and/or federal returns.

**Senior Claimants.** Senior claimants are entitled to a 100 percent credit if their total household resources are $21,000 or less. The credit is reduced by four percent once total household resources exceed $21,000. (See the Senior Credit Reduction Table.)

### Senior Credit Reduction

<table>
<thead>
<tr>
<th>Total Household Resources</th>
<th>Percent of Credit Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 0 - $21,000</td>
<td>100%</td>
</tr>
<tr>
<td>21,001 - 22,000</td>
<td>96</td>
</tr>
<tr>
<td>22,001 - 23,000</td>
<td>92</td>
</tr>
<tr>
<td>23,001 - 24,000</td>
<td>88</td>
</tr>
<tr>
<td>24,001 - 25,000</td>
<td>84</td>
</tr>
<tr>
<td>25,001 - 26,000</td>
<td>80</td>
</tr>
<tr>
<td>26,001 - 27,000</td>
<td>76</td>
</tr>
<tr>
<td>27,001 - 28,000</td>
<td>72</td>
</tr>
<tr>
<td>28,001 - 29,000</td>
<td>68</td>
</tr>
<tr>
<td>29,001 - 30,000</td>
<td>64</td>
</tr>
<tr>
<td>30,001 - 50,000</td>
<td>60</td>
</tr>
</tbody>
</table>

Senior claimants receive a 60 percent property tax credit for total household resources of $30,001 to $41,000. The credit phase out applies once a claimant’s total household resources exceed $41,000.

**Disabled and other special claimants.** Claimants who are permanently disabled, paraplegic, hemiplegic, quadriplegic, blind, or deaf will receive a 100 percent credit if household resources are $41,000 or less. The credit phase out applies once total household resources exceeds $41,000.

**General claimants.** General claimants receive a 60 percent property tax credit subject to the credit phase out once total household resources exceed $41,000.

**Credit phase out.** All claimants are subject to the credit phase out. The credit is reduced by 10 percent for each $1,000 of total household resources in excess of $41,000.
**HOMESTEAD PROPERTY TAX CREDIT**

**PHASE OUT**

<table>
<thead>
<tr>
<th>Total Household Resources</th>
<th>Percent of Credit Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>$41,001 - $42,000</td>
<td>90%</td>
</tr>
<tr>
<td>42,001 - 43,000</td>
<td>80</td>
</tr>
<tr>
<td>43,001 - 44,000</td>
<td>70</td>
</tr>
<tr>
<td>44,001 - 45,000</td>
<td>60</td>
</tr>
<tr>
<td>45,001 - 46,000</td>
<td>50</td>
</tr>
<tr>
<td>46,001 - 47,000</td>
<td>40</td>
</tr>
<tr>
<td>47,001 - 48,000</td>
<td>30</td>
</tr>
<tr>
<td>48,001 - 49,000</td>
<td>20</td>
</tr>
<tr>
<td>49,001 - 50,000</td>
<td>10</td>
</tr>
<tr>
<td>50,001 - above</td>
<td>No Credit</td>
</tr>
</tbody>
</table>

**Example 1:** A senior citizen has total household resources of $46,000 and property taxes of $2,500. The property taxes exceed 3.5 percent of total household resources by $890. The senior citizen’s total household resources exceed $30,000, therefore the credit is reduced from 100 percent to 60 percent or $534. The phase out applies and will further reduce the $534 credit to 50 percent for a credit of $267.

**Example 2:** A claimant has total household resources of $48,500 and property taxes of $4,000. The property taxes exceed 3.5 percent of total household resources by $2,302. The credit is first reduced to 60 percent or $1,381. The credit is then limited to $1,200, the maximum allowed. After the $1,200 limit is applied, the phase out to 20 percent further reduces the credit to $240.

**Taxable Value.** The property taxes on a homestead with taxable value of more than $135,000 may not be included in the calculation of the property tax credit. If the taxable value of a homestead, excluding the taxable value of the unoccupied farmland classified as agricultural, exceeds $135,000, the property taxes may not be included in calculating the property tax credit. The 2016 tax bills received from the homeowner’s local government will state the taxable value. The taxable value cap does not apply to renters.

**Eligible property taxes.** The property taxes levied on the homestead for 2016 are the only taxes that can be claimed for credit regardless of when the taxes are paid. These include additional taxes assessed or refunded that are attributable to a prior year because of a Michigan Tax Tribunal decision or the reversal of a homestead affidavit denial. Collection fees of up to one percent of the property taxes and special assessments based on state equalized value and applied to the entire taxing jurisdiction may be included. Beginning in 2003, under the authority of PA 28 of 2003, if the special assessment is for police, fire, or advanced life support, the credit may be taken even if the assessment does not cover the entire taxing jurisdiction. However, these special assessments must be based on the taxable value using a uniform millage rate.
Do not include:

- Penalty and interest on late payments of property tax.
- Delinquent property taxes.
- Delinquent water or sewer bills.
- Property taxes on cottages or second homes.
- Special assessments (for drains, sewers, etc.) that are not based on taxable value and are not applied to the entire taxing jurisdiction.

Michigan homestead property tax credit and PRE refunds received in 2015 may be taxable on the 2016 federal income tax return. These are refunds of a portion of the property taxes paid. If the taxpayer claimed an itemized deduction for property taxes on a prior federal income tax return, and then received a refund in 2016 from the State or local unit of government for a portion of those taxes, a portion of that refund may need to be included as income on taxpayer’s 2016 federal income tax return.

For questions about taxability (for federal tax purposes) of these refunds, call the IRS at 1-800-829-1040.

**Reporting Taxable Value (TV) on MI-1040CR Homestead Property Tax Credit**

The TV of the property must be reported on the MI-1040CR to process property tax credit claims. To avoid possible refund delays, enter the TV on the proper line. Use the following list to determine the correct TV to report in special circumstances.

1. **If the taxpayer moves during the year,** complete the “Homeowners” section showing the TV for each homestead. If there were more than two homesteads during the year, attach an additional sheet. Property taxes levied on occupied homesteads having TV greater than $135,000 may not be included in total property taxes claimed to calculate the credit.

2. **If the taxpayer lives in a nursing home and the spouse lives in a homestead,** use both the property taxes for the homestead and the rent (or prorated share of property taxes) for the nursing home to compute the credit (not applicable with married filing separately status).

3. **If the taxpayer’s homestead is assessed at the non-homestead rate,** use the actual TV that is being assessed at the non-homestead rate on line 9.

4. **If the taxpayer lives in service fee housing,** leave line 9 blank. A schedule of explanation need not be attached.

5. **If a portion of the homestead is rented out or used for business,** show the total homestead TV on line 9. Reduce the property taxes by the greater of 20 percent of the gross rent collected or the amount of property taxes claimed as a business deduction on the U.S. 1040. Show the explanation either on the return or an attached schedule.

6. **If the property tax claim includes eligible adjacent and contiguous vacant land,** include on line 9 the sum of the TVs for the homestead and all eligible vacant land.
Special Situations

Farmers

Farmers may include farmland taxes in the property tax credit claim if any of the following conditions apply:

- If agricultural gross receipts are greater than total household resources, all farmland property taxes including taxes on unoccupied farmland are eligible for the credit. Taxes on farmland that is rented by or leased to another person and is not adjacent or contiguous to taxpayer’s home is not eligible for the credit.

- If agricultural gross receipts are less than total household resources and taxpayer has lived in the home more than ten years, the taxes on the home and the adjacent and contiguous farmland are eligible for the property tax credit.

- If agricultural gross receipts are less than total household resources and taxpayer has lived in the home less than ten years, the taxes on the home and five contiguous and adjacent acres of farmland are eligible for the credit.

- If the taxable value of the homestead excluding the taxable value of the unoccupied farmland classified as agricultural exceeds $135,000, the taxpayer is not eligible for the homestead property tax credit.

Agricultural Gross Receipts

“Agricultural gross receipts” means income derived from the business of farming. A taxpayer is engaged in the business of farming if they cultivate, operate, or manage a farm for gain or profit. A taxpayer who receives a rental which is based upon farm production is also engaged in the business of farming. However, a taxpayer who receives a fixed rental without reference to production is engaged in the business of farming only if they participate to a material extent in the operation or management of the farm. (Refer to IRS Reg. 1.175-3.)

The taxpayer has participated to a material extent in the operation or management of the farm if any one of the following tests are met. (Refer to IRS Publication No. 225.)

1. The owner does three of the following:
   - Pays, using cash or credit, at least half the direct costs of producing the crops
   - Furnishes at least half the tools, equipment, and livestock used in producing the crops
   - Periodically advises and consults with the tenant
   - Periodically inspects the production activities.

2. The landowner regularly and frequently makes or takes an important part in making management decisions substantially affecting the success of the enterprise.
3. The landowner works 100 hours or more spread over a period of five weeks or more in activities connected with producing the crop.

4. The landowner does things which, considered in their total effect, show that they are significantly and materially involved in the production of farm commodities.

The following decision table may be used to determine the land eligible to be claimed for Homestead Property Tax Credit. Find the taxpayer column that applies to the particular situation, then see corresponding row under “Eligible Property” for the amount of eligible property.

<table>
<thead>
<tr>
<th>Taxpayer:</th>
<th>Owns farm</th>
<th>Meets gross receipts test (see above)</th>
<th>Lives on farm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>N</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Eligible Property:</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>All farmland (doesn’t have to be contiguous unless rented to others)*</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Home plus 5 acres*+</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Home and all contiguous or adjacent unoccupied land*</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>None</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

* Does not qualify if the taxable value of the residential area excluding the taxable value of the unoccupied farmland classified as agricultural exceeds $135,000.
+ Renters also qualify under this category.

The definition of “homestead” for the property tax credit was amended in 1990 to exclude “unoccupied real property that is leased or rented by the owner to another person . . . .” [MCL 206.508(2)]. The renter or lessor of farmland may not claim the rent paid when computing a property tax credit.

A Farmland Preservation Tax Credit must be included in total household resources. It should be reported on the schedule of total household resources in net farm income or other taxable income. Homestead Property Tax Credits are not included in total household resources. If the Property Tax Credit was included in taxable farm income, it may be subtracted in determining total household resources. Farm losses may not reduce total household resources.
**Part-Year or Deceased Taxpayers, Annualization of Total Household Resources for Phase Out**

A property tax credit claim made by a part-year resident or on behalf of a deceased taxpayer (unless claimed by surviving spouse) requires annualization of total household resources to determine if their annualized total household resources:

1. Exceeds the threshold of $50,000, which phases out a property tax credit, or

2. May require a senior citizen or a totally and permanently disabled person to use a higher percentage of total household resources to determine nonrefundable portion of property taxes. (In the final computation, only the claimant’s actual total household resources are used.)

**Example 1:** A property tax credit is filed on behalf of a **deceased** claimant age 65 with no surviving spouse. Total household resources of $5,230 and two exemptions are reported. Taxpayer owned a home and lived in Michigan for 155 days in 2016. Taxes levied for 2016 were $1,865. The taxable value of the home did not exceed $135,000.

Claimant’s annualized total household resources is $12,316.

Prorated property taxes are $792.

Since annualized total household resources is over $6,000, 3.5 percent of actual total household resources must be used when computing the property tax credit.

<table>
<thead>
<tr>
<th>Prorated property taxes</th>
<th>$ 792</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less 3.5% of $5,230</td>
<td>183</td>
</tr>
</tbody>
</table>

**Property tax credit amount** $ 609

**Example 2:** A **part-year** Michigan resident who lived in Michigan for 266 days received Michigan total household resources of $30,425. Total property taxes of $2,400 were levied on the Michigan homestead. The homestead’s taxable value did not exceed $135,000.

Claimant’s annualized total household resources is $41,749. The phase out is 10 percent after reaching $41,001 and then 10 percent for every additional $1,000 in total household resources. The claimant’s property tax credit will be reduced by 10 percent.

<table>
<thead>
<tr>
<th>Prorated property taxes (266/365 x $2,400)</th>
<th>$ 1,749</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less: 3.5% of actual total household resources (30,425)</td>
<td>1,065</td>
</tr>
</tbody>
</table>

Balance 684
Multiply by 60% 410
Less: Percentage of credit subject to Phase out provision (10% x $410) -41

**Property tax credit** $ 369
Separated and Divorced Claimants

Spouses who file separate Michigan income tax returns but share a household are entitled to only one property tax credit. Complete the property tax credit claim jointly, including both spouses’ incomes, then divide the credit as desired. If each spouse claims a portion of the credit, attach a copy of property tax claim showing the share claimed. Two homesteads may be used for credit only if the couple is separated or divorced, each maintains a separate homestead, and each files separate federal and Michigan income tax returns. If the taxpayers file a joint federal return, they must file a joint Michigan return.

Example: Ron and Rosemary were separated March 1, 2016 and divorced December 2, 2016. Rosemary stayed in the marital home all year, and Ron rented an apartment beginning March 1, 2016. Ron paid Rosemary $300 (half the house payment) from March through December 2016 and 40 weeks of child support at $160 a week. Property tax bills for 2016 on the marital home were $2,850. Ron rented his apartment for $500 a month. Their incomes before and after separation are as follows:

<table>
<thead>
<tr>
<th>Wages:</th>
<th>Ron</th>
<th>Rosemary</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1 - February 29</td>
<td>$7,200</td>
<td>$5,000</td>
</tr>
<tr>
<td>March 1 - December 31</td>
<td>$36,000</td>
<td>$25,000</td>
</tr>
</tbody>
</table>

First calculate the property taxes that can be claimed for credit by each spouse prior to separation.

Income prior to separation:

<table>
<thead>
<tr>
<th>Wife</th>
<th>Husband</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>$5,000</td>
<td>7,200</td>
<td>$12,200</td>
</tr>
</tbody>
</table>

Percent of income prior to separation:

<table>
<thead>
<tr>
<th>Wife</th>
<th>Husband</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$5,000/$12,200 = 41%</td>
<td>$7,200/$12,200 = 59%</td>
<td></td>
</tr>
</tbody>
</table>

2016 taxes prorated for period prior to separation $2,850 x 2/12 = $475

Percent claimed before separation:

<table>
<thead>
<tr>
<th>Wife</th>
<th>Husband</th>
</tr>
</thead>
<tbody>
<tr>
<td>$475 x 41% = $195</td>
<td>$475 x 59% = $280</td>
</tr>
</tbody>
</table>
Wife’s total taxes claimed for credit  
(lived in the family home for the entire year):

Before separation  $ 475 x 41\% = $ 195  
After separation  100\% x (2,850-$475) = $2,375  

$2,570

Husband’s total taxes claimed for credit:

Before separation  $ 475 x 59\% = $ 280  
After separation - Rent paid  $5,000 x 20\% = $1,000  

$ 1,280

Note:  Rosemary must include both the $3,000 paid by Ron towards the house payments, as well as the $6,400 of child support she received in her total household resources.  Ron may deduct the $3,000 alimony/separate maintenance payments in determining his total household resources.  However, based on the definition of household resources, he may not subtract the child support payments of $6,400 from his total household resources.

Shared Housing

When two or more single people share a home, each can file a credit claim if each is contracted to pay rent or owns a share of the home.  Each should file an individual claim based on his or her own total household resources and prorated share of the taxes or rent paid.  If the home is owned (not rented) the owners would divide the taxable value of the home accordingly and report their portion of the taxable value of the home when filing a credit claim.

Example 1:  Adam and Andrew own a home in Grand Rapids.  Both occupy the home and share the expenses for upkeep of the home.  The property taxes on the home for 2016 are $4,000.  Adam and Andrew would each claim $2,000 of property taxes on their respective property tax credits.  They would each report one-half the taxable value of the home and write on the form “shared housing” and the percent of property taxes being claimed.

Example 2:  Tim owns and occupies his home in Saginaw.  He fixed up the basement and rents it for $400 a month to Linda.  His PRE is greater than 50 percent.  Tim would be eligible to claim a property tax credit on the taxes billed on his home for 2016; however, he would have to reduce property taxes by the greater of 20 percent of the gross rent received or the amount of property tax claimed as a business expense on his federal return.
**Example 3:** Scott and John rent a home from Renee and both of their names are on the contract. The taxable value of the property exceeds $135,000. Monthly rental of the home was $950; the total paid during 2016 was $11,400. All rent and expenses were split evenly between them. Scott and John would each be eligible to claim a property tax credit on the half of the rent that each paid. Scott and John would be able to claim property tax credits even though the taxable value of the home exceeds $135,000 because the taxable value limit does not apply to renters.

**Nursing Home, Home for the Aged, and Adult Foster Care Claimants**

A permanent resident of a nursing home, home for the aged, or foster care home is entitled to a homestead property tax credit based on rent if the facility provides an itemized bill identifying the portion charged for rent and for other services such as food, housekeeping, or personal care. The resident may be required to submit the itemized bill or other documentation from the landlord that shows the amount of rent paid. Only rent paid by the resident can be used to compute the property tax credit.

If the facility bills a lump sum for rent and other services and does not provide an itemized statement identifying the amount of rent, the resident may not claim rent, but may claim his or her allocable share of the property taxes assessed on the entire facility. The resident’s allocable share is calculated by dividing the facility’s property tax by the number of licensed beds.

If the facility receives a direct payment from a State or federal agency for the care of the resident, then the allocable share may be limited. The resident cannot claim an allocable share that is greater than the charges paid by the resident to the facility.

**Example:** Mrs. Redfern’s nursing home charges were billed in a lump sum of $12,500 (for rent, food and other nursing services) to the State of Michigan. Of that sum $12,000 was paid directly to the nursing home by the State. Mrs. Redfern paid the balance due of $500.

Mrs. Redfern’s “allocable share” of property taxes on the nursing home, based on 100 beds and $60,000 in real property taxes, is $600. Since Mrs. Redfern’s total charges paid by her are less than her “allocable share,” she may use only the lesser amount of $500 for calculating a property tax credit.

**Room and Board**

If the claimant pays room and board in separate billings, the claimant must base the credit on the rent. The claimant may be required to submit a copy of the separate billing or other documentation from the landlord showing the amount of rent paid. If the claimant pays room and board in one billing and is unable to identify the portion of the bill that constitutes rent, the credit must be based on a prorated share of the property taxes on the facility. If the landlord does not provide this figure, divide the square footage of the claimant’s living space by the total square footage of the facility, and multiply the total taxes on the facility by that percentage.

**Service Fee Housing**

If the claimant lives in housing on which service fees are paid instead of property taxes, the credit must be computed using 10 percent of the rent, rather than the 20 percent generally used by other claimants who rent.
Subsidized Housing

A claimant who lives in subsidized housing must compute his or her homestead property tax credit based on rent if the facility provides an itemized bill identifying the portion charged for rent, separate from charges for other services such as food, housekeeping, or transportation. Only the amount of rent paid by the claimant can be used to compute the property tax credit. Do not consider amounts paid by a government agency on the claimant’s behalf. If the facility pays service fees in lieu of property taxes, compute the credit using 10 percent of the rent paid by the claimant, rather than 20 percent. The claimant may be required to submit a copy of the separate billing or other documentation from the facility verifying the amount of rent paid.

If the facility bills a lump sum for rent and services, the resident may not claim rent, but may claim his or her allocable share of the property taxes assessed on the entire facility.

Special Housing

A claimant who resides in housing where the lease includes meals and other services (housekeeping, laundry, transportation, etc.), must base his or her credit on only the portion of the bill that constitutes rent. A senior citizen claimant who can identify the amount of rent separately from other charges may claim his or her credit using the alternate senior method. A claimant may be required to produce a copy of the facility’s documentation that identifies the portion of the bill constituting rent to substantiate the claim.

If the claimant is unable to identify the portion of the bill that constitutes rent, the credit must be based on a prorated share of the property taxes on the facility. The facility should provide the claimant with the prorated share of the property taxes for use in the credit calculation.

Recipients of DHHS Payments and Child Support Payments

MCL Section 206.520(7) allows recipients of DHHS payments to reduce the amount of DHHS benefits reported to them when the amounts include child support payments assigned by the Friend of the Court (FOC).

The annual statement from DHHS may include child support payments made through the FOC to DHHS. To determine the child support payments included in the statement, obtain a Fourth Quarter Statement from the Office of Child Support. This statement is mailed to all recipients of DHHS payments. The amount reported as support is child support payments sent to DHHS, and the amount reported as rebates paid is direct child support paid to the recipient.

Since the homestead property tax credit is prorated based on the percentage of income from DHHS benefits, it is to the recipient’s advantage to reduce the annual DHHS benefits received by any child support included in this statement and report them separately in total household resources. The Fourth Quarter Statement from the Office of Child Support (Form FEN851) and, if available, a copy of the annual statement from DHHS should be attached to the claim.

Example 1: A claimant received DHHS benefits of $12,000 in 2016, which included child support payments of $3,000 assigned by the FOC to the DHHS. If the claimant’s total household resources consisted solely of DHHS benefits, they would not be entitled to a homestead property tax credit. However, since one-quarter of the total DHHS benefits were from child support payments assigned to DHHS, they are entitled to one-quarter of the homestead property tax credit computed.
**Example 2:** Taxpayer receives the following for 2016:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 annual statement from DHHS</td>
<td>$8,165</td>
</tr>
<tr>
<td>Letter from Office of Child Support or FOC:</td>
<td></td>
</tr>
<tr>
<td>Support</td>
<td>$7,492</td>
</tr>
<tr>
<td>Rebates paid</td>
<td>600</td>
</tr>
</tbody>
</table>

To compute the total household resources:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual statement from DHHS</td>
<td>$8,165</td>
</tr>
<tr>
<td>Rebates paid</td>
<td>+600</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>8,765</td>
</tr>
<tr>
<td>Less support paid to DHHS</td>
<td>-7,492</td>
</tr>
<tr>
<td>Annual DHHS benefits actually received</td>
<td>1,273</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Child support</td>
<td>+7,492</td>
</tr>
</tbody>
</table>

**Total household resources** $8,765

**Farmland Preservation Tax Credit**

**Eligibility**

This credit is provided for under Farmland and Open Space Preservation Act which is part of the Natural Resources and Environmental Protection Act PA 451 of 1994. The Act replaced the repealed farmland preservation act known as “PA 116.” The Act enables a landowner to enter into a development rights agreement (for farmland) with the State. The agreements are designed to ensure the land remains in agricultural use for an agreed-upon period. In return for maintaining the land in agricultural use, the landowner is entitled to certain income or property tax benefits.

The Farmland Preservation Tax Credit refunds to farmland owners the taxes in excess of 3.5 percent of their total household income on property covered by a Farmland Development Rights Agreement (FDRA) with the Michigan Department of Agriculture and Rural Development.

Schedule CR-5 must be completed. Use more than one Schedule CR-5 as needed. The system will not accept a substitute Schedule CR-5 in lieu of the Michigan Schedule CR-5.

**Tips to Expedite Processing**

- The entire TV for each agreement must be entered on the Schedule CR-5 in the space provided. This is required even if the taxpayer is eligible to claim only a portion of the property taxes because of joint ownership(s), partnership(s), or multiple shareholders. The TV can be found on the property tax statements for each period.

- Ownership indicated on property tax statements must also match ownership in farmland development rights agreement(s). If the claimed agreement does not reflect appropriate ownership, the credit may be reduced or denied.
• Multiple names on property tax statements indicate joint ownership. The taxpayer may not claim 100 percent without a signed distribution statement from all other owners. The agreement may be reduced or denied without the signed statement.

• The agreement number (or contract) number is found in the lower-right corner of each agreement. Always use the contract number from the most recently recorded agreement. The actual contract number retains its original series throughout the term of the agreement.

• Farmland agreement numbers consist of three components:
  - **County Code** - indicated by the first two digits of the agreement number.
  - **Contract Number** - indicated by the middle set of characters between the county code and expiration date.
  - **Expiration Date** - indicated by the last six digits of the agreement number. The first four digits are always “1231.” The last two digits are comprised of the year the agreement is to expire (e.g., “123116”). The expiration year may never be earlier than the year of the return being prepared.

• A letter of the alphabet may be added to indicate the agreement was split into multiple agreements. When farmland agreement numbers contain alpha characters, the alpha characters belong after the contract number.

• If the expiration year entered is prior to the current tax return year, the agreement is expired and may no longer be claimed. The taxpayer must extend the agreement and provide the new expiration year before the agreement may be claimed again.

• It may be beneficial to have the taxpayer provide copies of the agreements being claimed for accuracy and to avoid processing delays.

• An MI-1040CR, MI-1040CR-2 or MI-1040CR-7 must be filed to claim a farmland preservation tax credit even if it results in a zero credit. The schedule of total household resources provided on these forms is used to verify the total household income used in computing the farmland preservation tax credit.

• Each agreement should only appear on one line of the Schedule CR-5. Multiple parcels for a single farmland development rights agreement must be combined to determine the entire agreement’s eligible taxable value and the eligible property taxes.

Only the portion of the tax bill used for agricultural purposes may be claimed for credit regardless of the amount of the parcel enrolled in the program. The qualifying portion of the parcel will be indicated on the property tax statement(s) as an agricultural or homestead percentage. Follow the instructions in the MI-1040CR-5 tax booklet under the “Property Taxes That Can Be Claimed For Credit” section to compute the eligible taxes if the bill indicates less than 100 percent exempt.
Computation of the Value of the Lien Imposed Upon Removal of Land From Farmland and Open Space Program

When property is removed from the Farmland and Open Space Program, the State Land Use Agency records a lien against the property. Land may be relinquished from the program for the following reasons:

1. Natural expiration of the agreement.
2. Death or permanent disability of the landowner.
3. Landowner requests relinquishment of all or a portion of an agreement.

The lien value may be computed differently based on the reason the land was relinquished. The following discussion outlines the computations required by the different ways the FDRA is relinquished.

1. **Natural termination of agreement.**

The value of the lien will be the amount of the farmland preservation tax credits attributable to the terminated agreement received by the owner in the final seven years. The final seven years shall include the year of termination. The value is computed as follows:

**Step 1**

Divide: The ad valorem property tax levied on property subject to the expired FDRA used in determining the farmland preservation tax credit in that year

By: The property taxes levied on property subject to all FDRAs used in determining the farmland preservation tax credit in that year.

**Step 2**

Multiply: The owner’s total farmland preservation tax credit on all agreements paid that year

By: The quotient in Step 1.

**Step 3**

Sum: The results of Step 2 may or may not be used for each of the last seven years, depending on agreement number and property taxes assessed.

2. **Landowner dies or becomes permanently and totally disabled, and a request has been granted for the release of all property covered by the FDRA.**

The value of the lien will be the total amount of the farmland preservation tax credit received by the owner for the payback period. The payback period and value of the lien is computed as follows:
Payback Period

**Step 1**
- **Divide:** The number of years the land was enrolled in the current FDRA
- **By:** The number of years for which the agreement was written.

**Step 2**
- **Multiply:** Seven years
- **By:** The quotient computed in Step 1.

**Value of the Lien**

**Step 1**
- **Divide:** The ad valorem property tax levied on property subject to the FDRA being relinquished used in determining the farmland preservation tax credit
- **By:** The property taxes levied on property subject to all FDRAs used in determining the farmland preservation tax credit in that year.

**Step 2**
- **Multiply:** The owner’s total farmland preservation tax credit on all agreements claimed that year
- **By:** The quotient computed in Step 1.

3. **Landowner dies or becomes permanently and totally disabled, and a request has been granted for the release of a portion of land covered by the FDRA.**

   The value of the lien will be the total amount of the farmland preservation tax credit received by the owner for the payback period. The payback period and value of the lien is computed as follows:

**Payback Period**

**Step 1**
- **Divide:** The number of years the land was enrolled in the current FDRA
- **By:** The number of years for which the agreement was written.

**Step 2**
- **Multiply:** Seven years
- **By:** The quotient computed in Step 1.
Allocated Credit of Entire Agreement

**Step 1**
- **Divide:** The ad valorem property tax levied in that year on property subject to the FDRA which included the property to be removed
- **By:** The total property taxes levied on property subject to all FDRAs used in determining the farmland preservation tax credit in that year.

**Step 2**
- **Multiply:** The owner’s total farmland preservation tax credit in that year on all agreements
- **By:** The quotient in Step 1.

Value of the Lien

**Step 1**
- **Divide:** The TV of the property being relinquished from the agreement
- **By:** The total TV of the property subject to the FDRA that included the property being removed from the agreement.

**Step 2**
- **Multiply:** The “allocated tax credit” of entire agreement
- **By:** The quotient computed in Step 1.

4. **Landowner requests relinquishment of all or a portion of an agreement as provided by Section 36111(2)(a)(b) and 36111(a).**

Termination of All Land Covered by an FDRA

**Step 1**
- **Divide:** The ad valorem property tax levied on property subject to the FDRA to be relinquished used in determining the farmland preservation tax credit in that year
- **By:** The property taxes levied on property subject to all FDRAs used in determining the farmland preservation tax credit in that year.

**Step 2**
- **Multiply:** The owner’s total farmland preservation tax credit on all agreements paid that year
- **By:** The quotient in Step 1.
Step 3

Sum: The results of Step 2 plus 6 percent per annum interest for each of the last seven years.

Termination of a Portion of Land Covered by an FDRA

Step 1

Divide: The ad valorem property tax levied in that year on property subject to the FDRA which included the portion to be relinquished

By: The total property taxes levied on property subject to all FDRAs used in determining the farmland preservation tax credit in that year.

Step 2

Multiply: The owner’s total farmland preservation tax credit in that year on all agreements

By: The quotient in Step 1. This is the “allocated tax credit.”

Value of the Lien

Step 1

Divide: The TV of the property being released from the agreement

By: The total TV of the property subject to the FDRA that included the property being released from the agreement.

Step 2

Multiply: The “allocated tax credit” for the agreement

By: The quotient computed Step 1.

Step 3

Sum: The results of Steps 1 and 2 plus 6 percent per annum interest for each of the last seven years.

Sale of Land

From January 1 to the day of closing, the seller (and conceivably their predecessor(s) in title) is the owner of the farmland.

For the period from January 1 to the day of closing, the seller is the person responsible for the ad valorem taxes. For income tax purposes, the IRS concludes the seller, not the buyer, pays the taxes (if the taxes are paid).

The buyer is the owner of the farmland and is responsible for the payment of taxes (if paid) from the period of the “closing day” to December 31.

Based on the above, each owner is entitled to claim the credit for that portion of the calendar year they held title to the farmland.
**Reinstatement of a Development Rights Agreement**

If there is a lapse of time between the expiration and reinstatement of an agreement, the landowner is not eligible to claim a farmland preservation tax credit for the time the agreement had expired. The lien, which is recorded when an agreement is terminated, is discharged upon reinstatement of the development rights agreement. A subsequent lien will not be less than the lien discharged due to reinstatement.

**Farmland Preservation Tax Credit When Land Is Inherited**

The taxpayer who inherited the land is not eligible for the credit until they are the owner of record and the FDRA is transferred to them by the State Land Use Agency.

**Taxable Portion of Farmland Preservation Tax Credit**

Taxable income for Michigan income tax purposes is defined in ITA, MCL 206.30(1), as AGI as determined in the IRC subject to certain adjustments. To the extent that a farmland preservation tax credit is includable in an individual’s AGI, this income is taxable to the State. There is no statutory provision to exclude this income from the computation of Michigan taxable income.

Income is defined in Michigan’s ITA, MCL 206.510(1) as the sum of federal AGI, as established in the IRC, plus all income specifically excluded or exempt from the computation of the federal AGI.

Income does not include payments or credits under MCL 206.510(1). A farmland preservation tax credit is provided for in the Farmland and Open Space Preservation Act, **not the ITA**.

The part of the homestead property tax credit that applies to farm buildings and land is business related. To determine the portion that is business income, multiply the credit by the percentage that the TV of the buildings and land is to the total TV of the property (see example).

The local assessor can provide a breakdown showing how total TV was determined.

\[
\text{TV of Farmland} \times \text{Credit Amounts} = \text{Property Tax Credit}
\]

The farmland preservation tax credit amount and the business portion of the homestead property tax credit received during the year must be included in taxable income.

If the MI-1040 tax refund was greater than the amount of farmland preservation tax credit plus the business portion of the homestead property tax credit, subtract the excess refund amount received during the year to the extent it was included in federal AGI.
Attaching Property Tax Statement(s) When Claiming an MI-1040CR-5

For All E-Filers: Indicate in the space provided on Schedule CR-5 if the property taxes are paid for the year of the return or for the immediately preceding year. No property tax statements are required at this time. Some e-file products may allow you to attach images of your property tax statements which may reduce correspondence with Treasury and expedite the processing of your return. Keep the statements with the tax records, as there may be a need in the future for Treasury to request them.

For All Paper Filers: Indicate in the space provided on Schedule CR-5 if the property taxes are paid for the year of the return or for the immediately preceding year. Property tax statements for the year of the return must be included. These statements must include the TV, property taxes levied by millage rate, and the corresponding agreement number(s). If the tax statements do not indicate payment of property taxes and the Paid box is checked on the Schedule CR-5, a copy of the previous year’s property tax receipt(s) indicating payment is also required.

The Paid box is checked if the property taxes are paid for either the year of the return or for the immediately preceding year. If the box is not paid, it will be assumed the property taxes are not paid. This will result in the farmland preservation tax credit being issued jointly payable to the taxpayer and the appropriate county treasurer.

Farmland Taxes Eligibility Chart

The following chart describes who may claim the farmland preservation tax credit and what taxes are to be used in computing the farmland credit based on ownership of the land.

<table>
<thead>
<tr>
<th>Type of Ownership</th>
<th>Taxes Based On</th>
<th>Must Attach</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partnership</td>
<td>1. Percent of Income or ownership, or 2. Statement signed by all partners listing allowable percent for each partner</td>
<td>1. Federal 1065 and K-1, or 2. Partnership agreement, or 3. Signed statement, or 4. Completed part 2 of MI-1040CR-5</td>
<td>1/1/84</td>
</tr>
<tr>
<td>S Corporation</td>
<td>1. Percent of stock ownership</td>
<td>1. Federal 1120S and Schedule K-1</td>
<td>1/1/88</td>
</tr>
<tr>
<td>*MET filers do not qualify.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Joint (Other Than Spouse)</td>
<td>1. Equal apportionment among owners, or 2. Statements signed by owners apportioning taxes the same way the revenues and expenses are divided</td>
<td>1. Signed statement, or 2. Completed part 2 of MI-1040CR-5</td>
<td>1/1/84</td>
</tr>
<tr>
<td>Life Estate or Life Lease</td>
<td>1. Possession, or apportionment between owner and life estate holder</td>
<td>1. Signed statement, or 2. Completed Part 2 of MI-1040CR-5, or 3. Copy of Life Lease Agreement</td>
<td>1/1/86</td>
</tr>
<tr>
<td>Type of Ownership</td>
<td>Taxes Based On</td>
<td>Must Attach</td>
<td>Effective Date</td>
</tr>
<tr>
<td>----------------------------------------</td>
<td>-------------------------------------------------------------------------------</td>
<td>----------------------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Grantor Trust</td>
<td>1. Ownership (if treated as an owner under IRC Sections 671 through 679)</td>
<td>1. Portion of trust that shows owner</td>
<td>1/1/84</td>
</tr>
<tr>
<td>Trust Created by Death of Spouse</td>
<td>1. Ownership (if the trust requires 100 percent of the income to be distributed each year to the surviving spouse)</td>
<td>1. Portion of trust that shows owner, or the deed</td>
<td>1/1/84</td>
</tr>
<tr>
<td>Limited Liability Company</td>
<td>1. Based on member’s share of ownership or distributive share of ordinary income as reported by the company to IRS</td>
<td>1. Limited liability company’s federal return and Schedule K-1s</td>
<td>1/1/96</td>
</tr>
</tbody>
</table>

**Repayments Under the Claim of Right Doctrine**

Section 265 of the ITA allows taxpayers to claim a credit against the Michigan income tax equal to the amount of tax paid on amounts included in taxable income in a prior tax year and repaid in the current tax year.

The credit is allowed on amounts which qualify under IRC Section 1341, and are not deducted in arriving at federal AGI for the tax year.

**Example:** Included in Roy’s 2012 AGI was $18,000 in Supplemental Unemployment Benefits (SUB pay) from ABC, Inc. In 2016, Roy repaid the $18,000, as it was determined he did not have the right to receive the SUB pay. The 2016 repayment qualified under IRC Section 1341 and was taken as an itemized deduction by Roy on his 2016 federal Schedule A. For the 2016 tax year, Roy is allowed a $779 ($18,000 x .0433) credit against his Michigan income tax. Calculate the credit using the tax rate in effect for the year the amount was included in Michigan taxable income (4.33 percent), not the rate (4.25 percent) in effect for 2016, the year of the repayment. Report the credit on the line for reporting withholding taxes. Write “Claim of Right/Repayment” next to the withholding line. Attach a copy of Roy’s federal Form 1040 pages 1 and 2, Schedule A, documentation of the repayment, and a calculation showing how the credit was determined on his 2016 MI-1040.

**Earned Income Tax Credit**

For 2016, a taxpayer may claim a refundable credit against the income tax for an amount equal to 6 percent of the credit the taxpayer is allowed to claim as a credit under IRC Section 32 (i.e., the Earned Income Tax Credit (EITC)) for a tax year on a return filed under the act for the same year.

**Home Heating Credit**

PA 335 of 2004 amended Section 527(a) of the ITA allowing Treasury to establish a program for direct payments of energy drafts to enrolled heating providers. If a claimant’s name has been submitted by the provider (Consumers Energy, DTE Energy Company, or SEMCO Energy Gas) and meets the requirements established by Treasury, the energy draft will be paid directly to the provider.
PA 169 of 2001 allows a Home Heating Credit only if there has been a federal appropriation for the federal fiscal year beginning in the tax year of federal low income home energy assistance program block grant funds of any amount. Also under PA 169 of 2001, no portion of the credit allowed shall be applied as an offset to any liability of the claimant.

The Home Heating Credit form must be filed and postmarked no later than September 30 of the following year. The amount of the credit may be prorated depending on the amount of federal funds appropriated.

An eligible claimant for a heating credit is defined as a renter or owner of a home. The claimant’s income must be within the income limits listed on the eligibility charts in the MI-1040CR-7 instruction booklet. An ineligible claimant is a person who lives in a home and does not pay rent or is not an owner. The standard allowance of heating costs is prorated for eligible claimants if the home is occupied by ineligible claimants. Ineligible claimants include:

1. Full-time students claimed as dependents by another person
2. Residents of a congregate care facility (i.e., nursing home, foster care home, home for the aged, substance abuse center, etc.) who resided in the care facility for the entire year.

For individuals who rent their homestead, if at the time of filing their heating costs are included in their rent the credit must be reduced by 50 percent.

Example: A Michigan resident whose heat is included in their rent claimed a 2016 home heating credit. Two federal exemptions were reported. The claimant’s total household resources of $7,475 included wages of $3,025, DHHS benefits of $1,500, and child support of $2,950. The claimant may claim a home heating credit of $178.

To compute the home heating credit:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard allowance</td>
<td>$618</td>
</tr>
<tr>
<td>Less THR multiplied by 3.5%</td>
<td>-262</td>
</tr>
<tr>
<td><strong>Standard credit</strong></td>
<td>356</td>
</tr>
<tr>
<td>Renters reduce credit by 50%</td>
<td>-178</td>
</tr>
<tr>
<td><strong>Home Heating Credit</strong></td>
<td>$178</td>
</tr>
</tbody>
</table>

(subject to possible proration)

When two or more taxpayers who are not married to each other share a home, each can claim a home heating credit if each has contracted to pay rent or owns a share of the house. If they share a home but are not the owners or have not contracted to pay rent, then they cannot claim a home heating credit.

To claim a credit, each eligible claimant should file a Home Heating Credit based on their total household resources and their share of the standard allowance. The standard allowance is determined from Table A in the MI-1040CR-7 instruction booklet by adding the personal exemptions of all the claimants sharing the home.
Example 1: Two women share an apartment. Each person has signed a lease and pays one-half of the rent in 2016. The standard allowance for two exemptions is $618. Each person must use a standard allowance of $309 ($618/2 = $309) to compute the credit.

If one of the individuals sharing the home is eligible for a special exemption or a dependent exemption, then she would compute her credit as follows:

The standard allowance as computed above is $309. Then add the difference between the standard allowance for three ($777) and the standard allowance for two ($618) to $309 ($777 - $618 = $159 + $309 = $468). $468 is the standard allowance for the individual with the dependent exemption.

Part-year residents must prorate the standard allowance based on the number of days they were a Michigan resident. Claimants filing on behalf of deceased individuals must prorate the standard allowance based on the date of death. The decedent is not eligible for the alternate credit computation if they died during the tax year.

Example 2: A Home Heating Credit* claim is filed by a part-year Michigan resident who resided in Michigan for 198 days. The claim is based on Michigan total household resources of $3,600 and one exemption.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prorated standard allowance</td>
<td>(198/365 x $458) $248</td>
</tr>
<tr>
<td>Less: 3.5% of actual total household resources</td>
<td>($3,600) - $126</td>
</tr>
<tr>
<td><strong>Home Heating Credit</strong></td>
<td>$122 (subject to possible proration)</td>
</tr>
</tbody>
</table>

*No annualizing of total household resources is required when computing a Home Heating Credit.

CANCELLATION OF DEBT

If a debt owed by an individual is cancelled or forgiven, other than as a gift, the amount of the cancelled debt must be included in gross income of the individual. Therefore, any income arising from cancellation of debt (COD) included in federal AGI is subject to Michigan income tax. Forgiveness of debts owed to a seller/creditor are considered reductions to the purchase price and generally are not classified as cancellation of debt.

1. Q. How does a taxpayer know when a lender has forgiven a mortgage debt?
   A. The following may be received from the lender:
   - 1099-A: Acquisition or Abandonment of Secured Property. This is used to compute federal gain or loss if the home is transferred in a foreclosure.
   - 1099-C: Cancellation of Debt. This reports any debt cancelled by the lender. The amount of debt cancelled is shown in box 2.
2. Q. Is COD included in federal AGI?
   A. Yes. However, there are some exceptions (see item 5).

3. Q. If COD is included in AGI, can it be subtracted on an MI-1040?
   A. No.

4. Q. If COD is included in AGI must it be included in total household resources?
   A. Yes.

5. Q. When, under federal law, can COD be excluded from AGI?
   A. Discharge in bankruptcy, insolvency, or mortgage on a principal residence.

6. Q. When a COD is excluded from AGI, must it be added back on the MI-1040?
   A. No.

7. Q. When a COD is excluded from AGI, must it be included in total household resources?
   A. Yes. (see the exception in item 8).

8. Q. When can a COD on a mortgage be excluded from total household resources?
   A. When the lender does not foreclose, but agrees to reduce the amount owed. In this case, ownership of the house does not change. This is sometimes known as a “workout.” The owner would probably receive a 1099-C but not a 1099-A.

9. Q. Why isn’t the COD part of total household resources in the case of a workout?
   A. Because any gain or loss on the sale of the house is put off until the owner sells. The basis – a value used to compute gain or loss on a sale – is adjusted by the COD. When the owner eventually sells the house they will recognize more gain (assuming it is sold for a gain) which will be included in total household resources at that time.

10. Q. What is a “Redemption Period?”
    A. This is the phase of the foreclosure process which starts with a sheriff’s sale and ends when ownership actually changes. It is usually six months.

11. Q. May the owner take a property tax credit for the time the owner lived in the home during the redemptions period?
    A. Yes, even though the owner may never pay the property taxes.
12. Q. What if the (ex) owner remains in the home after the redemption period expires?

A. They may not claim property taxes for time after the redemption period expires. They may, however, take credit for any rent paid to remain living there.

**RELIEF FROM TAX LIABILITY**

**Nonobligated Spouse Allocation**

MCL Chapter 205, Section 30a, permits spouses to apportion a joint refund as though they had filed separate returns when one spouse has a liability. A nonobligated spouse’s share of the refund will not, under certain conditions, be used to offset an obligated spouse’s debt.

A spouse not responsible for the liability may obtain their share of the refund by completing and filing *Income Allocation for Non-Obligated Spouse* (Form 743). Form 743 is used to determine an overpayment based on separate reporting of income, credits and exemptions.

*Form 743 is issued after the processing of the income tax return and CANNOT be obtained in advance.*

Form 743 must be signed by both spouses and returned within 30 days from the date Form 743 was mailed by Treasury. If it is not filed within this period, a portion or all of the joint refund will be used to offset the obligated spouse’s liability. If Form 743 is returned to Treasury but is incomplete, the entire refund may be offset. Once Form 743 is filed it cannot be amended. A nonobligated spouse will not be permitted to commence an action to recover any amount withheld to satisfy the debt if the form is improperly filed. Form 743 should be filled out even if the taxpayer is unsure of the debt or is contesting the debt.

If the obligated spouse’s signature cannot be obtained, Form 743 may still be filed but must list the reason why the obligated spouse’s signature is missing.

Complete Form 743 using the figures from the original return even if you discover that the Michigan income tax return needs to be amended. Do not attach Form 743 to an amended return as the processing of the original refund will be delayed. The taxpayer may later file an amended return taking into consideration the refund requested on the original return.

Falsely reporting any information on Form 743 will result in a penalty of $25 or 25 percent of the excessive amount claimed, whichever is greater.

**Relief From Joint and Several Liability on Joint Returns**

Innocent spouse relief, separation of liability, and equitable relief may be granted by Treasury for the portion of the tax liability that is attributable to the understatement of tax or the underpayment of tax. Treasury shall use the standards set forth in IRC Section 6015 and related federal interpretation in matters regarding relief from joint and several liability.

Individuals requesting relief shall provide information regarding spousal relief that has been granted for federal income tax liability or other documentation or information to support the individual’s request.
FIDUCIARY INFORMATION

General Information

A copy of the U.S. 1041 must be filed with Fiduciary Income Tax Return (Form MI-1041). Schedules 1, 2, and 3 must be completed, if applicable. Schedule 4 must be completed if the estate or trust is filing as a nonresident.

An MI-1041 estate return must be filed on behalf of the estate of the deceased to report any income received after the date of death. An estate return is only entitled to the federal exemption allowance of $600.

The income tax rate for 2016 calendar and fiscal year filers is 4.25 percent.

Resident Estate or Trust

An MI-1041 must be filed if a U.S. 1041 return was filed or if there was income taxable to Michigan that was not included on the U.S. 1041 (such as interest and dividends income from obligations of states other than Michigan).

Nonresident Estate or Trust

An MI-1041 must be filed if income or gain from Michigan sources exceeds federal fiduciary exemptions. (This would include income or gain from real or tangible personal property located in Michigan; income from business, trade, profession, or occupation conducted in Michigan; income from services performed in Michigan; or income earned, received, or acquired in Michigan.)

Grantor Trust

Michigan does not require a grantor trust to file a MI-1041 when the grantor is a trustee and is treated as the owner of the trust’s assets per the IRC. Instead, report the trust’s income, deductions, and credits on the grantor’s MI-1040. (Refer to IRC Reg 1.671-4.) The fiduciary, in addition to not being required to file a MI-1041, would not be required to provide copies of federal returns or federal Schedule K-1s for the grantor trust.

A grantor trust is a separate legal entity under state law but it is not recognized as a separate taxable entity for income tax purposes, because the grantor or other substantial owner has not relinquished complete dominion and control over the trust.

See IRC Sections 671 through 678 for more information on the characteristics of grantor trusts.

Allocation of Michigan Net Adjustments to Trust Beneficiaries

A beneficiary must attach Schedule K-1 or a letter from the fiduciary to their MI-1040 return. The Schedule K-1 or the letter must show the name of the trust, federal identification number, and the income and Michigan adjustments to be included on the beneficiary’s MI-1040 and MI-1040D.
The allocation of Michigan net adjustments must be in proportion to the beneficiary’s respective share of distributable net income of the estate or trust as defined in the IRC.

If the estate or trust has no distributable net income for the taxable year, refer to MCL 206.36(2) which states:

“The respective shares of an estate or trust and its beneficiaries, including, solely for the purpose of this allocation, nonresident beneficiaries, in the additions and subtractions to taxable income shall be in proportion to their respective shares of distributable net income of the estate or trust as defined in the internal revenue code. If the estate or trust has no distributable net income for the taxable year, the share of each beneficiary in the additions and subtractions shall be in proportion to his share of the estate or trust income for the year, under local law or the terms of the instrument, which is required to be distributed currently and any other amounts of such income distributed in the year. Any balance of the additions and subtractions shall be allocated to the estate or trust. If capital gains and losses are distributed or distributable to a beneficiary or beneficiaries under the internal revenue code, the fiduciary shall advise each beneficiary of his share of the adjustment under section 271. The election or failure to elect under section 271 with respect to capital gains and losses taxable to the estate or trust shall not affect the beneficiary’s right to elect or not elect under section 271.”

There will be occasions where the additions or subtractions would be attributable to capital gains that were not distributed. The taxpayer should identify any additions or subtractions attributable to the capital gains or losses that were not distributed according to the same percentage as the distributable net income.

**Taxable Income of Nonresident Beneficiary of Michigan Trust**

A nonresident beneficiary’s taxable income is subject to the allocation and apportionment rules of the Michigan Income Tax Act (ITA). There is no exclusion for the income passed through to a nonresident beneficiary from a Michigan trust if the income is allocable or apportionable to the State under the provisions of Chapter 3 of the ITA.

In 2013, the Michigan Supreme Court held that combined apportionment under the unitary business principle may be used to calculate taxable income at the election of the taxpayer. *Malpass v Department of Treasury*, 494 Mich 237 (2013). This may also apply to a nonresident beneficiary’s taxable income. Treasury previously only applied the unitary business principle to each discrete legal entity’s business operations. See Apportionment of Flow-Through Entities Under the Unitary Business Principle in this chapter.

**IRS MATCH**

The IRS provides Treasury with information regarding taxpayers’ federal tax returns in accordance with IRC Section 6103(d). Following is a summary of the IRS match programs.

The delinquent match program identifies taxpayers who filed their federal income tax returns from a Michigan address, but did not file Michigan returns. Treasury sends these taxpayers a letter of inquiry requesting that a Michigan income tax return be filed. The letter indicates the amount of tax that is due based on the reported federal AGI and federal exemption allowances.
The **AGI match program** identifies taxpayers who reported a different amount of AGI on their federal income tax returns than on their State income tax returns. Treasury sends a letter of inquiry to the taxpayers indicating the amount of AGI reported on their federal return and the Michigan return. Tax due is computed on the difference between the federal and State return. Since total household resources is affected, the property tax credit and home heating credit (if applicable) are recomputed adding the difference to the amount due.

The **CP 2000 program** identifies taxpayers who failed to report income that was reported to the IRS by third parties. Treasury sends a letter of inquiry to the taxpayers indicating the source and the amount of the unreported income, as well as the amount of income tax and interest due on that income.

The IRS reports the results of all audits conducted on individuals who are Michigan residents. This information is then matched against amended returns filed by the taxpayers. If discrepancies exist or if amended returns are not filed, the taxpayers will receive a letter of proposed income tax adjustments and the amount due. If the IRS made a determination, taxpayers need to submit that information to the State of Michigan.

If taxpayers disagree with the information in the letter of inquiry, they should write to Treasury within the specified time. If they received a redetermination or any other documentation from the IRS, they should submit a copy of it attached to their letter.

**TAXABILITY OF FEDERAL OBLIGATIONS**

Income from certain U.S. Obligations, reduced by any expenses in carrying the obligation used in arriving at federal AGI, can be subtracted on the Michigan return.

**The following U.S. Obligations are exempt from Michigan Individual Income Tax:**

- U.S. Government Bonds
- U.S. Saving Bonds - Series E, F, G, and H
- U.S. Government Certificates
- U.S. Treasury Bills and Notes
Obligations issued by the following U.S. Agencies are exempt:

- Banks for Cooperatives
- Central Banks for Cooperatives
- Commodity Credit Corp.
- Consolidated Bonds
- Consolidated Discount Notes
- Consolidated System Bond, Series L
- Consolidated Systemwide
- Discount Notes
- District of Columbia
- Farm Credit Banks
- Farmers Home Corp.
- Federal Deposit Insurance Corp.
- Federal Farm Credit Bank
- Federal Farm Loan Corp.
- Federal Farm Mortgage Corp.
- Federal Financing Banks
- Federal Home Loan Banks
- Federal Housing Administration (General Insurance Fund Debentures)
- Federal Intermediate Credit Banks
- Federal Intermediate Credit Corp.
- Federal Land Banks
- Federal Land Banks Association
- Federal Savings and Loan Insurance Corporation
- Home Owner’s Loan Corp.
- Joint Stock Land Banks
- Maritime Administration
- Production Credit Association
- Small Business Administration
- Student Loan Marketing Association (Sallie Mae)
- Tennessee Valley Authority (bonds only)
- U.S. Housing Authority
- U.S. Maritime Commission
- U.S. Possessions (obligations Puerto Rico, Virgin Islands, etc.)
- U.S. Postal Service (bonds)

The following debentures issued under the General Insurance Fund are exempt:

- Interest from Armed Services Housing Mortgage Debentures
- Interest from debentures issued under War Housing Insurance Law
- Interest from debentures to acquire rental housing projects

The following General Services Administration Public Building Trust Participation Certificates are exempt:

- 1st series A through E
- 2nd series F
- 3rd series G
- 4th series H and I

The Guam Obligations issued by Government of Guam are exempt.

Income from exempt U.S. Obligations received by the taxpayer through Money Market Funds, Money Market Certificates, Mutual Funds, Trusts, etc., generally qualifies for a subtraction.

Treasury Bill Futures are not U.S. obligations.
The following U.S. Obligations are taxable:

- Building and Loan Associations
- Credit Union Share Accounts
- District of Columbia Armory Board
- Export/Import Bank of Washington, D.C.
- Federal Home Loan Mortgage Corporation (Freddie Mac) mortgages and other securities
- Federal Housing Administration (debentures, notes, and participation certificates)
- Federal National Mortgage Association (Fannie Mae) participation and other instruments
- Federal Savings and Loan Associations
- Government National Mortgage Association (Ginnie Mae) (debentures, notes, and participation certificates)
- International Bank for Reconstruction and Development (World Bank)
- Panama Canal Bonds
- Participation Certificates issued by the Federal National Mortgage Association
- Philippine Bonds
- U.S. Department of Agriculture Farmers Home Administration Insured Notes
- U.S. Government Insured Merchant Marine Bonds

Other examples of taxable interest from federal obligations:

- Debentures issued to mortgages or mortgages foreclosed under the provisions of the National Housing Act
- Farmer’s Home Administration
- Federal Home Loan time deposits
- FSLIC secondary reserve prepayments
- Government National Mortgage Association participation certificates and on Federal Home Loan Mortgage Corporation participation certificates in mortgage pools
- Interest-bearing certificates issued in lieu of tax exempt securities, such income losing its identity when merged with other funds
- Participating loans in the Federal Reserve System for member banks (Federal Funds)
- Promissory notes of a federal instrumentality
- Refunds of federal income tax
- U.S. Postal Service certificates and savings deposits
INCOME ALLOCATION CHART

The following chart may be used to determine which types or sources of income are taxable to Michigan. This chart is not inclusive of all types of income, but reflects the most common.

<table>
<thead>
<tr>
<th>Type of Income</th>
<th>Allocate To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries, wages, tips, director fees, commissions, etc.</td>
<td>State where earned and state of residence. A Michigan resident may be entitled to a credit if income also taxed by another state. <strong>Exception:</strong> Residents of reciprocal states are not taxed by Michigan on this type of income and vice versa.</td>
</tr>
<tr>
<td>Deferred compensation:</td>
<td></td>
</tr>
<tr>
<td>1. Principal portion</td>
<td>State of residence when received.</td>
</tr>
<tr>
<td>2. Interest portion</td>
<td>State of residence when received.</td>
</tr>
<tr>
<td>Dividends and interest</td>
<td>State of residence.</td>
</tr>
<tr>
<td></td>
<td><strong>Exception:</strong> If earned by a partnership or S corporation, allocate or apportion to the state of the business activity if business income.</td>
</tr>
<tr>
<td>Business income or loss (Schedule C)</td>
<td>State where business activity takes place. Business income attributable to Michigan and one or more states must be apportioned. (Form MI-1040H.)</td>
</tr>
<tr>
<td>Partnerships, S corporations, or other flow-through entities income or loss:</td>
<td></td>
</tr>
<tr>
<td>1. Ordinary business income or loss (Schedule E)</td>
<td>State where business activity takes place.</td>
</tr>
<tr>
<td>2. All other business income or loss</td>
<td>State where business activity takes place.</td>
</tr>
<tr>
<td>3. Nonbusiness income or loss</td>
<td>State of residence.</td>
</tr>
<tr>
<td>Capital gain or loss (Schedule D or 4797):</td>
<td></td>
</tr>
<tr>
<td>1. Intangible personal property such as stocks, bonds, commodities, futures, etc.</td>
<td>State of residence unless business income.</td>
</tr>
<tr>
<td>2. Section 1231</td>
<td>State where property is located unless business income.</td>
</tr>
<tr>
<td>3. Real property</td>
<td>State where real property is located unless business income.</td>
</tr>
<tr>
<td>Pension, retirement, annuity, qualifying IRA distributions, and Social Security benefits</td>
<td>State of residence when received.</td>
</tr>
<tr>
<td>Rent and royalty income or loss (Schedule E):</td>
<td></td>
</tr>
<tr>
<td>1. Tangible and intangible personal property</td>
<td>Michigan if used in this State, or if a resident and not taxable in the state where property is used.</td>
</tr>
<tr>
<td>2. Real property (includes royalties for minerals which came from real property such as oil and coal)</td>
<td>State where real property is located unless business income.</td>
</tr>
<tr>
<td>Estate or trust income or loss</td>
<td>Look to type and source of income and apply guidelines in this chart.</td>
</tr>
</tbody>
</table>
### Type of Income

<table>
<thead>
<tr>
<th>Type of Income</th>
<th>Allocate To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farm income or loss (Schedule F)</td>
<td>State where farm is located.</td>
</tr>
<tr>
<td>Unemployment compensation</td>
<td>State of residence.</td>
</tr>
<tr>
<td>Alimony and state and local refunds</td>
<td>State of residence when received.</td>
</tr>
<tr>
<td>Gambling winnings from casinos and licensed horse tracks located in Michigan,</td>
<td>State where earned and state of residence.</td>
</tr>
<tr>
<td>and winnings from raffle, bingo, and prizes won in Michigan</td>
<td>(Michigan lottery won by nonresidents is taxable in Michigan.)</td>
</tr>
</tbody>
</table>

### INCOME AND DEDUCTIBLE ITEMS, SUMMARY CHART

**Notes:**
- **N** = Not included
- **Y** = Included
- **AGI** = Adjusted Gross Income
- **THR** = Total Household Resources

<table>
<thead>
<tr>
<th>Income Items</th>
<th>AGI</th>
<th>Michigan Taxable Income</th>
<th>THR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alimony received</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Awards, prizes (amount in excess of $300 for THR)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td><strong>Bingo:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>First $300</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>In excess of $300</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Bonuses</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td><strong>Business (Schedule C) income or loss:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In Michigan (except income and related expenses from oil and gas royalties</td>
<td>Y</td>
<td>Y</td>
<td>Y*</td>
</tr>
<tr>
<td>and nonferrous metallic minerals extraction subject to severance tax)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>From another state and/or income and related expenses from oil and gas</td>
<td>Y</td>
<td>N</td>
<td>Y*</td>
</tr>
<tr>
<td>royalties and nonferrous metallic minerals extraction subject to severance tax</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Capital gains:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>100% taxable</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td><strong>Note:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senior citizen born before 1946 may subtract interest, dividends, and capital</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>gains included in AGI. The maximum deduction must be reduced by the pension</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>subtraction. Allowable deduction is the smaller of the calculation or actual</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>total interest, dividends, and capital gains.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>This subtraction is adjusted by the percentage increase in the U.S.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consumer Price Index for the preceding calendar year. See MI-1040 instruction</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>booklet for the year being reviewed.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gains on sale of principal residence</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Casualty loss reimbursement in excess of loss of property</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
</tbody>
</table>

* All business income and loss must be netted before considering the effect on THR. If the netting results in a loss, this cannot be used to reduce THR. Exception: Farmland Preservation Tax Credit continues to be based on household income and not THR. Business losses and NOL deductions are allowed in household income. (See MI-1040CR-5 instructions.)
<table>
<thead>
<tr>
<th>Income Items</th>
<th>AGI</th>
<th>Michigan Taxable Income</th>
<th>THR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child support payments:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payer</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Receiver</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Chore service payments:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provider of service</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Receiver of service</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Commissions</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Compensation for personal services rendered</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Damages for personal injury or sickness</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Deferred compensation</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Director’s fees</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Disability income (limited)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Policeman and Fireman On-Duty “J-Days”</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Dividends received (see Note under “Capital gains”)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Educational expenses paid by employer</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Employee business expenses: cash allowance or reimbursement</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Energy assistance grants or tax credit</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Estates or trusts income or loss</td>
<td>Y</td>
<td>Y</td>
<td>Y*</td>
</tr>
<tr>
<td>FIP benefits (see “Public assistance . . .”)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farm income or loss from:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td>Y</td>
<td>Y</td>
<td>Y*</td>
</tr>
<tr>
<td>Another state</td>
<td>Y</td>
<td>N</td>
<td>Y*</td>
</tr>
<tr>
<td>Farm portion of homestead property tax credit</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Farmland preservation tax credits</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Foreign earned income exclusion</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Foster care payments</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Gambling:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Winnings (amount in excess of $300 for THR)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Losses:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional gamblers (Net losses)</td>
<td>Y</td>
<td>Y</td>
<td>N*</td>
</tr>
<tr>
<td>All others</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
</tbody>
</table>

* All business income and loss must be netted before considering the effect on THR. If the netting results in a loss, this cannot be used to reduce THR. Exception: Farmland Preservation Tax Credit continues to be based on household income and not THR. Business losses and NOL deductions are allowed in household income. (See MI-1040CR-5 instructions.)
<table>
<thead>
<tr>
<th>Income Items</th>
<th>AGI</th>
<th>Michigan Taxable Income</th>
<th>THR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gifts cash:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>First $300</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Excess over $300</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Government grant for home repair or improvement</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Government payments made directly to educational institutions or housing projects</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Health, life (unless benefits exceed $50,000), and accident insurance premiums paid by employer</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Homestead property tax credits</td>
<td>Y</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Housing allowance for clergy</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Inheritance bequest or devise from:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nonspouse</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Spouse</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Interest received on:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Banking, savings and loan assoc., etc., accounts</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Insurance dividends</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Land contracts</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Money market and savings certificates</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Municipal bonds issued by another state</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Municipal bonds issued by Michigan</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Tax refunds</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>U.S. Obligations (only specific agencies exempt)</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Interest taxable to Michigan (see Note under “Capital gains”)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Life insurance proceeds paid to:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nonspouse</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Spouse</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Life insurance cash in amount in excess of premiums</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Living expenses of claimant paid by another person</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Income Items</td>
<td>AGI</td>
<td>Michigan Taxable Income</td>
<td>THR</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>-----</td>
<td>-------------------------</td>
<td>-----</td>
</tr>
<tr>
<td>Loans received or paid</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Long-term disability payments received (if all or part of premium paid by employer)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Lottery:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>100% taxable (amount in excess of $300 for THR)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Installment winners of Michigan lottery who won prior to 12-30-88</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Lump sum distribution included in 10-year averaging (for individuals born before 1936)</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Medicare payments</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Military wages or retirements</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Combat pay not excluded from taxable on federal return</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Combat pay excluded from taxable on federal return</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Moving expenses, reimbursement:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moving into Michigan</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Moving out of Michigan</td>
<td>Y</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Net operating loss deduction (the NOL is allowed in household income when computing the Farmland Preservation Tax Credit)</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Partnership income or loss:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In Michigan (except income and related expenses from oil and gas royalties and nonferrous metallic minerals extraction subject to Michigan severance tax)</td>
<td>Y</td>
<td>Y</td>
<td>Y*</td>
</tr>
<tr>
<td>From another state and/or income and related expenses from oil and gas royalties and nonferrous metallic minerals extraction subject to Michigan severance tax</td>
<td>Y</td>
<td>N</td>
<td>Y*</td>
</tr>
<tr>
<td>Pension and retirement benefits for persons born after 1945. (Refer to Pension and Retirement Benefits section of this manual.)</td>
<td>Y</td>
<td>Y/N</td>
<td>Y</td>
</tr>
<tr>
<td>Private pensions (e.g., qualified annuity plans) up to amount allowed as subtraction for claimed year for persons born before 1946</td>
<td>Y</td>
<td>N**</td>
<td>Y</td>
</tr>
<tr>
<td>Private pensions or qualified annuity plans in excess of amount allowed as subtraction for claimed year for persons born before 1946</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Public Pensions (federal, state, or municipal governments) for persons born before 1946</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
</tbody>
</table>

* All business income and loss must be netted before considering the effect on THR. If the netting results in a loss, this cannot be used to reduce THR. Exception: Farmland Preservation Tax Credit continues to be based on household income and not THR. Business losses and NOL deductions are allowed in household income. (See MI-1040CR-5 instructions.)

** This subtraction is adjusted by the percentage increase in the U.S. Consumer Price Index for the preceding calendar year. (See the MI 1040 instruction book for the year being reviewed.)
<table>
<thead>
<tr>
<th>Income Items</th>
<th>AGI</th>
<th>Michigan Taxable Income</th>
<th>THR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public assistance payments from DHHS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FIP paid to grandparents for care of grandchildren</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>FIP paid to parents for children</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Public health officer’s income:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Michigan resident</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Nonresident</td>
<td>Y</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Railroad sick pay</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Railroad Tier 1 retirement benefits:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxable amount for persons born before 1946</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Nontaxable portion</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Railroad Tier 2 retirement benefits for persons born before 1946</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Railroad unemployment benefits</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Refunds - Michigan state and local income tax</td>
<td>Y</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Relief in kind</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Rents and royalties income or loss:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In Michigan (except income and related expenses from oil and gas royalties and nonferrous metallic minerals extraction subject to Michigan severance tax)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>From another state and/or income and related expenses from oil and gas royalties and nonferrous metallic minerals extraction subject to Michigan severance tax</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td><strong>Note:</strong> All rent and royalty income and loss must be netted before considering the effect on THR. If the netting results in a loss, this cannot be used to reduce THR.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retirement benefits (see “Private and Public pensions . . .”)</td>
<td>Y</td>
<td>N/Y</td>
<td>Y</td>
</tr>
<tr>
<td>S corporation business activity:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In Michigan (except income and related expenses from oil and gas royalties and nonferrous metallic minerals extraction subject to Michigan severance tax)</td>
<td>Y</td>
<td>Y</td>
<td>Y*</td>
</tr>
<tr>
<td>In another state and/or income and related expenses from oil and gas royalties and nonferrous metallic minerals extraction subject to Michigan severance tax</td>
<td>Y</td>
<td>N</td>
<td>Y*</td>
</tr>
</tbody>
</table>

* All business income and loss must be netted before considering the effect on THR. If the netting results in a loss, this cannot be used to reduce THR. Exception: Farmland Preservation Tax Credit continues to be based on household income and not THR. Business losses and NOL deductions are allowed in household income. (See MI-1040CR-5 instructions.)
<table>
<thead>
<tr>
<th>Income Items</th>
<th>AGI</th>
<th>Michigan Taxable Income</th>
<th>THR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scholarships, stipends, education grants, GI bill benefits</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td><strong>Note:</strong> Scholarships must be received and used for qualified tuition and related expenses such as fees, books, supplies, and equipment required for courses of instruction at a qualified organization.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scholarships or grants received and used for nonqualified expenses that are included in federal AGI such as room and board</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Severance pay</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Sick pay other than railroad sick pay</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Social Security benefits:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxable amount</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Nontaxable portion</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Stipends received for benefit of grantor (interns, resident doctors)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Strike pay</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Supplemental gain (Form 4797)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Supplemental unemployment benefits</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Surplus foods</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Unemployment compensation</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Unemployment compensation from railroad</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Vacation allowance</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Veterans Administration benefits</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Wages, salaries, tips</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Workers’ Compensation</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
</tbody>
</table>
## Deductible Items

<table>
<thead>
<tr>
<th></th>
<th>AGI</th>
<th>Michigan Taxable Income</th>
<th>THR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alimony paid</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Capital losses:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Short-term, maximum $3,000 (THR, maximum $3,000)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>- Long-term, maximum $3,000 (THR, maximum $3,000)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Casualty Loss:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Claimed as itemized deduction</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>- Claimed as business deduction</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>“Claim of Right” (repayment of items previously included in income) taken as:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Itemized deduction (taken as Michigan credit)</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>- Federal tax credit (taken as Michigan credit)</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>- Deduction reflected in AGI</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Health and accident insurance paid by taxpayer for self and family (not including pre-tax payroll deductions)</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>IRA or Keogh, (payments to)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Moving Expenses:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Moving to Michigan</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>- Moving out of Michigan</td>
<td>Y</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Penalty on early withdrawal of savings</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Self-employment tax deduction</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Venture Capital deduction</td>
<td>Y</td>
<td>N</td>
<td>N</td>
</tr>
</tbody>
</table>

## MICHIGAN CITIES LEVYING AN INCOME TAX

The following Michigan cities levy an income tax of **1 percent** on residents and **0.5 percent** on nonresidents except those cities where rates are indicated:

- Albion
- Battle Creek
- Big Rapids
- Detroit (2.4% on residents, 1.2% on nonresidents)
- Flint
- Grand Rapids (1.5% on residents, 0.75% on nonresidents)
- Grayling
- Hamtramck
- Highland Park (2% on residents, 1% on nonresidents)
- Hudson
- Ionia
- Jackson
- Lansing
- Lapeer
- Muskegon
- Muskegon Heights
- Pontiac
- Port Huron
- Portland
- Saginaw (1.5% on residents, 0.75% on nonresidents)
- Springfield
- Walker
CORPORATE INCOME TAX

WHAT’S NEW

Public Act (PA) 278 of 2016 resulted in the following changes to the Corporate Income Tax (CIT).

- An automobile insurance company may only take a tax credit equal to 35 percent of payments made to Michigan Automobile Insurance Placement Facility (MAIPF) that are attributable to the Michigan Assigned Claims Plan for the 2016 tax year.

- An automobile insurance company may not take a tax credit for payments made to MAIPF that are attributable to the Michigan Assigned Claims Plan for the 2017 tax year and subsequent tax years.

PA 158 of 2016 repealed the statutory requirement that flow-through entities (FTE or FTEs) withhold on the distributive share of taxable income of their individual nonresident members or the distributive share of business income of members that are corporations or other FTEs at the prescribed rates for tax years that begin after June 30, 2016. With these changes, it is recommended that taxpayers consider making additional estimated quarterly payments to compensate for the flow-through withholding payments that would not be made.

Revenue Administrative Bulletin (RAB) 2015-20 Corporate Income Tax, Where Benefit of Services is Received. This RAB addresses how a taxpayer determines where the recipient of services receives the benefit of those services for purposes of allocating sales for calculating the sales apportionment factor. This RAB does not address the sourcing of other types of sales under the CIT Act. For additional information on this bulletin visit Treasury’s Web site at www.michigan.gov/documents/treasury/RAB_2015-20_Were_Benefit_of_Services_is_Received_503404_7.pdf or www.michigan.gov/taxes and type RAB-2015-20 in the search box.

OVERVIEW

CIT applies to C corporations, entities taxed as C corporations for federal income tax purposes, insurance companies except those authorized under chapter 46 or 47 of the insurance code of 1956, and financial institutions. Individuals and FTEs, including S Corporations, partnerships, and trusts, generally are not taxpayers under CIT unless the FTE elects or is required to file as a C corporation for federal income tax purposes or otherwise constitutes an insurance company or financial institution. FTEs, however, may be subject to withholding. The withholding requirement is eliminated for FTEs whose tax years begin after June 30, 2016. The tax rate levied on C corporations is 6 percent of the tax base after allocation or apportionment.

Insurance companies and financial institutions are taxed separately under the CIT and are taxed regardless of entity type. Insurance companies are taxed at the rate of 1.25 percent of gross direct premiums written on property or risk located or residing in Michigan or the retaliatory tax under MCL 500.476(a), whichever is greater. Financial institutions are subject to a tax equal to 0.29 percent of apportioned net capital. Due to the distinct treatment under CIT, insurance companies and financial institutions are addressed separately in this chapter. A CIT taxpayer that is not an insurance company or a financial institution will be referred to as a standard taxpayer.
**Definitions**

**Business Income** means federal taxable income. For a tax-exempt taxpayer, business income means that part of federal taxable income derived from unrelated business activity.

**Corporation** means a person that is required or has elected to file as a C corporation at the federal level. An entity that has elected to file as a C corporation at the federal level will be subject to this tax along with traditional C corporations. Corporation does not include a financial institution or insurance company, as those regulated industries are taxed separately.

**Federal Taxable Income** means taxable income is defined in section 63 of the internal revenue code, except that federal taxable income shall be calculated as if section 168(k) and section 199 of the internal revenue code were not in effect.

**Flow-through entity (FTE)** means an S corporation, general partnership, limited partnership, trust, limited liability partnership, or a limited liability company which is not taxed as a corporation at the federal level for the tax year. An FTE does not include a disregarded entity.

**Gross receipts** means the entire amount received by the taxpayer from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others, with certain exclusions. For purposes of the filing threshold, gross receipts includes the taxpayer’s proportionate share of apportioned or allocated gross receipts attributable to an ownership interest in an FTE.

**Taxpayer** means a corporation, insurance company, financial institution, or unitary business group that is liable for tax, interest, or penalty under CIT.

**Unitary Business Group (UBG)** means a group of United States persons that are corporations, insurance companies, or financial institutions, other than a foreign operating entity, one of which owns or controls, directly or indirectly, more than 50 percent of the ownership interest with voting rights or ownership interests that confer comparable rights to voting rights of the other members, and that has business activities or operations which result in a flow of value between or among members included in the UBG or has business activities or operations that are integrated with, are dependent upon, or contribute to each other. UBG includes an affiliated group that makes an election to be treated, and to file, as a UBG.

**Filing Requirements**

**Filing Thresholds**

Any standard taxpayer engaged in business activity in Michigan whose apportioned or allocated gross receipts are $350,000 or more in a tax year is required to file a tax return. For tax years of less than 12 months, a taxpayer’s gross receipts filing threshold is annualized by multiplying $350,000 by a fraction, the numerator of which is the number of months in the taxpayer’s tax year and the denominator of which is 12. Filing threshold for a UBG is determined after intercompany eliminations.
In calculating the filing threshold of a C corporation, the apportioned or allocated gross receipts of an FTE shall be imputed to each of its members based upon the same percentage that each member’s proportionate share of distributive income is to the total distributive income of the FTE. Imputed gross receipts from an FTE in which the taxpayer is a non-unitary owner are not included if the FTE has a valid Michigan Business Tax (MBT) election for a tax year that ends with or within the taxpayer’s tax year. See the MBT chapter of this text for more information on the MBT election.

Any taxpayer with an annual liability of less than or equal to $100 is not required to file or pay. A taxpayer that wishes to claim a refund or to carry forward a credit or business loss must file a return.

Special rules apply for a UBG. The filing requirement for a UBG is determined on a group basis. Therefore, if the filing threshold is met for the group, every member of the group that is a CIT taxpayer will be included on the UBG’s return regardless of the member’s gross receipts. A UBG is required to eliminate all intercompany transactions from gross receipts.

**Example 1:** A UBG is comprised of members A, B, C, D, and E, each with $80,000 in gross receipts. Assuming allocation to Michigan, the gross receipts of the UBG are $400,000. Since $400,000 exceeds the $350,000 filing threshold, the taxpayer is required to file a return and pay the tax. The fact that no member of the UBG would meet the filing threshold if considered individually is immaterial. Members A, B, C, D, and E are all included in the UBG return. If the calculated tax liability is $100 or less, there would be no filing requirement.

**Example 2:** Same facts as in Example 1 except $60,000 of member A’s gross receipts are from transactions with member B. The group must eliminate intercompany transactions from gross receipts, meaning that $60,000 is removed from total gross receipts of $400,000. Since $340,000 does not meet or exceed the filing threshold of $350,000, the UBG is not required to file a return.

The gross receipts filing threshold does not apply to insurance companies and financial institutions. However, these taxpayers are not required to file or pay if annual liability is less than or equal to $100.

**Tax Year**

A CIT taxpayer’s tax year is the calendar year, or the fiscal year ending during that calendar year. If a return is made for a fractional part of a year, tax year means the period for which the return is made. Generally, a taxpayer’s tax year is for the same period covered by its federal income tax return.

A taxpayer that has a 52 or 53 week tax year beginning not more than seven days before the end of any month is considered to have a tax year beginning on the first day of the subsequent month.
For a UBG, the unitary return will include all members with tax years ending with or within the designated member’s tax year (see more on designated member in the “Unitary Business Groups” section of this chapter). A person included in a UBG that joins or departs the UBG other than at the end of that person’s federal tax year shall have a tax year beginning at the start of its federal tax year and ending on the date of joining or departing the UBG and another tax year beginning on the date immediately after joining or departing the unitary business group and ending with the conclusion of its federal tax year, even as there is no federal tax year change.

**Due Dates and Extensions**

Generally, an annual or final return must be filed with the Michigan Department of Treasury (Treasury) by the last day of the fourth month after the end of the taxpayer’s tax year. Thus, a return for calendar year 2016 is due April 30, 2017.

Taxpayers seeking an extension of time to file must file an *Application for Extension of Time to File Michigan Tax Return* (Form 4) by the due date of the CIT annual return. If the taxpayer received a federal extension and indicates that information on Form 4 and sends the necessary payment or lists the estimated payments made, then the taxpayer will receive an automatic extension to the last day of the eighth month following the original due date. An extension for good cause may be sought by writing to Treasury. **An extension of time to file is not an extension of time to pay.** An extension of time to file will also extend the statute of limitations.

**Estimated Returns and Payments**

Corporate, financial institution, and insurance company taxpayers that reasonably expect to have a tax liability of more than $800 for the tax year must make quarterly estimated payments and returns. Each payment must approximate the taxpayer’s tax liability for the quarter or 25 percent of the estimated annual liability. Second, third, and fourth quarter payments should include any necessary adjustments for overpayments or underpayments from a previous quarter. For the taxpayer’s year under CIT of less than 12 months, the amounts paid with each quarterly return shall be proportional to the number of payments required. A taxpayer with a tax year of less than four months is not required to file an estimated tax return or remit estimated payments.

**Note:** Taxpayers that calculate and pay estimates pursuant to internal revenue code (IRC) 6655(e) may use the same methodology to make CIT estimated payments.
In order to avoid interest and penalty, the sum of all estimated payments made must be at least 85 percent of the annual liability and each quarterly payment must reasonably approximate the liability incurred in the quarter. For all subsequent tax years after the initial 2012 CIT tax year, a taxpayer may qualify for the safe harbor provision if the previous year’s liability was $20,000 or less. The taxpayer must have business activity in Michigan in the preceding year to qualify for the safe harbor. An entity that was not in existence or that was without business activity in Michigan in the preceding year, would not have a “preceding year’s tax liability under CIT” to qualify for the safe harbor provided by Section 681(3)(b) and would not be able to avail itself of the statutory provision. The safe harbor is available to a taxpayer with a previous year’s CIT liability of zero as long as the taxpayer had business activity in Michigan in the prior year. The taxpayer must file a return to establish a zero liability to take advantage of the safe harbor. Under the safe harbor, a taxpayer must timely submit four equal estimated payments, the sum of which equals the previous tax year’s liability. A taxpayer may choose to make larger payments, including full payment, earlier in the current tax year so the total amount paid equals the immediately preceding the tax year’s tax liability before the fourth quarter. However, making larger payments on later quarters will not satisfy the safe harbor provision.

Example 1: A taxpayer has a prior year tax liability of $10,000. The taxpayer makes a timely first quarter estimate of $5,000 and a timely second quarter estimate of $5,000. The taxpayer makes no estimated payments for the remainder of the year. The taxpayer will have satisfied the safe harbor based on the prior year tax liability.

Example 2: A taxpayer has a prior year tax liability of $10,000. The taxpayer does not make a first quarter estimate, but makes a timely second quarter estimate of $10,000. The taxpayer makes no estimated payments for the remainder of the year. The taxpayer will not have satisfied the safe harbor based on the prior year’s tax liability because there was no first quarter estimated payment.

When the prior CIT tax year is a period of less than 12 months, the $20,000 threshold test will be applied to the annualized liability of the short year. To annualize the short-year liability, take the tax liability for the year, multiply by 12, then divide that result by the number of months in the short tax year. The estimated payments made in four equal installments must equal the annualized prior year’s tax liability.

Example 1: The taxpayer’s prior CIT return was for a period of six months, with a tax liability of $5,000. To satisfy the safe harbor provision, the taxpayer must make four equal estimated payments for the current year totaling $10,000 (($5,000 x 12) /6 = $10,000).

Example 2: The taxpayer’s prior CIT return was for a period of six months, with a tax liability of $15,000. This taxpayer would not be able to use the safe harbor based on the prior year’s tax liability because the annualized tax liability in the prior year is $30,000. (($15,000 x 12) / 6 = $30,000). Therefore, to avoid penalty and interest charges, the taxpayer must make total estimated payments equal to at least 85 percent of the total liability for the tax year and the amount of each estimated payment must reasonably approximate the tax liability for the quarter.
A taxpayer may remit quarterly estimated payments by check with the Corporate Income Tax Quarterly Return (Form 4913) or may remit monthly or quarterly estimated payments electronically by Electronic Funds Transfer (EFT). When payments are made by EFT, Form 4913 is not required.

Estimated returns and payments for calendar year taxpayers are due by April 15, July 15, October 15, and January 15 of the following year. Fiscal year taxpayers should make returns and payments by the appropriate due date which is 15 days after the end of each fiscal quarter.

**Completing Forms**

Before beginning with the Corporate Income Tax Annual Return (Form 4891), all appropriate federal forms should be completed.

Before proceeding to the list below, an entity should first determine whether a UBG exists. If preparing a UBG return for a standard taxpayer, complete the Corporate Income Tax Data on Unitary Business Group Members (Form 4897) for each member first, as this form provides the data that is required on Form 4891.

To determine whether Form 4891 is required to be filed for the tax year, the following steps are suggested:

1. Determine whether the taxpayer had nexus with Michigan. If one or more entities in a UBG had nexus with Michigan, the UBG had nexus with Michigan.

2. Determine whether the taxpayer had $350,000 or more in gross receipts that are allocated or apportioned to Michigan. Allocated or apportioned gross receipts after intercompany eliminations should be used if the taxpayer is a UBG.

3. Determine whether liability will be less than or equal to $100, in which case a return is not required to be filed. Determine liability at the UBG level if the taxpayer is a UBG.

4. If steps 1 through 3 determine that filing Form 4891 is not required, consider whether Form 4891 should be filed to seek a refund or to preserve certain credits and carryforwards.

Insurance companies and financial institutions should review general instructions for the annual returns, Insurance Company Annual Return for Corporate Income and Retaliatory Taxes (Form 4905) and Corporate Income Tax Annual Return for Financial Institutions (Form 4908).

**Amending a Return**

Taxpayers will file a separate form to amend returns.

- Standard taxpayers will use the Corporate Income Tax Amended Return (Form 4892)
- Insurance companies will use the Insurance Company Amended Return for Corporate Income and Retaliatory Taxes (Form 4906)
- Financial institutions will use the Michigan Corporate Income Tax Amended Return for Financial Institutions (Form 4909).
To amend a return to claim a refund, the taxpayer must file within four years of the due date of the original return, including valid extensions, with certain statutory exceptions. See Section 27a of the Revenue Act, MCL 205.27a, for more information on extensions of the statute of limitations. Interest will be paid beginning 45 days after the claim is filed or the due date of the return, whichever is later. If a taxpayer is amending a return to report a deficiency, penalty and interest may apply from the due date of the original return.

If changes are made to the federal income tax return that affect the CIT tax base, filing an amended return is required. If an amended return is filed within 120 days after a final determination by the IRS, penalty will be avoided.

**Tax Base**

CIT is levied on corporations with nexus with Michigan at a rate of 6 percent of the CIT base after allocation or apportionment. The CIT base is business income with certain additions and subtractions before apportionment and a business loss deduction after apportionment. Business income is federal taxable income. Federal taxable income is calculated as if IRC 168(k) (bonus depreciation) and IRC 199 (domestic production activities deduction) were not in effect. The business loss deduction is only available for a business loss incurred under CIT after December 31, 2011. A taxpayer that acquires the assets of another corporation through an IRC 381(a)(1) or 381(a)(2) transaction may use any available CIT business loss attributable to the transferor corporation.

For a UBG, the tax base includes business income and loss and additions and subtractions of all standard members included in the UBG, without regard to whether that member has nexus. If an FTE is unitary with the taxpayer, the taxpayer does not include business income, business loss, additions, and subtractions of the unitary FTE in its tax base. Please note that this same exclusion does not pertain to a taxpayer’s distributive income or loss directly attributable to an FTE, to the extent included in federal taxable income of the taxpayer. Transactions between members of the UBG will be eliminated in calculating the tax base. See the “Unitary Business Groups” section later for more on UBGs’ tax base and eliminations.

A taxpayer is unitary with an FTE if the taxpayer owns or controls, directly or indirectly, more than 50 percent of the ownership interests with voting rights (or ownership interests that confer comparable rights to voting rights) of the FTE, and the taxpayer and the FTE:

- have activities or operations which result in a flow of value between the taxpayer and the FTE or between the FTE and another FTE unitary with the taxpayer, or
- have business activities or operations that are integrated with, are dependent upon, or contribute to each other.

The determination of whether a taxpayer is unitary with an FTE is made at the taxpayer level. If the taxpayer at issue is a UBG, the ownership requirement will be made at the UBG level. A UBG through Affiliated Group election is discussed later in the chapter.
Exemptions

Exemptions from tax under the CIT are provided for the following entities:

- Most entities exempt from federal income tax.
- A foreign person domiciled in a subnational jurisdiction of a North American Free Trade Agreement member country that does not impose a business tax on a similarly situated taxpayer domiciled in Michigan. For purposes of this provision, foreign person is defined in MCL 206.625(1)(c).
- A Domestic International Sales Corporation (DISC) as defined in IRC 992 for the tax year that it has in effect a valid election to be treated as a DISC.

If a taxpayer is exempt under the first bullet above, but has unrelated business taxable income as defined in the IRC, that business activity is subject to CIT and a return will be required if the apportioned or allocated gross receipts are $350,000 or more from the unrelated business activity.

Foreign persons that are not exempt from CIT must calculate business income, gross receipts, CIT tax base, and the sales factor differently than domestic taxpayers. Refer to MCL 206.625(2)-(4) for details.

If a taxpayer is exempt and has no unrelated business taxable income, filing a CIT return is not required.

Nexus

A person has nexus with Michigan if the person:

- is physically present in the State for more than one day,
- actively solicits sales in Michigan and has gross receipts of $350,000 or more sourced to Michigan, or
- has an ownership or beneficial interest in an FTE (directly or indirectly through one or more FTEs) which has nexus.

**Physical presence** means any activity conducted by the taxpayer or someone acting in a representative capacity for the taxpayer. Physical presence does not include the activities of professionals providing services in a professional capacity if that activity is not associated with the taxpayer’s ability to establish and maintain a market.

**Actively solicits** means:

- Speech, conduct, or activity that is purposefully directed at or intended to reach persons in Michigan and that explicitly or implicitly invites an order for a purchase or sale, or
- Speech, conduct, or activity that is purposefully directed at or intended to reach persons in Michigan that neither explicitly nor implicitly invites an order for a purchase or sale, but is entirely ancillary to requests for an order for a purchase or sale.
**Apportionment**

For a taxpayer whose business activities are confined solely to Michigan, the tax base is allocated wholly to Michigan. A taxpayer that has business activities subject to tax within and without Michigan will apportion its tax base using the sales factor. Business activity is subject to tax outside Michigan if the taxpayer is subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or if the other state has jurisdiction to tax the taxpayer, whether or not that state does subject the taxpayer to a tax.

The sales factor is a fraction, the numerator of which is total sales of the taxpayer in Michigan during the tax year and the denominator of which is total sales everywhere.

**Sales** is broadly defined to include the sale of tangible personal property, intangible property, services, and the rental, lease, licensing, or use of tangible or intangible property including interest that constitutes business activity.

Sales of tangible personal property are sourced based on the ultimate destination at the point that the property comes to rest. Property stored in transit for 60 days or more, or in the case of a dock sale not picked up for 60 days or more, is deemed to have come to rest. Sales from the lease/rental of tangible personal property and royalties or other income received for the use of intangible property are sourced based on where the property is used. Sales of services are sourced according to where the benefit of the service is received.

Additional sourcing rules exist for securities brokerage services, regulated investment companies, mortgages, other loans, credit card receivables, loan servicing fees, investment and trading activities, transportation services, telecommunications service, and private communication services. See MCL 206.665 for more on sourcing of sales.

For a UBG, “sales” includes sales in Michigan of every person included in the UBG without regard to whether the person has nexus. However, sales between persons included in a UBG must be eliminated in calculating the sales factor.

If a taxpayer has a direct or indirect ownership or beneficial interest in an FTE, the distributive share of business income directly attributable to the business activity of that FTE is apportioned using the sales factor of the FTE, unless the FTE is unitary with the taxpayer. If an FTE is unitary with the taxpayer, the taxpayer’s sales factor includes its proportionate share of the sales of the FTE. Sales between the taxpayer and FTEs unitary with the taxpayer, and sales between FTEs unitary with the taxpayer, must be eliminated to the extent of the taxpayer’s interest in the FTE.

**Credits**

**Small Business Alternative Credit**

The small business alternative credit is the only credit offered under the CIT. The credit is available to a taxpayer, other than an insurance company and a financial institution, with gross receipts that do not exceed $20,000,000 and with adjusted business income minus the loss adjustment that does not exceed $1,300,000 as adjusted annually for inflation using the Detroit consumer price index (2014: $1,346,800; 2015: $1,361,100). **Adjusted business income** is defined in MCL 206.671(9)(b).
The taxpayer will be disqualified if an officer or shareholder receives more than $180,000 in compensation and directors’ fees (compensation disqualifier), or if compensation and directors’ fees plus share of business income after loss adjustment exceeds that amount (allocated income disqualifier).

The credit will be reduced by 20 percent for every $5,000 that an officer’s or a shareholder’s total of compensation, director’s fees, and share of business income after loss adjustment exceeds $160,000. The credit is also phased out by a fraction based on the amount by which the taxpayer’s gross receipts exceed $19 million.

A UBG may qualify for the credit, but a disqualifier or reduction percentage applies to the entire group if it applies to any one member of the group. For example, the entire UBG is disqualified from taking the credit if the UBG includes a member that is an LLC taxed as a corporation (for purposes of this example, “member LLC”) and any one owner of member LLC receives more than $180,000 in shareholder compensation.

The gross receipts and adjusted business income used in determining disqualifiers are those of the UBG and are calculated at the group level. The compensation and allocated income disqualifiers are calculated for an officer or shareholder using all amounts paid or allocable to the officer or shareholder by all members of the UBG. The reduction percentages of the credit are calculated in the same manner. Intercompany eliminations are required in the calculation of the gross receipts and adjusted business income credit disqualifiers, as well as the loss adjustment.

**Example 1:** UBG XY is comprised of an LLC taxed a corporation X, and a C corporation Y. Shareholder 1 is a shareholder of Y whose compensation, director’s fees, and share of business income from Y total $150,000. Shareholder 1 is also an owner of X with compensation, director’s fees, and share of business income from X totaling $12,000. There is no loss adjustment for the period. Shareholder 1 has the largest allocated income of all shareholders/officers of UBG XY. For purposes of the allocated income disqualifier, the total amount of allocated income to Shareholder 1 by all members of the UBG is $162,000. The UBG may claim 80% of the total credit because total allocated income is more than $160,000 and less than $165,000.

**Example 2:** Assume in the above example that the combined gross receipts of UBG XY total $19,500,000. Intercompany transactions between X and Y generated $600,000 of gross receipts that must be eliminated for purposes of the gross receipts reduction percentage. Total gross receipts net of eliminations equals $18,900,000; therefore, the credit is not subject to reduction.

**Credit Recapture**

A taxpayer that has claimed a credit under either Single Business Tax (SBT) or MBT which had a recapture provision will have to recapture under the CIT if the taxpayer fails to comply with any terms of the credit agreement or if the taxpayer sells or otherwise moves the property for which the credit was claimed fewer than five years after the year in which the credit was originally claimed. In the case of recapture, a taxpayer must add back to its tax liability under CIT the amount of the credit or a percentage of the amount of the credit claimed in the tax year the taxpayer failed to satisfy or breached the conditions of the credit agreement.
For a taxpayer that claimed an Investment Tax Credit under the SBT or MBT, recapture will occur under CIT and at the rate and to the extent the credit was used under either of the previous taxes. Recapture will be required when the tangible asset for which the credit was claimed is sold, transferred out-of-state, or otherwise disposed of during the tax year. The recapture amount will be added back to the taxpayer’s CIT liability.

A taxpayer is required to file and report recapture even if the taxpayer is below the filing threshold.

**Certificated MBT Credits**

A taxpayer that has been approved to receive, has received, or has been assigned a certificated credit under the MBT before January 1, 2012, but has not fully claimed or exhausted the credit before that date, may make an election to continue paying tax under MBT and claim that credit. See the MBT chapter of this text for more information regarding the MBT election. However, the recapture of the MEGA Research and Development Credit and the Entrepreneurial Credit has expired.

**UBGs**

Entities that meet the definition of a UBG under MCL 206.611(6) are required to file a combined return under CIT. A UBG will be found to exist when two or more qualifying United States persons satisfy both a control test and relationship test. The control and relationship tests are explained in detail in RAB 2013-1. If a UBG exists, the group is treated as a single taxpayer and individual members do not file separate returns.

**The Designated Member**

Every UBG must appoint a Designated Member (DM) that will be responsible for filing the return on behalf of the group. Only the DM will be responsible for registering for CIT with Michigan and all CIT returns will be filed under the DM’s taxpayer identification number. Only the DM may file a valid extension request for the UBG. Treasury maintains the UBG’s CIT tax data under the DM’s name and account number. Each member of the UBG will be listed on the group’s annual return.

If the member that owns or controls the other members of the UBG has nexus with Michigan, the controlling member must be the DM. Otherwise, the controlling member must appoint any group member with nexus to serve as the DM. The DM must remain the same every year unless the DM ceases to be a member of the UBG or the controlling member engages in activity in Michigan that creates nexus for the controlling member.

**Calculation of Liability**

UBGs are treated as a single taxpayer. Unitary returns are filed by taxpayer type: either standard (not owned by and unitary with a financial institution) or financial institution. Insurance companies do not file combined returns. Transactions between members of the group are eliminated from calculation of the filing threshold, tax base, apportionment factor, and small business alternative credit disqualifiers. In general, components used to determine tax liability relate to the group as a single taxpayer, not to the individual members that comprise the group.
The tax base of a UBG is the sum of the business income of each group member minus any income and related deductions arising from intra-group transactions. Certain additions and subtractions to business income are outlined in MCL 206.623(2) and must be made before allocation or apportionment to arrive at the unitary group’s income tax base. After the tax base is allocated or apportioned, the tax base is adjusted by available business loss. There are specific rules for calculation of a UBG’s available business loss when a member to whom a business loss is attributable joins or leaves the group mid-year, which can be found within the instructions for Form 4891. The business income of each member should reflect the accounting method that member used to compute its federal taxable income.

Eliminations

Eliminations apply to transactions between any members of the UBG. If the UBG includes standard taxpayers, an insurance company, and a financial institution, transactions between a standard taxpayer member and an insurance or financial member are eliminated whenever elimination is required, despite the fact that the insurance and financial members are not reported on the combined return filed by standard taxpayer members.

Example 1: A UBG is comprised of members A, B, and C. Members A and B are both standard taxpayers, and member C is an insurance company. Even though member C files a separate tax return for insurance companies, the intercompany transactions between all three entities would be eliminated in preparing the standard tax return.

Eliminations are not required for transactions with an otherwise-related entity if the related entity is not included in the UBG. However, if a taxpayer is unitary with an FTE, sales between the taxpayer and that FTE must be eliminated from the apportionment factor to the extent of the taxpayer’s ownership percentage in the FTE. Sales between an FTE unitary with the taxpayer and another FTE unitary with that same taxpayer must be eliminated to the extent of the taxpayer’s ownership interest in the selling FTE.

Timing differences can arise from differing year-ends or differing accounting methods of UBG members. If a transaction between two members of a UBG is reported on the group’s current return by one member but reported on the preceding or succeeding group return by the other member, the group is required to eliminate the side of the transaction included on the group’s current return. The other side of the same transaction will be eliminated on the group return for the filing period in which the other member reports the transaction.

Example 2: A UBG is comprised of members A and B. Member A has a calendar year-end of December 31, 2012, and B has a fiscal year-end of June 30, 2012. Member A is the designated member. Member A pays member B rent in the amount of $2,000 per month for the 2011 calendar year and $4,000 per month for the 2012 calendar year. For the 2012 tax filing, member B would eliminate from gross receipts six months’ rent at $2,000 and six months’ rent at $4,000 for a total of $36,000.

Member B would also eliminate $36,000 from business income. Member A would eliminate from business income 12 months of rental expense at $4,000 for a total of $48,000. This will cause a timing difference for intercompany elimination that will reverse when a member ceases to exist or is no longer a part of the UBG.
Affiliated Group Election

Under the affiliated group election created by 2013 PA 266, a group of persons may elect to be treated as a UBG for purposes of filing CIT even if those persons do not satisfy the relationship test of MCL 206.611(6). The group must meet the statutory definition of an “affiliated group” to qualify for the election. Affiliated group means that term as defined in IRC 1504 except that the term includes all United States persons that are corporations, insurance companies, or financial institutions, other than a foreign operating entity, that are commonly owned, directly or indirectly, by any member of such affiliated group and other members of which more than 50 percent of the ownership interests with voting rights or ownership interests that confer comparable rights to voting rights of the member is directly or indirectly owned by a common owner or owners.

The group of persons need not request permission from Treasury to make the election but must provide information on its annual return—standard filers, in box 7b on the Corporate Income Tax Annual Return (Form 4891) and financial institutions, in box 8a of Michigan Corporate Income Tax Annual Return for Financial Institutions (Form 4908). Each person in the affiliated group is deemed to have agreed to be bound by the election and any person who subsequently enters the affiliated group during the period of the election is deemed to have consented and is bound by the election. The election is irrevocable and binding for the tax year for which it is made and the subsequent nine tax years. The election may be renewed at the expiration of the ten year period; however, if the group chooses not to renew the election at that time, it will be prohibited from creating a new election for three tax years.

Insurance Companies

An insurance company is an insurer authorized by a certificate of authority from the Department of Insurance and Financial Services (DIFS) to engage in the business of making insurance or surety contracts in Michigan. Insurance companies are subject to a premiums tax under CIT and file the Insurance Company Annual Return for Corporate Income and Retaliatory Taxes (Form 4905)

The premiums tax is calculated at 1.25 percent of gross direct premiums written on property or risk located or residing in Michigan. Direct premiums do not include premiums on policies not taken, returned premiums on canceled policies, receipts from the sale of annuities, and receipts on reinsurance premiums if the tax has been paid on the original premiums. Direct premiums also do not include the first $190,000,000 of disability insurance premiums written in Michigan, other than credit insurance and disability income insurance premiums, of each insurance company subject to the tax. The exemption is reduced by $2.00 for each $1.00 by which the insurance company’s gross direct premiums everywhere (in Michigan and outside Michigan) exceed $280,000,000.

Insurance companies are permitted a limited number of insurance-specific credits. Under MCL 206.637(1) an insurance company may claim a credit against amounts paid to the:

- Michigan worker’s compensation placement facility pursuant to the insurance code of 1956. [Reference: PA 218, MCL 500.2301 to 500.2352]
- Michigan basic property insurance association pursuant to the insurance code of 1956. [Reference: PA 218, MCL 500.2901 to 500.2954]
- Michigan automobile insurance placement facility pursuant to the insurance code of 1956. [Reference: PA 218, MCL 500.3301 to 500.3390]
• Property and casualty guaranty association pursuant to the insurance code of 1956.  
  [Reference: PA 218, MCL 500.7901 to 500.7949]

• Michigan life and health guaranty association pursuant to the insurance code of 1956.  
  [Reference: PA 218, MCL 500.7701 to 500.1180]

Insurance companies are allowed a credit up to 50 percent of the examination fees paid by an insurance company during the tax year pursuant to Section 224 of the insurance code 1956.  [Reference: PA 218, MCL 500.224].  An insurance company may also claim a credit against the tax imposed in an amount equal to the amount paid during that tax year by the insurance company pursuant to Section 352 of the worker’s disability compensation act of 1969 [Reference: PA 317, MCL 418.352], as certified by the director of the Bureau of Worker’s Disability Compensation.  If the amount of this particular credit exceeds the tax liability of the insurance company, the excess shall be refunded, without interest, to the insurance company within 60 calendar days of receipt of a properly completed Form 4905.

The tax year for an insurance company is the calendar year.  The annual return for calendar year 2016 is due before March 2, 2017.  An insurance company does not qualify for an automatic extension of time to file.

An insurance company is subject to tax under the gross direct premiums tax or the retaliatory tax under MCL 500.476(a), whichever is greater.

Financial Institutions

Financial Institution is generally defined as a bank holding company, national bank, state chartered bank, state chartered savings bank, federally chartered savings association, or a federally chartered farm credit system institution.  Any entity that is directly or indirectly owned by and unitary with any of the entities listed above is considered a “Financial Institution.”  Financial institutions that have nexus with Michigan are subject to a franchise tax.  Nexus standards for financial institutions are identical to those of a standard taxpayer, but the statute calls them “substantial nexus.”

A financial institution is taxed at the rate of 0.29 percent of its tax base after allocation or apportionment to the State and files Corporate Income Tax Annual Return for Financial Institutions (Form 4908).

For a financial institution tax base is the financial institution’s net capital.

Net capital means equity capital as computed in accordance with generally accepted accounting principles (GAAP), less the average daily book value of United States obligations and Michigan obligations.  To determine net capital, the financial institution adds net capital at the close of the current tax year and preceding four tax years and divides the resulting sum by five.  For financial institutions that have not been in existence for a period of five tax years, net capital shall be determined by adding together the financial institution’s net capital for the number of tax years the financial institution has been in existence and dividing the resulting sum by the number of years the financial institution has been in existence.  While beginning with negative equity capital is not permitted, it is possible to end up with negative net equity capital as an end result.
For a UBG of financial institutions, net capital includes the net capital of each member of the group minus the investment of one member of a group in another member of the group. To complete the combined return, a member of a UBG of financial institutions eliminates its investment in the positive equity capital of other members of the same group. Eliminations occur to equity capital at the member level. Because each member of the group must compute the net capital tax base in accordance with GAAP, each member should present a positive or zero equity capital before eliminations. For additional information and examples on reporting eliminations, see “Notice to Taxpayers Regarding Financial Institution Unitary Filing and Reporting of Eliminations for the MBT and CIT,” located at www.michigan.gov/taxes.

**Contacting Treasury**

**General CIT questions:**
Phone: 517-636-6925  
Web site: www.michigan.gov/taxes

**Technical Services Section:**
Phone: 517-636-4230, option 2  
Fax: 517-636-4254

**Correspondence may be mailed to:**
Michigan Department of Treasury  
Customer Contact Division, CIT Unit  
P.O. Box 30059  
Lansing, MI 48909

**Business Registration questions:**
Phone: 517-636-6925  
Fax: 517-636-4520  
E-mail: treasReg@michigan.gov
MICHIGAN BUSINESS TAX

What’s New?

Public Act (PA) of 2016, House bill 5457 resulted in the following changes to the Michigan Business Tax (MBT).

- An automobile insurance company may only take a credit equal to 35 percent of payments made to Michigan Automobile Insurance Placement Facility (MAIPF) that are attributable to the Michigan Assigned Claims Plan for 2016 tax year.

- An automobile insurance company may not take a tax credit for payments made to MAIPF that are attributable to the Michigan Assigned Claims Plan for the 2017 tax year and subsequent tax years.

Sunset of surcharge. The surcharge will no longer be levied against standard MBT taxpayers effective January 1, 2017. For MBT standard taxpayers with a calendar year end filing a 2016 return, the surcharge will be unchanged (levied at a rate of 21.99 percent, limited to $6 million). MBT standard taxpayers with a calendar year filing a 2017 return will not pay the surcharge. For MBT standard taxpayers with a fiscal year beginning in 2016 and ending in 2017, the surcharge will be prorated.

Ashley Capital and order of credits. On January 5, 2016, the Michigan Court of Appeals approved for publication its decision in Ashley Capital, LLC v Department of Treasury originally issued November 10, 2015. At issue was the order in which the taxpayer is required to take its Compensation Credit and Investment Tax Credit (ITC) relative to any unused carryforward amounts from credits provided under the former Single Business Tax (SBT) when determining its MBT liability. For additional information, review notice on Treasury’s Web site, located at www.michigan.gov/treasury click on link All Taxpayer Notices.

Credits and Recaptures Expiring

Hybrid Technology Research and Development Credit. New credits are no longer allowed but carryforward of unused nonrefundable credits are still allowable, if available.

MEGA Advanced Lithium Ion Battery Credit is no longer available for tax years ending after December 31, 2016. The credit is a hybrid credit; therefore, unused carryforward of a nonrefundable credit, if available, continues to be allowed.

NASCAR Speedway Credit is no longer available for tax years ending after December 31, 2016.

Recapture of MEGA Research and Development Credit has expired.

Recapture of the Entrepreneurial Credit has expired.
OVERVIEW

Beginning January 1, 2012, the MBT is an election. A taxpayer, including a Unitary Business Group (UBG), that has been approved to receive, has received, or has been assigned a certificated credit, as defined in MCL 208.1107(1), may elect to be subject to the MBT in lieu of no liability (since the person may not be subject to the Corporate Income Tax (CIT)) or in lieu of CIT. Throughout the CIT and MBT chapter, this election is referred to as the MBT election.

For purposes of the election, a taxpayer is either of the following:

- a person or UBG that has been approved to receive, has received, or has been assigned a certificated credit but is not subject to the CIT, and that elects under section 500 of the MBT Act to file a return and pay the tax imposed under the MBT, if any, or
- a person or UBG that has been approved to receive, has received, or has been assigned a certificated credit and that elected under section 680 of the CIT to file a return and pay the tax imposed under the MBT, if any.

In other words, a taxpayer or assignee holding a certificated credit, as defined by MCL 208.1107(1), may elect to remain taxable under the MBT if it would not otherwise be subject to the MBT or CIT after December 31, 2011 or if it would be subject to CIT.

Note: The election must be made for the taxpayer’s first tax year ending after December 31, 2011, with certain exceptions for qualifying traditional brownfield and historic preservation certificated credits.

Once a taxpayer that has been approved to receive, has received, or has been assigned a certificated credit files an MBT return, the taxpayer has made the election and must continue to file and pay under the MBT until the certificated credit and any carryforward of the credit is used up. The election is made by filing an annual MBT return (Form 4567) or by filing Request for Accelerated Payment (Form 4889) to request a refund of an accelerated credit. Filing an estimate or extension will not make the election. A taxpayer must make the election in accordance with the particular certificated credit, but an annual return is required regardless of the type of certificated credit claimed. Once a taxpayer elects to be subject to the MBT, it is subject to all provisions and requirements of the tax and would be eligible for all available credits under the MBT.

A Flow-through Entity (FTE) that makes the MBT election will be exempt from Flow-Through Withholding (FTW) requirements in relation to its non-unitary corporate members.

Filing Requirements

Quarterly Estimates

If the reasonably estimated combined MBT liability for the year (including surcharge, when applicable) is over $800, a taxpayer that made the election to remain in the MBT must file estimated returns quarterly.
In order to avoid interest and penalty, the sum of all estimated payments must equal at least 85 percent of the total liability for the tax year and each quarterly payment must reasonably approximate the tax liability incurred in the quarter. If the prior year’s tax was $20,000 or less under the MBT, estimated tax payments may be based on the prior year’s total tax liability paid in four equal payments. The taxpayer must have business activity in Michigan in the preceding year to qualify for the safe harbor. The safe harbor is available to a taxpayer with a previous year’s MBT liability of zero as long as the taxpayer had business activity in Michigan in the prior year. The taxpayer must file a return to establish a zero liability to take advantage of the safe harbor. The safe harbor remains available to a taxpayer electing to continue under the MBT.

If the prior MBT tax year was less than 12 months (e.g., the business was opened or closed during the year), the taxpayer will need to annualize the tax to see if estimates need to be filed. For more information on annualizing the tax, see the Estimated Return and Payments Section under the CIT chapter.

A taxpayer may remit quarterly estimated payments by check with the Corporate Income Tax Quarterly Return (Form 4913) or may remit monthly or quarterly estimated payments electronically by Electronic Funds Transfer (EFT). When payments are made by EFT, Form 4913 is not required.

Estimated returns and payments for calendar year taxpayers are due by April 15, July 15, October 15, and January 15 of the following year. Fiscal year taxpayers should make returns and payments by the appropriate due date which is fifteen days after the end of each fiscal quarter. The sum of estimated payments for each quarter must always reasonably approximate the liability for the quarter.

For an FTE that makes the MBT election, Public Act (PA) 233 of 2013 creates an exemption from the requirement to remit FTW on behalf of corporate members. The act is effective for tax years beginning after December 31, 2011.

Completing Forms

Before beginning with the Michigan Business Tax Annual Return (Form 4567), all appropriate federal forms should be completed.

Before proceeding to the list below, an entity should first determine whether a Unitary Business Group (UBG) exists. If preparing a UBG return for a standard taxpayer, complete the Michigan Business Tax Unitary Business Group Combined Filing Schedule (Form 4580), as this form provides the data that is required on Form 4567.

To determine whether Form 4567 is required to be filed for the tax year, the following steps are suggested:

1. Determine whether the taxpayer had nexus with Michigan. If one or more entities in a UBG had nexus with Michigan, the UBG had nexus with Michigan.

2. Determine whether the taxpayer had $350,000 or more in gross receipts that are allocated or apportioned to Michigan. Allocated or apportioned gross receipts after intercompany eliminations should be used if the taxpayer is a UBG.
4. If steps 1 and 2 determine that filing Form 4567 is not required, consider whether Form 4567 should be filed to seek a refund or to preserve certain credits or carryforwards.

Insurance companies and financial institutions should review general instructions for the annual returns, *Insurance Company Annual Return for Michigan Business and Retaliatory Taxes* (Form 4588) and *Michigan Business Tax Annual Return for Financial Institutions* (Form 4590).

**Due Dates and Extensions**

Annual returns are due on or before the last day of the fourth month after the end of the taxpayer’s tax year. Thus, a return for calendar year 2015 is due April 30, 2016. A taxpayer must remit any liability by the due date of the return.

A taxpayer may request an extension of time to file an annual return by filing an *Application For Extension Of Time To File Michigan Tax Returns* (Form 4) by the due date of the return along with payment of estimated tax. If a federal extension is filed and granted and noted on Form 4, Treasury will grant an extension to the last day of the eighth month following the original due date of the return. Even if the Internal Revenue Service (IRS) has approved a federal extension, a Michigan application for extension must be filed if state extension of time to file is sought. An extension of time to file will extend the statute of limitations. **An extension of time to file is not an extension of time to pay. An extension application will not be processed unless a payment is included or estimated payments have been made and are listed on the form.**

**Amending a Return**

A taxpayer may not amend the MBT return to revoke the election to remain in the MBT. A taxpayer may amend its MBT return for other reasons, subject to the statute of limitations.

Taxpayers do not use separate forms for amending MBT returns. To amend an MBT return, complete the lead annual return form appropriate for the taxpayer type and check the box indicating an amended return in the upper-right corner of the return. To properly file an amended return, the entire return must be filed again including all attachments and schedules - not just the form or schedule that changed.

- Standard taxpayers will use the *Michigan Business Tax Annual Return* (Form 4567).
- Insurance companies will use the *Insurance Company Annual Return for Michigan Business and Retaliatory Taxes* (Form 4588).
- Financial institutions will use the *Michigan Business Tax Annual Return for Financial Institutions* (Form 4590).

To amend a return to claim a refund, a taxpayer must file within four years of the due date, including valid extensions, of the original return. Interest will be paid beginning 45 days after the claim is filed or the due date of the return, whichever is later. If a taxpayer is amending a return to report a deficiency, penalty and interest may apply from the due date of the original return.

If changes are made to the federal income tax return that affect the MBT tax bases, filing an amended return is required. If an amended return is filed within 120 days after a final determination by the IRS, penalty will be avoided.
**Tax Liability**

While subject to the MBT, a taxpayer calculates liability as the greater of:

- The taxpayer’s MBT liability after application of all credits, deductions, and exemptions and any carryforward of any unused credit as prescribed in the MBT.

- The taxpayer’s liability computed under the CIT, after application of all credits, deductions, and exemptions under the CIT, as if the taxpayer were subject to the CIT, less the amount of the taxpayer’s certificated credits, including any unused carryforward of a certificated credit, that the taxpayer was allowed to claim for the tax year under the MBT.

An MBT taxpayer will calculate MBT liability and hypothetical CIT liability less certificated credits determined as part of its MBT liability and pay the greater of the two.

For **step one** of the calculation, a taxpayer calculates the business income and modified gross receipts tax bases and applies all credits, including certificated credits, deductions, and exemptions available under the MBT.

For **step two**, a taxpayer calculates the business income tax base under the CIT, applies all credits and deductions available under the CIT and the amount of certificated credit allowed in step one of the calculation.

The amount of certificated credit allowed in step one is the amount of nonrefundable credit needed to offset MBT liability and the entire amount of a refundable credit.

If the result of both steps of the calculation is a negative number, the taxpayer will receive a refund of the lower negative; however, a nonrefundable credit cannot be used to reduce liability below zero. Remaining nonrefundable certificated credit may be carried forward to succeeding tax years if the nonrefundable credit has a carryforward provision.

For a partnership or S corporation, business income includes payments and items of income and expense attributable to the business activity of the partnership or S corporation, and separately reported to the partners or shareholders.

A taxpayer may not use a CIT business loss in the calculation of MBT liability, and vice versa. Once the taxpayer is no longer an eligible MBT taxpayer, it will lose any remaining business loss—both an MBT business loss and a hypothetical CIT loss as a result of the comparison calculation—upon becoming a CIT taxpayer (or no longer a taxpayer).
**Example 1:** Taxpayer that is a Partnership calculates MBT liability of $500 and a hypothetical CIT liability of $750 before credit. Partnership holds a nonrefundable tool and die renaissance zone credit of $1,000.

**Step 1:** Partnership will apply $500 of the certificated credit amount to the $500 liability, resulting in an MBT liability of zero

**Step 2:** Partnership will apply $500 of credit to the CIT liability of $750, resulting in a CIT liability after credit of $250. Because Partnership must pay the higher of the two, its tax liability is $250.

**Example 2:** Corporation calculates MBT liability of $500 and hypothetical CIT liability of $750 before credit. Corporation has a refundable credit of $2,000.

Applying the credit to the MBT liability produces a liability of negative $1,500.

Applying the same amount to the hypothetical CIT liability creates a liability of negative $1,250.

Corporation owes the higher liability and thus receives a refund of $1,250.

**Credits**

A taxpayer that has been approved to receive, has received, or has been assigned a certificated credit under MBT before January 1, 2012, but has not fully claimed or exhausted the credit before that date, may make an election to continue paying tax under MBT and claim that credit. See the Overview section of this chapter for more information about the MBT election.

The certificated credits that qualify are:

- Anchor Company Credits
- Brownfield Redevelopment Credit
- Farmland Preservation Credit
- Film Production and Film Infrastructure Credits
- Historic Preservation Credit
- Hybrid Technology Research and Development Credit
- NASCAR Speedway Credits
- MEGA Battery Pack Credits
- MEGA Employment Tax Credit
- MEGA Federal Contract Credit
- MEGA Photovoltaic Technology Credit
- MEGA Polysilicon Energy Cost Credit
- Select Renaissance Zone Credits
• The agricultural processing facility, border crossing facility, forest products processing facility, Michigan Strategic Fund (MSF) designated and renewable energy renaissance zones for which a taxpayer has entered into a development agreement, or tool and die renaissance zones for which the taxpayer has a collaborative agreement with the MSF by January 1, 2012.

• Tax vouchers for the Michigan Early Stage Venture Investment Act.

Once a taxpayer makes the MBT election, it may claim all other MBT credits for which it qualifies. Refer to the “Calculation of Liability” section for additional information.

The MBT election must be made for most certificated credits for the taxpayer’s first tax year ending after December 31, 2011. However, a taxpayer with a qualifying traditional brownfield or historic preservation credit may make the election for the year in which a credit is available and is permitted to remain in the election for the life of the brownfield or historic preservation credit, but must remain in the election for the years in which credit is available. A taxpayer with a multiphase brownfield credit under MCL 208.1437(10) that makes the election is required to continue to file and pay the MBT until the project is complete and the credit is used up.

A taxpayer with a qualifying brownfield or historic preservation credit that makes the election in a year in which credit is available may also elect to claim any other certificated credit for which the taxpayer is eligible in the same year, as long as eligibility for the other credit begins no earlier than the year of the claim. However, once the brownfield or historic credit is exhausted, the taxpayer may no longer remain in the MBT and loses the remainder of any other credit elected in this manner.

A taxpayer may claim a brownfield or historic preservation credit as an accelerated credit where a taxpayer is approved to receive or has received a certificated credit before January 1, 2012, and for which the certificate of completion or assignment certificate is issued for a credit for tax year beginning after December 31, 2011. The accelerated credits are claimed on a special purpose Form 4898 available on Treasury’s Web site. A taxpayer may claim an accelerated credit at any point in the tax year, but must also file Form 4567 for the tax period in which the claim is made. Accelerated credits are required to be paid to the taxpayer within 60 days of Treasury receiving the request.

If a certificated credit is awarded to a member of a UBG, then the group and not the individual member must file any necessary returns under MBT. If a UBG makes the election, the return filed by the group must include all members of the group regardless of whether a member is a corporation or an FTE. The election should be made by the DM of the UBG by filing an MBT return. However, if a member of the group other than the DM files a return and makes the election, such filing will be treated as if the group made the election and all members of the group will be required to be included in the filing.

PA 282 of 2014

PA 282 of 2014 resulted in the following changes to the MBT, retroactive to tax years beginning on or after January 1, 2010.

• Exclusion of cancelation of debt income (CODI) from gross receipts. Amounts attributed to the taxpayer pursuant to a discharge of indebtedness under IRC 61(a)(12), including forgiveness of nonrecourse debt, are excluded.
- The Investment Tax Credit (ITC) recapture for assets purchased, acquired, or transferred into Michigan in a tax year beginning after December 31, 2007, that were sold or otherwise disposed of, or transferred outside Michigan during the tax year, recapture is now required to the extent and at the rate the credit was used under the MBT.

- Calculation of the Renaissance Zone Credit for taxpayers located in a Renaissance Zone before December 1, 2002.

PA 282 prescribes a particular process within which taxpayers may amend a return to claim a refund as a result of these amendments. Amended claims for refund attributable to these amendments are limited to any tax year beginning after December 31, 2009, through the tax year beginning after December 31, 2013. A taxpayer may only file a claim for refund resulting from these amendments starting on January 1, 2015, and no later than December 31, 2015. A claim for refund filed under this process is limited to the determination of any tax liability and overpayment resulting from these amendments, and the refund is required to be paid out in equal annual payments over six years beginning in 2016, inclusive of interest accrued during the six year period.

**Other Expired Credits**

For tax years ending after December 31, 2014, the MEGA Advanced Battery Engineering Credits and the MEGA Plug-In Traction Battery Manufacturing Credit are no longer available. However, unused credit carryforward from the immediately preceding tax year may still be claimed, if available.

**Assignees of Certificated Credits**

Assignees holding a certificated credit may also make the election to remain in the MBT. Both the assignment and election to remain in the MBT must be completed in accordance with the requirements of the particular credit.

If a taxpayer had a preapproval letter for a brownfield credit by January 1, 2012, and a certificate of completion, assignment certificate, or component completion certificate is issued for a tax year beginning after December 31, 2011, the taxpayer may assign the credit in the tax year in which the certificate of completion is issued and the assignee may make the election to remain in the MBT based on the assignment. The assignee must make the election for the tax year in which the assignment is made.

**Unitary Business Group**

**Filing Requirements**

If a member of a UBG has a qualifying certificated credit, the group, and not the member, must make the election to file under the MBT. The election should be made by the DM of the UBG by filing an MBT return. However, if a member of the group other than the DM files a return and makes the election, such filing will be treated as if the group made the election and all members of the group will be required to file and pay the MBT. Note that the entire group is required to remain in the MBT for the time period required for the claimed certificated credit(s).
Except for a group with a brownfield or historic preservation certificated credit, the election must be made “for the taxpayer’s first tax year ending after December 31, 2011.” Because the group’s tax year is the tax year of the DM, the election must be made for the DM’s first tax year ending after December 31, 2011. For taxpayers with a traditional qualifying brownfield or historic credit, the DM may make the election in the year in which a credit is available. The DM may claim an accelerated credit beginning on or after January 1, 2012.

The Designated Member

The “Designated Member” is a member of a UBG that has nexus with Michigan under MCL 208.1200 and will file the combined return required under MCL 208.1511 for the UBG. As noted, the DM makes the election to continue under the MBT on behalf of the group.

If the member that owns or controls the other members of the UBG has nexus with Michigan, the controlling member must be the DM. Otherwise, the controlling member must appoint any group member with nexus to serve as the DM. The DM must remain the same every year unless the DM ceases to be a member of the UBG or the controlling member engages in activity in Michigan that creates nexus for the controlling member.

Calculation of Liability

All members of a UBG making the election must be included on the combined return. The FTE members of the UBG will remain in the UBG and subject to the MBT if the credit election is made. The group calculates liability using all members for both steps of the comparison calculation.

Example 1: For the 2011 tax year, UBG A has three members; member one is a corporation and is the DM, member two is an S Corporation, and member three is an LLC taxed as a partnership. On December 1, 2011, member one is awarded a qualifying renaissance zone credit. In order to use that credit, member one must file an MBT return for the group’s first tax year ending after December 31, 2011. Assuming no change in ownership or control for this example, members one, two, and three must be included on the MBT return.

Example 2: UBG A has three members; member one is a corporation, member two is an S Corporation, and member three is an LLC taxed as a partnership. Member one has a certificated Michigan Economic Growth Authority credit of $2,000. The group, meaning all three members, calculates total MBT liability under step one of the comparison calculation as $900 before credits. The group may use $900 of credit for an MBT liability of zero. The group calculates hypothetical CIT of $1,000 before credits. The group offsets the liability with $900 of certificated credit and reaches total liability of $100. The group will pay the higher liability and carry forward $1,000 in certificated credit to the next tax year.

Eliminations

Eliminations apply to transactions between any members of the UBG. If the UBG includes standard taxpayers, an insurance company, and a financial institution, transactions between a standard taxpayer member and an insurance or financial member are eliminated whenever elimination is required, despite the fact that the insurance and financial members are not reported on the combined return with standard taxpayer members.
Example 1: A UBG is comprised of members A, B, and C. Members A and B are both standard taxpayers, and member C is an insurance company. Even though member C files a separate tax return for insurance companies, the intercompany transactions between all three entities would be eliminated in preparing the standard tax return.

Eliminations are not required for transactions with an otherwise-related entity if the related entity is not included in the UBG. For example, consider a group with a U.S. parent, a U.S. subsidiary, and a foreign operating entity subsidiary that would otherwise be a UBG, but the foreign operating entity is excluded from the UBG by definition. The U.S. parent filing a UBG return may not eliminate intercompany transactions between itself and the foreign operating entity.

Timing differences can arise from differing year-ends or differing accounting methods of UBG members. If a transaction between two members of a UBG is reported on the group’s current return by one member but reported on the preceding or succeeding group return by the other member, the group is required to eliminate the side of the transaction included on the group’s current return. The other side of the same transaction will be eliminated on the group return for the filing period in which the other member reports the transaction.

Example 2: A UBG is comprised of members A and B. Member A has a calendar year-end of December 31, 2012, and member B has a fiscal year-end of June 30, 2012. A is the designated member. A pays B rent in the amount of $2,000 per month for the 2011 calendar year and $4,000 per month for the 2012 calendar year. For the 2012 tax filing, Company B would eliminate from gross receipts six months’ rent at $2,000 and six months’ rent at $4,000 for a total of $36,000.

Company B would also eliminate $36,000 from business income. Company A would eliminate from business income 12 months of rental expense at $4,000 for a total of $48,000. This will cause a timing difference for intercompany eliminations that will reverse when a member ceases to exist or is no longer a part of the UBG.

Helpful Hints for Filing the MBT Return

1. The election to remain in the MBT is made by a person or the DM of a UBG by filing either an MBT Form 4567 or Form 4889. Form 4889 may be filed by a taxpayer seeking to claim an accelerated refundable brownfield or historic preservation credit payment pursuant to MCL 208.1510. The certificate which substantiates the certificated credit must be attached to Form 4567 or the accelerated credit form. If a valid agreement with which a taxpayer may make an election is in place, but the credit certificate has not yet been issued and will not be claimed until a future year, substantiation of that agreement must be attached to MBT returns filed in years before the certificated credit is claimed. Once a taxpayer files Form 4567 or Form 4889 claiming an accelerated credit, the taxpayer must remain in the MBT until certificated credits are exhausted.

2. All estimated payments, extension payments, and tax returns must be filed under the UBG’s designated member.
3. If making monthly or quarterly estimated payments by EFT, Form 4913 is not required to be submitted.

**Contacting Treasury**

**General MBT questions:**  
Phone: 517-636-6925  
E-mail: treasMBT@michigan.gov  
Web site: [www.michigan.gov/taxes](http://www.michigan.gov/taxes)

**Correspondence may be mailed to:**  
Michigan Department of Treasury  
Customer Contact Section, MBT Unit  
P.O. Box 30059  
Lansing, MI 48909

**Business Registration questions:**  
Phone: 517-636-6925  
Fax: 517-636-4520  
E-mail: treasReg@michigan.gov

**Technical Services:**  
Phone: 517-636-4230  
Fax: 517-636-4254
## CREDITS AVAILABLE ON RETURN

<table>
<thead>
<tr>
<th>Credit</th>
<th>MCL</th>
<th>Form</th>
<th>Refundable</th>
<th>Assignable</th>
<th>Recapture</th>
<th>Carry Forward</th>
<th>Certification Required</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NON-REFUNDABLE CREDITS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SBT Carryforward</td>
<td>206.1401</td>
<td>4569</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>SBT Investment Tax</td>
<td>4569</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>(b)</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>SBT Historic Preservation</td>
<td>4569</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>(c)</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>Low-grade Hematite Pellet</td>
<td>4569</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N (b)</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>SBT Pharmaceutical</td>
<td>4569</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>(b)</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>SBT Credit Job</td>
<td>4569</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>(b)</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>SBT &quot;Old&quot; Brownfield</td>
<td>4569</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N (b)</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>SBT &quot;New&quot; Brownfield</td>
<td>4569</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>(c)</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>SBT MEGA Business Activity</td>
<td>4569</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>(b)</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>Compensation</td>
<td>206.1403(2)</td>
<td>4570</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Investment Tax</td>
<td>206.1403(3)</td>
<td>4570</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Research and Development</td>
<td>206.1405</td>
<td>4570</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Small Business Alternative</td>
<td>206.1417</td>
<td>4571</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Gross Receipts Filing Threshold</td>
<td>206.1411</td>
<td>4571</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Community or Education Foundation</td>
<td>206.1425</td>
<td>4572</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>(a)</td>
</tr>
<tr>
<td>Homeless Shelter/Food Bank</td>
<td>206.1427</td>
<td>4572</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>NASCAR Speedway Infrastructure</td>
<td>206.1409(1)</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Start-up Business</td>
<td>206.1415</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>-</td>
<td>Y</td>
</tr>
<tr>
<td>Public Contributions</td>
<td>206.1421</td>
<td>4572</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Arts and Culture</td>
<td>206.1422</td>
<td>4572</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Next Energy Business</td>
<td>206.1429</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>Y</td>
</tr>
<tr>
<td>Renaissance Zone</td>
<td>206.1433</td>
<td>4595</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Historic Preservation</td>
<td>206.1435</td>
<td>4573</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>Low grade Hematite</td>
<td>206.1436</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>5</td>
<td>N</td>
</tr>
<tr>
<td>New Motor Vehicle Inventory</td>
<td>206.1445</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Large Food Retailer</td>
<td>206.1447</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Mid Size Food Retailer</td>
<td>206.1449</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Bottled Deposit Administration</td>
<td>206.1451</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>MEGA Federal Contract</td>
<td>206.1431b</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>Bonus Depreciation Carryforward</td>
<td>206.1461</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>N</td>
</tr>
<tr>
<td>Individual or Family Development Account</td>
<td>206.1426</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>N</td>
</tr>
<tr>
<td>International Auto Show</td>
<td>206.1446</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Brownfield Redevelopment</td>
<td>206.1437</td>
<td>4584</td>
<td>Y**</td>
<td>Y</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>Private Equity Fund</td>
<td>206.1453</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Film Job Training</td>
<td>206.1459</td>
<td>4573</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>Film Infrastructure</td>
<td>206.1457</td>
<td>4573</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Poly-Silicon Energy Cost</td>
<td>206.1432</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Plug-In Traction Battery Manufacturing</td>
<td>206.1434(2)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Plug-In Traction Battery Integration</td>
<td>206.1434(3)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Advanced Battery Engineering Credit</td>
<td>206.1434(4)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Battery Manufacturing Facility</td>
<td>206.1434(5)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>Large Scale Battery Credit</td>
<td>206.1434(6)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Anchor Company Payroll</td>
<td>206.1431a</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Anchor Company Taxable Value</td>
<td>206.1431c</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>5</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Advanced Lithium Ion Battery</td>
<td>206.1434(7)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Battery Cell Sourcing</td>
<td>206.1434(9)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
</tbody>
</table>
## REFUNDABLE CREDITS

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Total</th>
<th>Y</th>
<th>N</th>
<th>Y</th>
<th>Y</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>MEGA Research and Development</td>
<td>208.1407</td>
<td>4574</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>-</td>
<td>Y</td>
</tr>
<tr>
<td>Personal Property Tax</td>
<td>208.1413</td>
<td>4574</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Worker’s Disability Supplemental Benefit</td>
<td>208.1423</td>
<td>4574</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>Y</td>
</tr>
<tr>
<td>Next Energy Payroll</td>
<td>208.1429</td>
<td>4574</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>MEGA Employment Tax</td>
<td>208.1431</td>
<td>4574</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>-</td>
<td>Y</td>
</tr>
<tr>
<td>Historic Preservation</td>
<td>208.1435</td>
<td>4573</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>Hybrid Technology Research &amp; Development</td>
<td>208.1450</td>
<td>4574</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>Y</td>
</tr>
<tr>
<td>Farmland Preservation</td>
<td>324.36109(2)</td>
<td>4594</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>MEGA Federal Contract</td>
<td>208.1431b</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Photovoltaic</td>
<td>208.1430</td>
<td>4574</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>-</td>
<td>Y</td>
</tr>
<tr>
<td>Brownfield Redevelopment</td>
<td>208.1437</td>
<td>4584</td>
<td>Y**</td>
<td>Y</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>Tobacco Excise Credit</td>
<td>208.1471</td>
<td>4574</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>-</td>
<td>N</td>
</tr>
<tr>
<td>Film Production</td>
<td>208.1455</td>
<td>4574</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>-</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Poly-Silicon Energy Cost</td>
<td>208.1432</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Plug-In Traction Battery Manufacturing</td>
<td>208.1434(2)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Plug-In Traction Battery Integration</td>
<td>208.1434(3)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Advanced Battery Engineering Credit</td>
<td>208.1434(4)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Battery Manufacturing Facility</td>
<td>208.1434(5)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>Large Scale Battery Credit</td>
<td>208.1434(6)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Anchor Company Payroll</td>
<td>208.1431a</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Anchor Company Taxable Value</td>
<td>208.1431c</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>5</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Advanced Lithium Ion Battery</td>
<td>208.1434(7)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>Y</td>
<td>10</td>
<td>Y</td>
</tr>
<tr>
<td>MEGA Battery Cell Sourcing</td>
<td>208.1434(9)</td>
<td>4584</td>
<td>Y**</td>
<td>N</td>
<td>N</td>
<td>10</td>
<td>Y</td>
</tr>
</tbody>
</table>

* As assignee only
** Refundable or non-refundable at the election of the taxpayer
(a) - Community or education foundation must be certified by the Department
(b) - May be carried forward until 2009
(c) - Initial life span of the credit
### UNITARY BUSINESS GROUP-CREDIT INFORMATION

<table>
<thead>
<tr>
<th>Credit</th>
<th>MCL</th>
<th>Form</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arts and Culture</td>
<td>208.1422</td>
<td>4572</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Bonus Depreciation Carryforward</td>
<td>208.1461</td>
<td>4573</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Bottle Deposit Administration</td>
<td>208.1451</td>
<td>4573</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Brownfield Redevelopment</td>
<td>208.1437</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Community or Education Foundation</td>
<td>208.1425</td>
<td>4572</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Compensation</td>
<td>208.1403(2)</td>
<td>4570</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Farmland Preservation</td>
<td>324.36109(2)</td>
<td>4594</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>E</td>
</tr>
<tr>
<td>Film Infrastructure</td>
<td>208.1457</td>
<td>4573</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Film Job Training</td>
<td>208.1459</td>
<td>4573</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Film Production</td>
<td>208.1455</td>
<td>4574</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Gross Receipts Filing Threshold</td>
<td>208.1411</td>
<td>4571</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Historic Preservation</td>
<td>208.1435</td>
<td>4573</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Homeless Shelter/Food Bank</td>
<td>208.1427</td>
<td>4572</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Hybrid Technology Research &amp; Development</td>
<td>208.1450</td>
<td>4574</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Individual or Family Development Credit</td>
<td>208.1426</td>
<td>4573</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>International Auto Show Credit</td>
<td>208.1446</td>
<td>4573</td>
<td>G</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Investment Tax</td>
<td>208.1403(3)</td>
<td>4570</td>
<td>G</td>
<td>G</td>
<td>*</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Large Food Retailer</td>
<td>208.1447</td>
<td>4573</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Low grade Hematite</td>
<td>208.1439</td>
<td>4573</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Advanced Battery Engineering Carryforward</td>
<td>208.1434(4)</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Advanced Lithium Ion Battery</td>
<td>208.1434(7)</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Anchor Company Payroll</td>
<td>208.1431a</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Anchor Company Taxable Value</td>
<td>208.1431c</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Battery Manufacturing Facility</td>
<td>208.1434(5)</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Employment Tax</td>
<td>208.1431</td>
<td>4574</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Federal Contract</td>
<td>208.1431b</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Large Scale Battery</td>
<td>208.1434(6)</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Photovoltaic Technology</td>
<td>208.1430</td>
<td>4574</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Plug-In Traction Battery Integration</td>
<td>208.1434(3)</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Plug-In Traction Battery Manufacturing Carryforward</td>
<td>208.1434(2)</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>MEGA Poly-Silicon Energy Cost</td>
<td>208.1432</td>
<td>4584</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Mid Size Food Retailer</td>
<td>208.1449</td>
<td>4573</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>NASCAR Speedway Infrastructure</td>
<td>208.1409(2)</td>
<td>4573</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>New Motor Vehicle Inventory</td>
<td>208.1445</td>
<td>4573</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Next Energy Business Activity</td>
<td>208.1429(2)</td>
<td>4573</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Next Energy Payroll</td>
<td>208.1429(5)</td>
<td>4574</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Personal Property Tax</td>
<td>208.1413</td>
<td>4574</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Private Equity Fund</td>
<td>208.1453</td>
<td>4573</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Public Contributions</td>
<td>208.1421</td>
<td>4572</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Renaissance Zone</td>
<td>208.1433</td>
<td>4595</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>E</td>
</tr>
<tr>
<td>Research and Development</td>
<td>208.1405</td>
<td>4570</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>SBT Carryforward</td>
<td>208.1401</td>
<td>4569</td>
<td>G</td>
<td>G</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SBT Investment Tax</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SBT Historic Preservation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SBT Pharmaceutical</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SBT Credit Job</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SBT &quot;Old&quot; Brownfield</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SBT &quot;New&quot; Brownfield</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SBT MEGA Business Activity</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Small Business Alternative</td>
<td>208.1417</td>
<td>4571</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Start-up Business</td>
<td>208.1415</td>
<td>4573</td>
<td>E</td>
<td>E</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
<tr>
<td>Worker's Disability Supplemental Benefit</td>
<td>208.1423</td>
<td>4574</td>
<td>G</td>
<td>G</td>
<td>N</td>
<td>G</td>
<td>G</td>
</tr>
</tbody>
</table>

* - Assets transferred between members of a UBG are not capital investments in qualifying assets for purposes of the ITC and intercompany eliminations are irrelevant to the calculation of the ITC.

A - The test or criteria to qualify for the credit should be applied on a group basis (G) or a separate entity basis (E).
B - If the qualification test is satisfied, the calculation of the credit amount should be on a group basis (G) or a separate entity basis (E).
C - Calculation of the credit should be done after elimination of intercompany transactions (Y or N).
D - Credit should be applied against the tax liability or the group (G) or the entity (E).
E - The credit form is completed on a group basis (G) or a separate entity basis (E).
CIT AND MBT ELECTRONIC FILING

General Information

Treasury and the IRS continue to work together to provide tax preparers with an efficient method of filing their clients’ business tax returns electronically.

Michigan has an enforced e-file mandate for CIT and MBT. Software developers producing tax preparation software and computer-generated forms must support e-file for all eligible Michigan forms that are included in their software package. All eligible returns prepared using tax preparation software or computer-generated forms must be e-filed.

Treasury will be enforcing the e-file mandate. The enforcement includes not processing computer-generated paper returns that are eligible to be e-filed. A notice will be mailed to the taxpayer, indicating that the taxpayer’s return was not filed in the proper form and content, and must be e-filed. Payment received with a paper return will be processed and credited to the taxpayer’s account even when the return is not processed.

To participate in CIT and MBT Fed/State e-file programs, e-filers must use software that has successfully completed the Michigan and 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 at www.MIfastfile.org.

An organization or individual interested in participating as a software developer is required to file test returns with Michigan. Tax preparers are not required to file test returns with Michigan.

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

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

When the following forms are included in a filing, the return can be e-filed, but the forms listed below must be mailed.

CIT Forms:

• Application for Extension of Time to File Michigan Tax Returns (Form 4)

MBT Forms:

• Application for Extension of Time to File Michigan Tax Returns (Form 4)
• Historic Preservation Credit Assignment (Form 3614)
• Film Credit Assignment (Form 4589).
If tax is due on an e-file return, payments may be mailed along with MBT e-File Annual Return Payment Voucher (MBT-V) (Form 4576) or CIT e-file Annual Return Payment Voucher (CIT-V) (Form 4901) by the due date. Taxpayers may also make payments by Electronic Funds Transfer (EFT). Application forms for EFT Debit and Credit are available on Treasury’s Web site at www.michigan.gov/biztaxpayments.

Treasury recognizes that there are conditions which make a return ineligible for e-file. When the computer-generated business tax return meets one or more of the Treasury-recognized e-file exceptions, the taxpayer may have to complete and attach E-file Exceptions for Business Taxes (Form 4833) to the front of the return or the paper filing will not be processed. Form 4833 will be generated by the software.

Attach Form 4833 to a computer-generated paper return that meets one or more of the Treasury-recognized e-file mandate exceptions. Treasury-recognized exceptions at the time of this printing include, but are not limited to:

- MBT taxpayer is filing one or more of the following forms:
  - Qualified Affordable Housing Seller’s Deduction (Form 4579)
  - Business Tax Tribal Agreement Ownership Schedule (Form 4597)
  - Tribal Agreement Apportionment (Form 4598)

- Return was prepared by a preparer who has been suspended or denied acceptance to participate in the IRS e-file program or does not have an Electronic Filing Identification Number (EFIN).

- Return was prepared by the taxpayer and, because the taxpayer does not have an EFIN and is not using an online software product, they are unable to e-file.

- Return was rejected by Michigan or IRS and there is no way to correct and resubmit the return electronically and software does not support State Standalone.

- Taxpayer’s federal return contains a form that is not eligible for e-file and the software does not support State Standalone e-file.

- Taxpayer is amending their MBT return and is using software that does not support amended filings.

The following are also Treasury-recognized exceptions. However, do not attach Form 4833 to a paper return that meets one or more of the following conditions:

- The taxpayer has an organization type of individual or fiduciary
- The taxpayer does not have a Federal Employer Identification Number (FEIN)
- The return is completed by hand (with pen or pencil)
- The return is completed using forms from Treasury’s Web site or Michigan tax instruction books.
The following forms and schedules may be e-filed using the CIT Fed/State e-file program for tax year 2016.

**CIT Forms and Schedules**

- Annual Return (Form 4891)
- Amended Return (From 4892)
- Small Business Alternative Credit (Form 4893)
- Schedule of Shareholders and Officers (For all Corporations Claiming the Small Business Alternative Credit) (Form 4894)
- Loss Adjustment for the Small Business Alternative Credit (Form 4895)
- Unitary Business Group Affiliates Excluded From the Return of Standard Taxpayers (Form 4896)
- Data on Unitary Business Group Members (Form 4897)
- Non-Unitary Relationships With Flow-Through Entities (Form 4898)
- Penalty and Interest Computation of Underpaid Estimated Tax (Form 4899)
- Unitary Relationships With Flow-Through Entities (Form 4900)
- Schedule of Recapture of Certain Business Tax Credits and Deductions (Form 4902)
- Withholding Opt-Out Schedule (Form 4903)
- Insurance Company Annual Return for Corporate Income and Retaliatory Taxes (Form 4905)
- Insurance Company Amended Return for Corporate Income and Retaliatory Taxes (From 4906)
- Annual Return for Financial Institutions (Form 4908)
- Amended Return for Financial Institutions (Form 4909)
- Unitary Business Group Combined Filing Schedule for Financial Institutions (Form 4910)
- Schedule of Flow-Through Withholding (Form 4911)

The following forms and schedules may be e-filed using the MBT Fed/State e-file program for tax year 2016.

**MBT Forms and Schedules**

- Historic Preservation Tax Credit (Form 3581)
- Annual Return (Form 4567)
- Nonrefundable Credits Summary (Form 4568)
- Single Business Tax (SBT) Credit Carryforwards (Form 4569)
- Credits for Compensation, Investment and Research and Development (Form 4570)
- Common Credits for Small Businesses (Form 4571)
- Charitable Contribution Credits (Form 4572)
- Miscellaneous Nonrefundable Credits (Form 4573)
- Refundable Credits (Form 4574)
- Loss Adjustment Worksheet for the Small Business Alternative Credit (Form 4575)
- Schedule of Shareholders and Officers (Form 4577)
- Schedule of Partners (Form 4578)
- Unitary Business Group Combined Filing Schedule for Standard Members (Form 4580)
- Penalty and Interest Computation for Underpaid Estimated Tax (Form 4582)
- Election of Refund or Carryforward of Credits, and Calculation of Historic Preservation and Brownfield Redevelopment Carryforward (Form 4584)
• Investment Tax Credit Recapture From Sale of Assets Acquired Under Single Business Tax (Form 4585)
• Schedule of Business Activity Protected Under Public Law 86-272 (Form 4586)
• Schedule of Recapture of Certain Business Tax Credits and Deductions (Form 4587)
• Insurance Company Annual Return for Michigan Business and Retaliatory Taxes (Form 4588)
• Annual Return for Financial Institutions (Form 4590)
• Farmland Preservation Tax Credit (Form 4594)
• Renaissance Zone Credit Schedule (Form 4595)
• Miscellaneous Credits for Insurance Companies (Form 4596)
• Unitary Business Group Combined Filing Schedule For Financial Institutions (Form 4752)
• Schedule of Corporate Income Tax Liability for a MBT Filer (Form 4946)
• Schedule of Certificated Credits (Form 4947)
• Schedule of Flow-Through Withholding (Form 4966)
• Schedule of CIT Liability for an MBT Insurance Filer (Form 4974)
• Schedule of CIT Liability for an MBT Financial Filer (Form 4975)

Michigan will continue to accept certain binary Portable Document Format (PDF) attachments with the e-filed returns for tax year 2016 (as supported by software). A listing of the attachments will be posted to the Treasury Web site at www.MIfastfile.org.

Attachments to CIT and MBT Returns

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.

UBGs. For more information on federal return attachments see Form 4580 for MBT and Form 4897 for CIT.

Do not send copies of K-1s. Treasury will request them, if necessary.

Attachments to MBT Returns


Partnerships. U.S. 1065 (pages 1 through 5), Schedule D, Form 4797, and Form 8825.

Individuals. U.S. 1040 (pages 1 and 2), Schedules C, C-EZ, D, E, and Form 4797 (only when a member of a UBG).

Fiduciaries. U.S. 1041 (pages 1 through 4), Schedule D, and Form 4797 (only when a member of a UBG).

LLCs. Attach appropriate schedules shown above based on federal return filed.
**CIT and MBT Fed/State E-file Program**

Tax preparers and transmitters accepted in the IRS e-file program may participate in the Fed/State e-file programs and e-file returns through the IRS MeF program. (See [www.irs.gov](http://www.irs.gov) for more information.) A list of software developers supporting e-file is available on Treasury’s Web site at [www.MIfastfile.org](http://www.MIfastfile.org).

Michigan accepts two kinds of submissions:

1. Fed/State (linked)
2. State Standalone (unlinked).

**How Fed/State (Linked) E-file Works**

A State submission can be linked to the IRS submission by including the Submission ID of the federal return with the State return filing. If the State submission is linked to an IRS submission (also referred to as a Fed/State return), the IRS will check to see if there is an accepted IRS submission under the Submission ID. If there is not an accepted federal return for that tax type, the IRS will deny the State submission and an acknowledgment will be sent to the transmitter. The State has no knowledge that the State return was denied (rejected) by the IRS. If there is an accepted federal return under that Submission ID, MeF will perform minimal validation on the State submission. The validation includes verifying that the State is a participating State in the Fed/State Program. MeF will then pass along to the State what the Electronic Return Originator (ERO)/taxpayer sends in the State submission.

**Note:** If a State submission is linked to an IRS submission, the IRS recommends sending the IRS submission first, and after it has been accepted, sending in the State submission.

**How State Standalone (Unlinked) E-file Works**

If the ERO does not link the State return to a previously accepted federal return (also referred to as State Standalone return), Modernized e-file (MeF) will perform minimal validation as stated above (that will include verifying that the State allows State Standalone returns), and then pass along the entire State submission that was sent in by the ERO/taxpayer.

**Note:** The State return is made up of a State and federal portion. The taxpayer provides both components based on what is required by the State. The IRS passes to the State just the information that has been provided by the taxpayer.
The workflow for State returns is as follows:

1. Transmitter sends State returns to IRS.

2. IRS validates the State return.
   
   A. If linked return, validates IRS submission and State Participation.
   
   B. If unlinked, validates State Participation.

3. If valid, IRS makes the State return available to the State.

4. The State retrieves State return from IRS.

5. The State sends receipt for State return to IRS.

6. The State will process the State return and send State acknowledgment to IRS.

7. Transmitter will retrieve the State acknowledgment from IRS.

8. The State will retrieve the Acknowledgment Notification (acknowledging Transmitter retrieved the State acknowledgment).

**Application Process**

To participate, applicants must first apply to the IRS and be accepted. Individuals must register with IRS e-Services and create a new (or revised) IRS application. Individuals can contact e-Help toll-free at 1-866-255-0654 for assistance with the IRS e-file Application or if unable to register for e-Services.

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

Upon acceptance, the IRS Service Center assigns an 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 CIT and MBT MeF programs.


**Acceptance Process**

Treasury may conduct a suitability check on applicants who have been accepted in the MBT and CIT Fed/State e-file programs. Participation in the program 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 CIT and MBT Fed/State e-file programs. Michigan does not assign any additional identification numbers for the Fed/State e-file programs.
**Signature Process for Fed/State (Linked) Returns**

Michigan will accept the federal signature (8453-C, 8453-S, 8453-P, or Personal Identification Number (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 included with the State submission the two returns are linked together, and it is considered a Fed/State filing. Michigan does not require any additional signature documentation.

**Signature Process for State Standalone (Unlinked) Returns**

State Standalone returns must be signed by entering a taxpayer PIN and completing *E-file Authorization for Business Taxes* (Form MI-8879). The taxpayer may authorize the tax preparer to enter the PIN on their behalf. The MI-8879 should be retained by the tax preparer and/or taxpayer, and included in the printed copy of the return that is provided to the taxpayer.

**For More Information**


**City of Detroit Corporate Income Tax**

Beginning tax year 2016, the City of Detroit Corporate Income Tax will be administered by the Michigan Department of Treasury. Detroit Corporate returns may be e-filed through the MeF system, as supported by software. These returns will be filed as standalones, and may not be transmitted as a combined filing with the State return.
FLOW-THROUGH WITHHOLDING

WHAT’S NEW


OVERVIEW

FTEs are required to withhold on the distributive share of business income of members that are C corporations or other FTEs if the apportioned or allocated business income is reasonably expected to be greater than $200,000. Additionally, FTEs are required to withhold on the distributive share of taxable income of members, partners, or shareholders that are nonresident individuals without regard to a filing threshold. These withholding requirements are similar to employer requirements to report and remit withholding taxes on employee wages. There are several exemptions to FTW which are explained in this chapter.

For purposes of FTW, the following definitions apply:

- **Corporation**: an entity that is required to or has elected to file as a C corporation for federal income tax purposes.

- **Flow-through entity**: an entity that for the tax year is treated as an S corporation, a general partnership, a limited partnership, a limited liability partnership, or a limited liability company that is not taxed as a C corporation. FTE does not include any entity that is disregarded for federal income tax purposes and does not include a trust.

- **Member**: a shareholder of an S corporation; a partner in a general partnership, a limited partnership, or a limited liability partnership; or a member of a limited liability company.

- **Nonresident**: an individual who is not a resident of or domiciled in Michigan.

Collectively, these withholding requirements are known as FTW.

Forms

- *Certification of Exemption for Flow-Through Withholding Payments* (Form 4912)
- *Flow-Through Withholding Quarterly Return* (Form 4917)
- *Annual Flow-Through Withholding Reconciliation Return* (Form 4918)
- *Schedule of Unitary Apportionment for Flow-Through Withholding* (Form 4919)
**Mailing Addresses**

Annual returns should be mailed to:

**With payment:**

Michigan Department of Treasury  
P.O. Box 30806  
Lansing, MI  48909

**Without payment:**

Michigan Department of Treasury  
P.O. Box 30805  
Lansing, MI  48909

Quarterly returns should be mailed to:

Michigan Department of Treasury  
P.O. Box 30800  
Lansing, MI  48909-8300

Correspondence should be mailed to:

Michigan Department of Treasury  
Customer Contact Section FTW Unit  
P.O. Box 30769  
Lansing, MI  48909

**Withholding Requirements**

For tax years beginning through June 30, 2016, an FTE that is required to withhold as described below must withhold with regard to its full tax year (generally, twelve months).

For tax years beginning on or after July 1, 2016, filing of Forms 4917 and 4918 is not required nor permitted.

If quarterly payments were made for a period for which the FTE is no longer required to file, write a letter and include the following:

- Taxpayer’s name and Federal Employer Identification Number (FEIN)
- Tax year end date of the last FTW return filed
- Statement explaining that the taxpayer is requesting a refund
- The amount of the refund requested
- An explanation of the reason for the request
- A signature by an owner or officer of the company (or an authorized representative).

Send letters to the FTW correspondence address.
**Withholding on nonresident individual members.** Every FTE with a tax year beginning before July 1, 2016 and with business activity in Michigan is required to withhold on every member that is a nonresident individual. Withholding is done at the Individual Income Tax (IIT) rate on the distributive share of taxable income reasonably expected to accrue, after allocation or apportionment and application of available personal exemptions, to the nonresident. The IIT rate is 4.25 percent for tax years that end in 2016 or 2017. FTW for nonresident individual members is required without regard to the $200,000 business income threshold that applies to other types of members if the distributive share of business income exceeds the proportionate amount of personal and dependency exemptions of the individual.

If available, personal and dependency exemptions may be applied to offset a member’s distributive share subject to withholding. Personal exemptions may be considered if the necessary W-4 information is provided to the FTE by the member. A nonresident’s personal and dependency exemptions are based on the number of his or her number of allowable federal exemptions and must be prorated by the amount of the individual’s Michigan income to total adjusted gross income. If a nonresident individual’s distributive share does not exceed his or her allowable exemption, the FTE is not required to withhold on that member. If an FTE receives no instructions from a nonresident individual about personal and dependency exemptions, the FTE should withhold without regard to exemptions.

**Withholding on corporate members.** An FTE with a tax year beginning before July 1, 2016, and with business activity in Michigan that reasonably expects to accrue more than $200,000 in apportioned or allocated business income for the tax year must withhold on the distributive share of each member that is a corporation at the Corporate Income Tax (CIT) rate of 6 percent.

**Withholding on intermediate-tier FTE members.** A source FTE with a tax year beginning before July 1, 2016, and with business activity in Michigan that reasonably expects to accrue more than $200,000 in apportioned or allocated business income for the tax year must withhold on the distributive share of each member that is an FTE (intermediate FTE) at the CIT rate of 6 percent. However, the source FTE may withhold at the IIT rate instead of the CIT rate if it is able to identify the ultimate member of the intermediate-tier FTE as a nonresident individual and include the individual’s identifying information on Form 4918. The source FTE is not required to withhold if it is able to identify the ultimate member of the intermediate FTE as a resident individual. The IIT rate is 4.25 percent for tax years that end in 2016 or in 2017.

An intermediate-tier FTE member that has no business income sourced to Michigan other than business income received from a source FTE will not have to pay additional withholding if the intermediate-tier FTE’s tax year begins on or before June 30, 2016, the intermediate-tier FTE will be credited with FTW payments made on its behalf by a source FTE and is required to file Form 4918 to distribute to its members the FTW payments.

If the intermediate-tier FTE’s tax year begins after June 30, 2016, the intermediate-tier FTE should not file Form 4918. Instead, the intermediate-tier FTE should determine the amount of withholding that each of its members is entitled to and should pass the required information (see “Reporting Withholding to Members”) to its members, including the payor’s/source FTE’s FEIN, sales, and gross receipts. Subsequent tiers must continue to pass along the payor’s information until it reaches the ultimate taxpayer.
Filing and Payment Requirements

An FTE that is required to withhold must file Form 4917 and pay withholding due on a quarterly basis. An FTE that is required to withhold must also file, in addition to the four quarterly returns, Form 4918. An FTE that is an intermediate-tier member of a source FTE must file Form 4918 to distribute the amounts that have been withheld on its behalf unless the source FTE has already distributed the withholding by disclosing the ultimate taxpayers on its own Form 4918 (or unless other exceptions apply; see previous section). An FTE that remits FTW or files Form 4918 must be registered with Treasury for FTW under its FEIN in order for payments to be properly credited and for its returns to be properly processed.

Quarterly Payments

FTW quarterly payments are reported and paid to Treasury using Form 4917. For a calendar year end taxpayer, these quarterly returns and quarterly payments are due by April 15, July 15, and October 15 and January 15 of the following year. If the FTE is not a calendar year taxpayer, then it will substitute the appropriate due dates in the FTE’s fiscal year that correspond to the due dates of a calendar year FTE. No quarterly payments may be remitted for tax years that begin after June 30, 2016. A quarterly return is not required to be filed if there is no amount due.

Annual Reconciliation Form

An FTE that will distribute withholding or an FTE that withheld in error (other than in error due to the law change in PA 158 of 2016) and wants to claim a refund, must file Form 4918. Form 4918 is due no later than February 28 following the end of the calendar year for calendar year filers, or the last day of the second month following the end of a fiscal year filer’s federal tax year.

Reporting Withholding to Members

If an FTE had business activity in Michigan, it must report information about its tax year to its owners. An owner must have certain tax information regardless of whether the owner had tax withheld that allows it to properly fill out its tax return.

The FTE may use any method to report the necessary information to its members. Treasury recommends that the FTE provide this information to its members as a supplemental attachment to the members’ federal Schedule K-1. Any method will be acceptable as long as the following information is conveyed to the member.

- FEIN of the FTE
- Tax year of the FTE
- FTW paid on behalf of the member
- For members subject to IIT, the member’s distributive share of taxable income attributable to the FTE. For members subject to CIT, the member’s distributive share of business income and the member’s share of statutory additions and subtractions before apportionment, attributable to the flow-through entity
- FTE’s sales that have been sourced to Michigan
- FTE’s total sales
- For members that are corporations or other FTEs, the FTE’s gross receipts. Members will report on CIT returns their proportionate share of allocated or apportioned gross receipts from FTEs.
If the FTE is filing a *Composite Individual Income Tax Return* (Form 807) on behalf of its nonresident individual members, then it must report to each nonresident individual that participates in the composite filing the:

- FEIN of the FTE
- Tax year of the FTE
- That member’s share of tax liability on the composite return filed by the FTE (not the amount withheld on behalf of the member)
- Member’s tentative distributive share of FTE’s business income as well as other taxable income of the FTE that has been allocated or apportioned to Michigan
- FTE’s sales that have been sourced in Michigan
- FTE’s total sales.

**Note:** The FTE may have different amounts of sales to report for corporate and other FTE members than it will for its nonresident individual members. See the explanation of apportionment for the different types of members below.

**Flow-Through Withholding for Members That Are Corporations or Other Flow-Through Entities**

**Business Income**

Business income for purposes of withholding on a member that is a corporation or an intermediate-tier FTE will be governed by the same rules as those applicable to the CIT. However, because FTW is concerned with business income of FTEs and not corporations, business income for FTEs is further defined to include payments and items of income and expense that are attributable to business activity of the FTE and separately reported to members. The distributive share of business income of an FTE is subject to FTW even if it is not actually distributed or paid to the member.

**Business Income Threshold**

To be required to withhold on members that are corporations or other FTEs, the FTE must reasonably expect to have more than $200,000 of business income in the tax year after allocation and apportionment. For purposes of calculating the threshold, the FTE will apportion its business income using its sales factor.

**Apportionment**

An FTE is only required to withhold on a member’s distributive share of business income after allocation and apportionment. To apportion business income for a member that is a corporation or an intermediate-tier FTE, the FTE will use the apportionment rules applicable to the CIT. The CIT includes two apportionment rules that are relevant to FTW.

The general rule provides that the filing FTE will apportion business income distributed to its members using the separate sales factor of the filer. The FTE’s sales factor is a fraction, the numerator of which is the FTE’s sales that have been sourced to Michigan and the denominator is the FTE’s sales everywhere. “Sale” or “sales” means the term as defined within the CIT, in MCL 206.609(4). The FTE will use the sales sourcing provisions included within the CIT.
A different apportionment rule applies if the FTE is unitary with a CIT taxpayer. If the FTE is unitary with a CIT taxpayer then, the numerator of the sales factor used by the FTE must include Michigan sales of the unitary CIT taxpayer and a proportionate share of the total sales in Michigan of the FTE. The denominator of the sales factor must include the total sales of the unitary CIT taxpayer everywhere and a proportionate share of the total sales everywhere of the FTE. Sales between the CIT taxpayer and the FTEs unitary with the CIT taxpayer, as well as sales between FTEs unitary with the CIT taxpayer, must be eliminated when calculating the combined sales factor for these entities.

The FTE is unitary for apportionment purposes with a CIT taxpayer if:

- The CIT taxpayer owns or controls, directly or indirectly, more than 50 percent of the ownership interest of the FTE with voting rights or ownership interests that confer comparable rights to voting rights.
- The CIT taxpayer and FTE have business activities or operations which result in a flow of value between the CIT taxpayer and the FTE, or between the FTE and another FTE unitary with the taxpayer, or have business activities or operations that are integrated with, are dependent upon, or contribute to each other.

The sales factor of an FTE unitary with a corporation used to apportion the distributive share of business income received by its corporate member will be the same as that used by the corporation when computing its CIT liability. If the FTE is owned by two corporations, only one of which is unitary with the withholding FTE, the FTE will use separate apportionment percentages for each of those corporations.

The sales factor in the CIT does not include throwback sales.

If the source FTE is able to ascertain that the ultimate member of an intermediate-tier FTE is a nonresident individual, then the source FTE may withhold directly on the distributive share of that individual member. To do this, the FTE must know the name and Social Security number (SSN) of the nonresident individual. This information will be listed when the FTE files Form 4918. To calculate the distributive share of business income of ultimate nonresident individual members and apportion that amount, the FTE will use the provisions included in IIT, as explained below. The source FTE is not required to withhold if it can identify the ultimate owner of the intermediate FTE to be a Michigan resident individual.

**Flow-Through Withholding for Members That Are Nonresident Individuals**

**Business Income**

Income flowing through to a nonresident individual member of an FTE is business income and is subject to the allocation and apportionment provisions of the IIT. This income is referred to as the member’s distributive share of business income. The distributive share of business income of an FTE is subject to FTW even if it is not actually distributed or paid to the member.

Portfolio income is business income and is subject to allocation or apportionment. Portfolio income includes interest income, dividend income, royalty income, and net short-term and long-term capital gain (loss) from federal Schedule D Capital Gains and Losses. Resident or nonresident individual taxpayers having portfolio income from an FTE with business activity in multiple states must allocate or apportion this income in the same manner as all other business income.
Apportionment

The FTE’s distributive share of business income shall be allocated or apportioned to the state where the business activity takes place using a single-factor sales apportionment formula. Income not allocated or apportioned to Michigan is not subject to FTW. To apportion business income for a member that is a nonresident individual, the FTE will use the apportionment rules included in the IIT. The IIT includes two apportionment rules that are relevant to FTW.

The general rule provides that the filing FTE will apportion business income distributed to individual members using the separate sales factor of the filer. The FTE’s sales factor is a fraction, the numerator of which is the FTE’s sales that have been sourced to Michigan and the denominator is the FTE’s sales everywhere. “Sale” or “sales” means the term as defined within the Income Tax Act, in MCL 206.20(1). When determining which sales are to be included in the sales factor for nonresident individual members, the FTE will use the sales sourcing provisions within the IIT.

A different apportionment rule may apply if the FTE withholds on an individual who will report income using combined apportionment for unitary FTEs. If the individual member elects to report income using the combined apportionment method, the FTE will calculate that member’s distributive share of income and withholding based on the combined apportionment factors of all entities that are unitary with the FTE.

The individual may elect combined apportionment when the business operations of the FTEs evidence a unitary relationship; which is determined by:

- Economic realities
- Functional integration
- Centralized management
- Economies of scale
- Substantial mutual interdependence.

These factors are not exhaustive or exclusive, and the ability to elect combined apportionment will depend on the totality of the circumstances.

In summation, the sales factor of an FTE used to apportion the distributive share of business income attributable to an individual member will be the same as that used by that individual when computing their IIT liability. For example, if the FTE is owned by two individuals, one of whom is electing to combine apportionment factors with other entities unitary with the withholding FTE, and the other of which is not, then the FTE will use separate apportionment percentages for each of those individuals.

The computation of the sales factor is not the same for IIT as it is for the Michigan Business Tax (MBT) or the CIT. The IIT requires throwback sales to be included in the numerator and the MBT and CIT do not. Throwback sales for IIT follow Public Law (PL) 86-272. Foreign sales can be included in the numerator for IIT purposes. The IIT standard for determining if the taxpayer is taxable in another state, including a foreign country, uses the PL 86-272 criteria. In general, a taxpayer’s business must have property in another state or activity that goes beyond solicitation of sales to be taxable in that state.
**Composite Tax Return for Nonresident Individual Members**

An FTE may file Form 807, for its nonresident individual and nonresident trust members. The composite return is an elective filing used to file and pay the member-level IIT, and is not a tax on the FTE. If participating members have no other income subject to Michigan’s IIT, the composite return will satisfy the members’ IIT filing requirement. To file a composite return, the FTE must have two or more nonresident individual members participating in the return. Members who are spouses and who file a joint return together may each be considered a participant.

Participants may include other FTEs, nonresident trusts that would otherwise be liable for tax on the distributive share on a *Fiduciary Income Tax Return* (Form MI-1041), or nonresident individuals. Corporate members are not eligible to participate in a composite return. A nonresident individual participant who has other Michigan income must also file an *Individual Income Tax Return* (Form MI-1040). When filing the MI-1040, the taxpayer may not subtract the income reported on the composite return, but may claim a credit for his or her share of tax paid on the composite return. A nonresident individual who has participated in a composite return is not eligible to claim a credit on the MI-1040, of the FTW payment made on his or her behalf.

**Exemptions From Flow-Through Withholding**

**Flow-Through Entities That Are Exempt**

Publicly Traded Partnerships and disregarded entities are not required to withhold on their members under FTW. For purposes of FTW, “publicly traded partnerships” means that term as defined under Section 7704 of the Internal Revenue Code (IRC). The exemption from the requirements of FTW applies to publicly traded partnerships that are treated as corporations as well as those that are treated as partnerships under IRC 7704(c). An entity is disregarded for purposes of FTW if it is a disregarded entity for federal income tax purposes.

**Nonresident Individual Exemptions**

An FTE is not required to withhold on a nonresident individual member if:

- The income available for distribution consists entirely of income exempt from IIT, or
- The aggregated income available for distribution of all nonresident individual members is less than $1,000 for the quarter.

**FTE Michigan Business Tax Election Exemption**

An FTE is not required to withhold on its corporate members that are not unitary with the FTE if the FTE has made a valid election under MBT Act, under MCL 208.1500, to continue to file a return and pay the tax imposed under the MBT.

**Member Michigan Business Tax Election Exemption**

An FTE is not required to withhold on a member that elects to file and pay under the MBT.
Opt Out Exemption

Corporate members of an FTE or members that are other FTEs are also able to exempt the FTE from FTW requirements. The exemption is accomplished by the member filing an exemption certificate Form 4912 with the FTE. Any comparable document containing the same information as Form 4912 may be used in its place. If an exemption certificate is received by the FTE then the FTE is entirely exempt from the FTW requirements pertaining to that member for the entire tax year. This is true no matter when the FTE receives the exemption certificate, as long as the FTE receives the certificate within the tax year. A nonresident individual is not eligible to exempt his or her FTE from withholding.

To qualify for the exemption, the member must:

- Complete the exemption certificate in the form and manner prescribed by Treasury
- Provide a copy of the exemption certificate to the FTE. A new certificate is required for each tax year that the member opts out of withholding.
- Certify that it will:
  - File the returns required under the CIT or FTW, whichever is applicable.
  - Pay or withhold the tax due under the CIT or FTW on the distributive share of the taxable income received from any FTE in which the corporation or FTE is a member.
  - Submit to the taxing jurisdiction of Michigan for purposes of collecting the tax due under the CIT or FTW, and the associated penalty and interest with respect to the distributive share of the business income of that member.

The opt-out exemption requires the member and the FTE to retain copies of the exemption certificate. Do not file the exemption certificate with Treasury. Treasury maintains the right to revoke an exemption certificate if the member or the exempted FTE is not abiding by the terms of the certificate or the exemption requirements as explained above. If an exemption certificate is revoked, Treasury will notify the FTE that it must begin to withhold on the member’s distributive share of business income beginning 60 days after notice of revocation is received.

Federal and State Housing Programs Exemption

An FTE is not required to comply with FTW requirements to the extent that the withholding would violate distribution restrictions under certain federal and state housing programs.

Contacting Treasury

For General FTW Questions:
Phone 517-636-6925
www.michigan.gov/taxes

For Business Registration Questions:
Phone 517-636-6925
Fax 517-636-4520
E-mail treasReg@michigan.gov
SALES, USE, AND WITHHOLDING TAXES

SALES TAX

The General Sales Tax Act was enacted as Public Act (PA) 167 in 1933. The tax is imposed on the seller for the privilege of making a “sale at retail” in Michigan. The tax rate has increased over the years to its current six percent level. Tax increases are currently restricted to authorization by amendment to the Michigan Constitution by a vote of the people.

Sales of electricity, natural or artificial gas, and home heating fuel for residential use are taxed at a rate of four percent.

All sales of tangible personal property at retail in Michigan are subject to the tax unless a specific exemption applies and is claimed by the purchaser.

Certain sales transactions are subject to a prepaid sales tax in Michigan. Purchasers or receivers of “fuel” in Michigan are required to “prepay” a portion of the sales tax to the refiner, pipeline terminal operator, or marine terminal operator at the time of purchase or shipment. If the purchase or receipt of “fuel” is made outside Michigan for shipment into and subsequent sale within Michigan, the purchaser or receiver (excluding a refiner, pipeline terminal operator, or marine terminal operator) must make the prepayment of sales tax directly to Michigan Department of Treasury (Treasury). For purposes of the prepaid sales tax, the term “fuel” refers to “gasoline” and “diesel fuel” as those terms are defined by statute. The rates of prepayment for each of these fuel types are set by Treasury every month and are published by Treasury no later than the 10th day of the month immediately preceding the month in which the new prepayment rates will be in effect.

USE TAX

The Use Tax Act was enacted as PA 94 in 1937. Shortly after the sales tax was enacted, it became apparent that sales tax revenue was being lost by purchases of tangible personal property being made in neighboring states for consumption in Michigan. This was also recognized as a competitive disadvantage for Michigan sellers.

The tax was enacted as a tax for the privilege of storing, using, or consuming tangible personal property in Michigan. The impact of the tax is felt most by remote sellers such as mail order sellers, Internet sellers, and other similar direct marketers. To a limited extent the use tax statute also supplements the sales tax statute by taxing transactions that the sales tax does not reach (e.g., telecommunications).

“Use” is defined as the exercise of a right or power over tangible personal property incident to ownership of the property, including, but is not limited to, transactions in which possession is given. This includes leases of tangible personal property. A lessor has the option of paying sales or use tax on the full cost of tangible personal property acquired for lease or paying use tax on the stream of lease/rental receipts. However, the lessor must first be registered for use tax to have the option available.
Certain services are also taxed “in the same manner as tangible personal property” under PA 94. These services are: intrastate telecommunications, interstate telecommunications that either originate or terminate in Michigan when billed to a Michigan address, ancillary services, conference bridging services, 900 services, pay telephone services other than coin-operated telephone services, paging services, value added nonvoice data services, accommodations (hotel, motel, bed and breakfasts, vacation home, cottage rental, etc.) of up to 30 continuous days, and the laundering or cleaning of textiles under a rental agreement with a term of at least five days.

The rate has increased along with the sales tax rate over the years until reaching its current rate of six percent. As with the sales tax, the use tax rate is also restricted to authorization by amendment to the Michigan Constitution by a vote of the people.

The Individual Income Tax Return (MI-1040) has a separate line for individuals to report and pay their use tax liability for purchases on which they have not paid sales tax. This includes mail order and Internet purchases made from out-of-state sellers that do not collect and remit Michigan sales or use tax, as well as purchases in foreign countries, or states that do not impose a sales tax. Purchases where six percent or more sales tax is paid in another state are exempt from Michigan use tax. However, if a purchase is made in a state that imposes a sales tax of less than six percent the individual owes use tax on the difference between the sales tax rate it paid to the state of purchase and Michigan’s rate of six percent. Unlike purchases in other states, credit for sales, use, or other excise taxes paid in a foreign country and not available.

EXEMPTIONS

In general, sales and use tax exemptions are based on what the item is, who purchases the item, and how the item is used. Frequently, a qualifying exemption from the tax will be based on a combination of these three basic exemption types.

There are currently over 100 distinct exemptions provided in the sales and use tax statutes. Generally, exemptions in one law are mirrored in the other, but there are instances when an exemption is not provided for in both laws. Taxpayers bear the burden of proving they are entitled to an exemption.

ADMINISTRATIVE

Michigan began offering free electronic filing (e-file) of sales, use and withholding (SUW) returns through its own secure site, Michigan Treasury Online (MTO), which includes a simple and safe electronic payment option. Michigan also accepts e-filed returns using Treasury approved tax preparation software (bulk e-file). Both free e-file options are fast and secure methods for submitting monthly, quarterly, and/or annual returns and payments. Some printable forms will still be available on Treasury’s Web site.

As a result of the electronic filing options available, Treasury will no longer mail pre-identified returns.
E-file is not a requirement for most accounts, however, it is required for businesses that report sales collected at the four percent tax rate using *Sales, Use and Withholding Taxes 4% and 6% Annual Return* (Form 5091), completes early payment of tax on vehicle sales using *Vehicle Dealer Supplemental Schedule* (Form 5086) and are fuel suppliers and wholesalers that claim credits for prepaid sales tax charged on gasoline and diesel purchases using *Fuel Supplier and Wholesaler Prepaid Sales Tax Schedule* (Form 5083) or *Fuel Retailer Supplemental Schedule* (Form 5085). Form 5091 can only be filed using MTO.

Treasury encourages using the e-file option when available. Visit Treasury’s Bulk E-file Web site at [www.mifastfile.org](http://www.mifastfile.org) for a listing of bulk e-file resources, additional online services, and further updates.

**MICHIGAN TREASURY ONLINE (MTO)**

**Registration Information**

When a taxpayer registers their business with Michigan to obtain a sales tax license, a use tax registration, or to register as an employer for withholding, they are assigned a filing status, either monthly, quarterly or annually. If their business was assigned a Federal Employer Identification Number (FEIN), they may register for business taxes online at [www.michigan.gov/business](http://www.michigan.gov/business). It is imperative for the taxpayer to file and pay their taxes based on the filing frequency assigned. Failure to file returns or remit payments based on the frequency assigned will result in a letter of inquiry being issued. Additional action, including the issuance of computed assessments may result if payments and/or returns are not received.

**Changes to Accounts**

MTO is a new self-service tool which allows registered businesses the ability to access, view, and make changes to information that Treasury has captured from their application specific to their account.

The goal of the MTO self-service tool is to improve the convenience and efficiency for a registered business tax account. A registered business can now access account information and submit account specific changes via MTO in lieu of sending a form. MTO is easy to access, easy to navigate, and is available 24/7 at [www.michigan.gov/business](http://www.michigan.gov/business).

In addition to completing the registration process for Michigan taxes on-line, using MTO services provides automatic notification to Treasury when the following changes are requested.

- *Notice of Change or Discontinuance* (Form 163)
  - Update an address
  - Add or delete a tax type (exception: payroll/pension withholding tax)
  - Change months of business operation
  - Discontinue a business
  - Change a business name
• **Authorized Representative Declaration/Power of Attorney (Form 151)**
  - Add a new representative/or delete an existing representative

• **Payroll Service Provider (PSP) Combined Power of Attorney & Corporate Officer Liability Certificate (Form 3683)**
  - Add or delete a Payroll Service Provider

### Filing Returns

Monthly/Quarterly filers should complete **Sales, Use and Withholding Taxes Monthly/Quarterly Return** (Form 5080). Form 5080 and any associated payment must be received by the due date and a return must be submitted even if no tax is due. All filers will complete **Sales, Use and Withholding Taxes Annual Return** (Form 5081) which is due February 28 to reconcile the account each year. If the taxpayer needs to amend their monthly/quarterly return they will complete a **Sales, Use and Withholding Taxes Amended Monthly/Quarterly Return** (Form 5092) or to amend their annual return they will complete **Sales, Use and Withholding Taxes Amended Annual Return** (Form 5082). These forms are available for e-file using MTO at [www.michigan.gov/business](http://www.michigan.gov/business) or by utilizing bulk e-file.

Refiners, pipeline terminal operators, and marine terminal operators in Michigan that are required to collect and remit prepaid sales tax (and persons purchasing or receiving fuel outside Michigan for shipment into and subsequent sale within Michigan which remit directly to Treasury) are required to file a **Report of Fuel Sales Tax Prepayment and Environmental Protection Regulatory Fee for Refiners, Terminal Operators and Importers** (Form 173) along with any associated payments by the due dates specified in the instructions. Fuel retailers may claim a credit for prepaid sales tax charged on their gasoline and diesel purchases from suppliers or wholesalers by filing a **Fuel Retailer Supplemental Schedule** (Form 5085). Likewise, fuel wholesalers may claim a credit for prepaid sales tax charged on their gasoline and diesel purchases from suppliers by filing **Fuel Supplier and Wholesaler Prepaid Sales Tax Schedule** (Form 5083). These forms are only accessible when filing Form 5080 or Form 5092 electronically using MTO or bulk e-file. Paper filing is no longer available. Taxpayers are not eligible for bulk e-file if forms 5083, 5085, and/or 5086 need to be submitted with Forms 5081 or 5082. The taxpayer must file using MTO.

### Amending Returns

Use Form 5092 to amend monthly/quarterly returns or Form 5082 to amend annual returns.

Annual returns may not be amended when the withholding on a corrected **Wage and Tax Statement (W-2)** is for less than on the original W-2. Corrections must be handled between the employer and the employee or by the employee on the MI-1040. Refund requests submitted on an amended Form 5082 for a W-2 adjustment will not be honored.

Payments for SUW tax due amounts for monthly/quarterly filers are due on or before the 20th day of the month following the tax period reported. Annual SUW tax due amounts are due February 28th of the year following the tax year reported. Some taxpayers may be required to file on an accelerated basis. Visit Treasury’s Accelerated Electronic Funds Transfer (EFT) Filers Web site for information on accelerated filers.

Payments received after the due date are subject to statutory penalty and interest.
**Electronic Payments**


**ACH Debit**

ACH Debit payments can be submitted with the return through bulk e-file or through MTO. Both methods allow for tax, penalty, and interest amounts to be included with the payment request. When you choose to use ACH Debit to make an SUW payment, you are instructing Michigan to debit (electronically withdrawal) your tax payment from your designated account.

Some financial institutions offer a “Debit Blocking” or “Debit Filtering” service to prevent unauthorized debits (withdrawals) from an account. If an account has a debit block or filter, any unauthorized debit transactions will not be processed. The taxpayer should contact their financial institution and have the ACH transaction identified with the **Company ID 9244842702** authorized to debit their account. Failure to make these arrangements may result in the payment request being rejected by the financial institution.

Due to changes in National Automated Clearing House Association (NACHA) rules, ACH Debit transactions are ineligible for EFT if the financial institution account used for the electronic debit is funded or otherwise associated with a foreign financial institution account to the extent that the payment transaction would qualify as an International ACH Transactions (IAT) under NACHA rules. Taxpayers should contact their financial institutions for questions about the status of their bank account.

**ACH Credit**

ACH Credit payments are initiated by the taxpayer separate from filing the return. When the taxpayer chooses to use ACH Credit to make an SUW payment, they are instructing their financial institution to credit (electronically send) their tax payment to Michigan’s bank. EFT Credit payments made to Treasury must use the Cash Concentration and Disbursement plus Addenda (CCD+) record format. If the payment data is not provided in this specific formatting, Treasury will recognize the payment or payment effective date and result in the incorrect posting of their payment. Some financial institutions charge a fee to initiate ACH Credit payments and most require at least 24 hours advance notice before a payment transmission is completed.

A copy of the *Instructions for Payments of Michigan Sales, Use, Withholding, and Other Michigan Business Taxes Using Electronic Funds Transfer (EFT) Credit* (Form 2329) should be provided to their financial institution to ensure proper formatting of the EFT Credit payment.

**Credit Card/Debit Card**

Taxpayers using MTO may electronically initiate a payment in a single sessions. A payment may be made as one combined payment, eliminating the need to make three distinct payment transactions for SUW tax liabilities. A transaction fee may apply.
Check Payments

If tax is due on an e-filed return, payment may be submitted by check or money order, by the due date, with the Sales, Use and Withholding Payment Voucher (Form 5094). Form 5094 may also be used to make a payment when a paper return has previously been mailed to Treasury.

W-2 Data Reporting

Annual return submission filed under bulk e-file may contain W-2 data in the Social Security Administration EFW2 text file format, as supported by the tax preparation software. Submitting W-2 data with the return is place of sending magnetic media with the Transmittal for Magnetic Media Reporting of W-2s, W-2Gs and 1099s to the State of Michigan (Form 447) satisfies the Michigan’s filing requirement.

W-2 data may still be submitted to Michigan using Form 447. See Withholding (Payroll) FAQs at www.michigan.gov/taxes for additional filing information.

STREAMLINED SALES AND USE TAX AGREEMENT

Representatives from 43 states, local governments, and the business community worked for several years to implement the Streamlined Sales and Use Tax Agreement (Agreement). The Agreement is a multi-state pact providing for a system that simplifies sales and use tax collection and administration by retailers and states. Among other things, the Agreement addresses and provides for state-level administration of sales and use taxes, uniform definitions, rate simplification, uniform determination of where sales occur (sourcing), simplified exemption administration, and uniform audit and registration.

The approval of the Agreement by the Streamlined delegates did not modify the laws of any state. The determination as to whether and how to implement the terms of the Agreement rests with each state. Since approval of the Agreement, over 25 states have introduced or enacted legislation intended to conform to the provisions of the Agreement.

Michigan law does not allow for local jurisdictions, such as cities or counties, to impose sales or use taxes. Further, administration of sales and use tax is centralized at the state level in Treasury. Accordingly, Michigan law prior to Streamlined was already in compliance with the Agreement provisions addressing two major simplification issues. Prior Michigan law diverged from the Agreement in some of its definitions and administrative provisions. These issues included product definitions such as food and medical goods, administrative definitions such as what was included in “sales price,” and administrative provisions such as the time for filing returns.

Under its terms, the Agreement would become binding and effective when at least ten states comprising at least 20 percent of the total population of states with a sales tax approved the Agreement. That threshold was achieved on July 1, 2005 with an affirmative vote on 18 states that had petitioned to become members of the Agreement.
Full members (states whose sales tax laws and policies are in substantial compliance with each of the provisions of the Agreement) include: Arkansas, Georgia, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming. Tennessee is an associate member state. An associate member state will become a full member when certain amendments to its sales tax laws have been approved by its legislature become effective or following the passage of certain amendments to its conforming legislation.

The Agreement became effective on October 1, 2005. The effective date of the Agreement triggered a Web-based centralized point of sales tax registration for the member states, an amnesty period for qualified sellers, and the process for certification of software and service providers that will assist in sales tax collection responsibilities. The simplified system reduces the number of sales tax rates, brings uniformity to definitions of items in the sales tax base, reduces the paperwork burden on retailers, and incorporates new technology to modernize many administrative procedures.

The Agreement is administered by the Streamlined Sales Tax Governing Board, Inc. (Governing Board). The Governing Board has certified six service providers (CSPs) and three automated systems (CASs). The Governing Board’s contracts with CSPs provide for compensation of the CSPs by the states for taxes remitted on behalf of “volunteer” sellers. Michigan now has two methods to electronically receive Simplified Electronic Returns (SERs) and/or payment information. Automated systems (CSPs, CASs, or proprietary systems) can upload an Extensible Markup Language (XML) file that includes the SER and/or payment information. Other sellers who don’t utilize an automated system can complete and submit an online fillable form that includes the SER and/or payment information. While current law does not require e-commerce and direct mail companies to collect and remit sales taxes on transactions that occur in states where they do not have a physical presence, it is expected that some of these companies will come forward and volunteer to collect taxes under the simplified system.

Various bills have been introduced in Congress (e.g., Main Street Fairness Act, the Marketplace Fairness Act, and the Marketplace Equity Act) in the past several years that would, if passed, require sellers without nexus, (i.e. physical presence) in Michigan to collect and remit sales and use taxes on sales to Michigan customers.

Information on the Streamlined Sales and Use Tax Agreement and the new simplified system can be found at www.streamlinedsalesandusetax.org.
LEGISLATION

Public Act (PA) 248, effective 2014

Michigan exempts from use tax transfers of vehicles to certain relatives. PA 248 expanded the exemption to include a relative who is the father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, or grandparent-in-law of the transferor. The transfer of a vehicle to any of the following relations is exempt from use tax:

- Child
- Child-in-law
- Grandparent
- Grandparent-in-law (spouse’s grandparent)
- Legal Ward
- Legally appointed guardian with a certified letter of guardianship
- Parent
- Parent-in-law
- Sibling
- Sibling-in-law
- Spouse
- Stepchild
- Stepparent
- Stepsibling.

Transfers of vehicles to any of the following non-exhaustive list of relatives are not exempt from use tax:

- Aunt
- Cousin
- Former spouse (unless transfer is in accordance with a final decree of divorce)
- Great Grandchild
- Great Grandparent
- Nephew
- Niece
- Spouse of a Sibling-in-Law (spouse’s sibling’s spouse and sibling’s spouse sibling)
- Step Grandchild (spouse’s grandchild)
- Step Grandparent (grandparent’s spouse)
- Uncle.

Person’s claiming an exempt relationship when registering a vehicle may subsequently receive a letter from Treasury requesting proof of the exempt relationship. The types of documents accepted as proof include: marriage licenses, birth certificates, and certified letters of guardianship issued by a court.

PA 251 and 252, effective 2015

Provides a new sales/use tax exemption for certain “data center equipment” sold to a “qualified data center” or “collocated business” for use in the operations of the qualified data center. The exemption also extends to data center equipment sold to a contractor if the equipment is affixed to or make a structural part of a qualified data center.
Example: An entity that sells or buys a server to be located in a qualified data center under a contract with the qualified data center will not be subject to sales or use tax on that server as long as the server is located in the data center. Similarly, a qualified data center is exempt from sales and use tax on servers it purchases for use in new data centers.

The Acts are set to expire on December 31, 2035; however, they will expire sooner if certain job creation goals are not met by 2022 and 2026.

Qualifying persons may claim the exemption when purchasing eligible data center equipment by providing a completed Michigan Sales, and Use Tax Certificate of Exemption (Form 3372) to its seller. The purchaser, including contractors, must mark the box “Other” (Section 3, Line 11 of Form 3372) and fill in “Data Center” on the explanation line, or, in lieu of an exemption certificate, the seller may obtain and retain other identifying information of the purchaser and the reason for claiming, in paper or electronic format.

PA 7 and 8, effective 2016

The General Sales Tax and Use Tax Acts were amended in December 2013 to exclude from the sales and use tax base the value of a motor vehicle or recreational vehicle, up to $2,000 (increasing $500 annually beginning on January 1, 2015), used as part payment of the purchase of a new or used motor vehicle or recreational vehicle from a dealer. The Acts were also amended to exclude from the sales and use tax beginning November 15, 2013, the full value of titled watercraft used as part payment for the purchase of a new or used titled watercraft. In other words, the value attributed to a vehicle or watercraft that is traded in for a new/used vehicle or watercraft is not subject to sales and use tax. These deductions from the sales and use tax base are commonly referred to as a “trade-in-deduction” or “sales tax on the difference.”

Until recently, the deduction for motor vehicles and recreational vehicles was limited to only trade-ins with dealers licensed in Michigan. However, the Acts were recently amended to provide that the deduction is available even if the vehicle or recreational vehicle is used as part payment with dealers in other states. The Acts were also amended to require that the trade-in deduction for titled watercraft is limited to transactions with a dealer (i.e., excludes private party sales). These amendments are retroactive back to December 15, 2013. Based on these changes in the law, consumers who purchased a vehicle from a dealer in another state may have a refund opportunity. Additionally, any vehicle or watercraft dealer that erroneously remitted sales or use tax on trade-in values that were eligible for the deduction may request a refund.

Key Court Case

Auto-Owners Insurance Co. v Department of Treasury

At issue in Auto-Owners was whether certain products were subject to the imposition of use tax on prewritten computer software delivered in any manner under MCL 205.92(o). The Court of Appeals found in favor of Auto-Owners finding that there were two different categories of product at issue in the case.
The first category consisted of products that did not include the delivery of “code that enabled” the vendor’s system to operate. That is, the software was entirely accessed remotely. The court found these products did not satisfy the requirement that prewritten computer software was delivered, in any manner, because there was no proof that code was electronically delivered to Auto-Owners, or that Auto-Owners exercised any incidence of ownership over the vendor’s code.

The second category consisted of products where the court found that some prewritten computer software was electronically delivered to Auto-Owners. The court found that the electronic delivery of a “local client” or “desktop agent” was sufficient to constitute an “ownership-type right” over the product.

However, even though the court found that some prewritten software had been delivered, the court determined that, under the “incidental to service” test developed in Catalina Marketing Sales Corp v Department of Treasury, 470 Mich 13 (2004), the software was merely incidental to the vendor’s “rendering of professional services.” Consequently, if a software program is electronically downloaded in its entirety, it will be taxable. If only a portion of a software program is electronically delivered to a customer, the “incidental to service” test under Catalina will be applied to determine whether the transaction constitutes the rendition of a nontaxable service rather than the sale of tangible personal property.

**REVENUE ADMINISTRATIVE BULLETINS**

Revenue Administrative Bulletins (RABs) can be found at [www.michigan.gov/treasury](http://www.michigan.gov/treasury) click on Reference Library and Revenue Administrative Bulletins.

**RAB 2015-17 Sales Tax Treatment of Delivery and Installation Services Provided by Retailers**

This bulletin replaces RAB 2002-11. The discussion in this bulletin is limited to charges for delivery or installation directly by the seller or delivery by a contract carrier. Delivery by common carrier or postal service is not discussed.

**RAB 2015-22 Sales and Use Tax Nexus Standards for Out-of-State Sellers**

This bulletin supplements RAB 1999-1 following the enactment of PA 553 and PA 554 of 2014 and the adoption of new sections MCL 205.52(b) and MCL 205.95(a) to address when an out-of-state seller is presumed to have nexus for purposes of the General Sales Tax Act or the Use Tax Act.

**RAB 2015-25 Sales and Use Tax - Lessors**

This bulletin explains the sales and use tax treatment of tangible personal property acquired for lease or rental. For purposes of sales and use tax, the terms “lease” and “rental” have the same meaning and are used interchangeably in this bulletin. “Tangible personal property” will sometimes be referred to in this bulletin as “property.”
RAB 2016-2 Sales and Use Treatment of Interstate Motor Carriers

This bulletin replaces RAB 1993-8, rescinds Internal Policy Directives 2003-1 and 2010-1, and explains the sales and use tax treatment of property used by interstate motor carriers in interstate commerce, i.e., the “rolling stock” exemption. This bulletin does not discuss the tax treatment of rolling stock used in rail operations.

RAB 2016-4 Determination of Tangible Personal Property or Real Property

This bulletin discusses the factors Treasury will apply to determine whether property remains tangible personal property or loses its character as personal property and becomes a fixture through its affixation to real estate. The outcome of this determination has consequences under various Michigan tax laws, particularly in the context of the General Sales Tax Act and the Use Tax Act which is the primary focus of this bulletin. The provisions of law, cases, and examples cited in this bulletin are not intended to be exhaustive and are generally provided for illustrative purposes only. Other provisions or exemptions in law may be relevant to a particular set of facts and circumstances. This bulletin should not be relied upon for making determinations concerning general ad valorem property taxes, which are generally governed by different laws, legal interpretations and principles than are sales and use taxes.
OVERVIEW

The Special Taxes Division is responsible for overseeing the administration of Motor Fuel Tax, Tobacco Tax, International Fuel Tax Agreement (IFTA), Severance Tax, Master Settlement Agreement (MSA)/Non-Participating Manufacturers (NPMs) escrow accounts and Equity Assessments, Airport Parking, Bottle Deposit, Convention Facility, Health Insurance Claims Act (HICA), Health Maintenance Organization Use Tax, State 911 County Payments, and State Real Estate Transfer Tax (SRETT). The purpose of this section is to provide tax preparers with instructions concerning licensing, taxable or nontaxable transactions, special reporting and tax payment procedures, and the rights and responsibilities of the parties involved in motor fuel, motor carrier, tobacco, SRETT, and health insurance claims assessment transactions. This section is not intended to be all-inclusive, but rather to provide general information concerning the taxes, fees, and assessments administered by the Special Taxes Division.

Specific questions concerning motor fuel, motor carrier, oil and gas severance, tobacco tax licensing, and tax reporting requirements should be directed to:

Michigan Department of Treasury
Special Taxes Division
Lansing, Michigan 48909-7974

<table>
<thead>
<tr>
<th>Taxing Unit</th>
<th>Telephone</th>
<th>Fax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motor Fuel/Severance</td>
<td>517-636-4600</td>
<td>517-636-4593</td>
</tr>
<tr>
<td>Tobacco</td>
<td>517-636-4630</td>
<td>517-636-4631</td>
</tr>
<tr>
<td>Misc. Taxes and Fees</td>
<td>517-636-0515</td>
<td>517-636-4593</td>
</tr>
</tbody>
</table>

Frequently asked questions and other information can be found on Treasury’s Web site at www.michigan.gov/taxes. Click on the Special Taxes and Fees link.

MOTOR FUEL TAX

Note: Effective January 1, 2017, the tax rate on motor fuel will increase to 26.3 cents per gallon for gasoline and diesel fuel. In addition, the tax on motor fuel will now apply to alternative fuels used to power motor vehicles operated on the public roads.
LICENSING INFORMATION

Application

Applicants must file forms Motor Fuel Tax License Application (Form 3712), Trading Partner Agreement (Form 3999), and Motor Fuel Electronic Filing Application (Form 4099). Financial statements are required for Terminal Operator, Supplier, Permissive Supplier, and Bonded or Occasional Importer licenses. License fees are listed on the license application. Once issued, a license remains in effect unless or until it is discontinued by the licensee, or revoked, canceled, or suspended for cause by Michigan Department of Treasury (Treasury). Although the license does not need to be renewed annually Treasury may, at any time, request that a licensee provide updated information including, but not limited to, financial statements.

Account Number

The licensee’s account number is the licensee’s Federal Employer Identification Number (FEIN). If a licensee does not have an FEIN, Treasury will issue a Treasury (TR) number. A Michigan Establishment (ME) number will be issued if the licensee is filing tax returns or receiving mail at more than one location.

Bonding

All Licensees must submit surety bonds unless they provide proof of financial responsibility and there are no indications of risk to the State of Michigan.

If bonding is required, Treasury will notify the licensee in writing and will specify the amount of the bond required. A bonding company licensed to do business in Michigan must issue the bond. It is the responsibility of the licensee to locate a bonding company. In lieu of a surety bond, Treasury may accept a cash bond. Any questions on bonding should be directed to the Special Taxes Division, Motor Fuel Unit, at 517-636-4600.

Licenses

Licenses are not transferable. Written notice must be provided to Treasury within 30 days if there is a change of at least 20 percent of beneficial ownership. Treasury will advise if a new license is required.

If a business is sold, discontinued, or transferred, written notification must be provided to Treasury within three business days.

Within 15 days after the discontinuance, sale, or transfer of a business, or the cancellation, revocation, or termination of a license, the licensee shall provide Treasury with a final return and shall include with the return a payment of all motor fuel taxes, penalties, and interest due.

MOTOR FUEL LICENSING TERMS

Alternative Fuel Commercial User. A commercial or other business enterprise or entity that is a consumer or end user of alternative fuel to propel a motor vehicle on the public roads and highways of this state. Alternative fuel commercial user does not include a person licensed as an alternative fuel dealer. Commercial Users must file monthly tax returns.
**Alternative Fuel Dealer.** A person that is licensed or required to be licensed under section 153, that is in the business of selling at retail alternative fuel, and that uses alternative fuel.

**Aviation Fuel Registrant.** A person who purchases aviation fuel for resale must be registered with Treasury. An Aviation Fuel Registrant is required to pay the aviation fuel tax at the time of purchase. No tax return is required.

**Blender.** Produces blended motor fuel outside of the bulk transfer/terminal system in Michigan. A person must be licensed as a Blender if they blend a taxable product with a non-taxable product below the rack. A person must also be licensed as a blender if they blend diesel fuel and biodiesel or ethanol and gasoline below the rack. Blenders must file monthly tax returns.

**Bonded or Occasional Importer.** Imports motor fuel from outside the United States by transport truck, tank wagon, pipeline, or marine vessel for delivery into a storage facility other than a qualified terminal. The Importer must be licensed or in a Canadian Province or Territory, or foreign country from which the fuel is imported. Importers must also be licensed in Michigan and file quarterly tax returns.

**Carrier.** Operates a pipeline or marine vessel engaged in the business of transporting motor fuel above the terminal rack. While Treasury does not issue a physical document (license) to these accounts, they must be registered with Treasury and file monthly tax returns.

**Exporter.** Exports motor fuel from Michigan to another state or country. The Exporter may be required to be licensed in the other state or province. Exporters must be licensed in Michigan and file quarterly tax returns.

**Liquefied Petroleum Gas (LPG) Dealer.** Is a person who sells or delivers LPG into a permanently attached fuel supply tank of a motor vehicle, exchanges or replaces the fuel supply tank of a motor vehicle, or who delivers LPG into storage that is devoted exclusively to the storage of LPG to be consumed in motor vehicles on public roads or highways, or withdraws LPG from the cargo tank of a truck trailer or semi-trailer for the operation of a motor vehicle on public roads or highways of the State, whether used in vapor or liquid form. LPG Dealers must be licensed and file quarterly tax returns.

**Permissive Supplier.** Is a position holder in a terminal outside of Michigan, or one who acquires fuel from a position holder in a terminal outside of Michigan in a two-party exchange and is registered under Internal Revenue Code (IRC) Section 4101. A Permissive Supplier must be licensed and file monthly tax returns.

**Position Holder.** Is a person who has a contract with a terminal operator for the use of storage facilities and other terminal services for motor fuel at the terminal. A Position Holder is the owner of the fuel in the terminal and may or may not be the terminal operator. A Position Holder must be licensed and file monthly tax returns.

**Retail Marine Diesel Dealer.** Sells or distributes diesel fuel to an end user in Michigan for use in boats or other marine vessels. Retail Marine Diesel Dealers must be licensed and file quarterly tax returns.
Supplier. Is a position holder in a terminal or refinery in Michigan and is registered under IRC Section 4101 for motor fuel transactions in the bulk transfer/terminal system; is a position holder in a terminal or refinery outside of Michigan from which fuel is removed and delivered to Michigan; is a person who acquires fuel at a terminal or refinery in Michigan from a position holder in a two-party exchange; or is a person who imports fuel grade ethanol or produces alcohol or alcohol derivative substances in Michigan or outside of Michigan for delivery to a terminal in Michigan, or acquires alcohol or alcohol derivative substances upon importation.

Biodiesel producers who own fuel in the terminal must also be licensed as Suppliers. Suppliers must license and file monthly tax returns.

Tank Wagon Operator - Importer. Imports motor fuel from a bulk plant in another state by tank wagon (or transport truck). A Tank Wagon Operator - Importer must be licensed and file quarterly tax returns.

Note: A person may purchase fuel from a Michigan licensed Supplier or Permissive Supplier outside of the State for delivery to Michigan and pre-pay the Michigan motor fuel tax to that Supplier or Permissive Supplier without an Importer license.

Terminal Operator. Owns, operates, or controls a terminal. All facilities in Michigan that produce motor fuel and distribute the fuel from a rack, for purposes of Public Act (PA) 403 of 2000, are considered a terminal and shall obtain a Terminal Operator license and file monthly tax returns and an annual reconciliation return.

Transporter. Is an operator of a railroad or rail car, tank wagon, transport truck, or other fuel transportation vehicle engaged in the business of transporting motor fuel for another person into or out of Michigan below the terminal rack. A Transporter must be licensed and file quarterly tax returns.

MOTOR FUEL TAX REPORTING INFORMATION

Most motor fuel returns must be filed electronically. Returns filed electronically must be transmitted by the due date. Electronic payments must generally be initiated the day prior to the due date to be received timely. For licensees who are not required to file electronically, returns with full payment, are due on the 20th of the month following the close of the reporting period. If a quarterly return reporting period is from January 1 through March 31, the return is due on April 20. If the 20th falls on a weekend or a legal holiday, the return is due on the next business day. If the U.S. Postal Service postmark is dated on or before the due date of the return, the return is considered timely.

Tax returns must be filed even if no tax is due. Failure to file will result in Treasury issuing computed assessments against a licensee’s account.

Detailed instructions are provided with all tax returns and schedules. The instructions should be read carefully prior to filling out the returns and schedules. When preparing returns and schedules, it is imperative that the appropriate product codes be used, including codes for fuel grade ethanol, methanol, gasohol, biodiesel, biodiesel blends, and dyed diesel/biodiesel fuels.
Suppliers, Permissive Suppliers, and Terminal Operators are required to file returns electronically. Suppliers and Permissive Suppliers are required to pay the tax due on their returns by either Automated Clearing House (ACH) debit or credit. Applications are available on the Motor Fuel Web site. Other licensees may be required to file fuel tax returns electronically if they have received timely notice as required by Michigan Compiled Law (MCL) 207.1068(4). Additional electronic filing information can be found at www.michigan.gov/motorfuelefile.

### Tax Return Filing Schedule

<table>
<thead>
<tr>
<th>Category</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carriers</td>
<td>Monthly</td>
</tr>
<tr>
<td>Terminal Operators*</td>
<td>Monthly and Annually</td>
</tr>
<tr>
<td>Suppliers</td>
<td>Monthly</td>
</tr>
<tr>
<td>Permissive Suppliers</td>
<td>Monthly</td>
</tr>
<tr>
<td>Blenders</td>
<td>Monthly</td>
</tr>
<tr>
<td>Bonded Importers**</td>
<td>Monthly</td>
</tr>
<tr>
<td>Occasional Importers***</td>
<td>Quarterly</td>
</tr>
<tr>
<td>Tank Wagon Operator Importers</td>
<td>Quarterly</td>
</tr>
<tr>
<td>Retail Marine Diesel Dealers</td>
<td>Quarterly</td>
</tr>
<tr>
<td>Transporters</td>
<td>Quarterly</td>
</tr>
<tr>
<td>Exporters</td>
<td>Quarterly</td>
</tr>
<tr>
<td>LPG</td>
<td>Quarterly</td>
</tr>
</tbody>
</table>

* Monthly informational reports are filed by terminal operators. The annual report is a reconciliation report and payment is due on any discrepancies.

** Bonded Importers file monthly estimated payments with Motor Fuel Tax Payment/Proposed Adjustments Coupon (Form 4020) and then file a quarterly return to reconcile all activity for the reporting quarter.

*** Occasional Importers must remit tax on each load imported from outside the United States within three business days after either the date the taxable fuel was delivered into Michigan or the date that a valid import verification number was obtained from Treasury, whichever is earlier. Three Day Payment Voucher (Form 3778) must accompany the payments. The quarterly return is filed to reconcile all activity for the reporting quarter.

An original or amended return resulting in a refund due the licensee must be filed within four years from the due date of the original return. Refunds for motor fuel used in an exempt manner as described in MCL 207.1032 – 207.1045 must be filed within 18 months of the date of purchase and meet the requirements in MCL 207.1048.

A return resulting in a deficiency will be assessed for a period of four years from the due date of the return or the date the return was filed, whichever is later.

**Penalty and Interest**

PA 403 provides for both civil and criminal penalties for violations of the Act. Penalty and interest for late payment of the tax are charged per the provisions in PA 122 of 1941, as amended.
GENERAL INFORMATION

**Alcohol**

Alcohol means fuel grade ethanol or a mixture of fuel grade ethanol and another product. Alcohol is included in the definition of gasoline and is to be reported and taxed in the same manner and at the same time as gasoline. Alcohol is subject to tax regardless of whether or not it has been blended with gasoline or other gasoline products unless an exception has been provided for in the Motor Fuel Tax Act. If alcohol upon which tax has been paid is used for a nontaxable purpose, the end user may file a claim for refund. Specific information related to the filing of refund claims can be found on Treasury’s Web site at [www.michigan.gov/business taxes](http://www.michigan.gov/business taxes). Click on the Motor Fuel Tax link, then the Motor Fuel Tax Refund link.

Amendments to PA 403 of 2000, effective April 1, 2003, remove methanol from the definition of alcohol. The definition of gasoline includes alcohol, and methanol that is sold for blending with gasoline or for use on the road.

**Bad Debt Deduction for Licensed Suppliers**

Licensed Suppliers are entitled to a credit against the tax due on their return when they have remitted tax that was not ultimately collected from an eligible purchaser, presuming the tax has remained uncollected for 90 days after the date the eligible purchaser should have paid the tax.

The Supplier must advise Treasury in writing of a failure to collect the tax within ten days of the date the eligible purchaser should have paid the tax to the Supplier.

Credit must be claimed on the first return filed by the Supplier after the 90-day period has expired. The claim must identify the defaulting eligible purchaser and be accompanied by any documentation Treasury requires.

If the Supplier subsequently collects any tax from the eligible purchaser for which credit has been claimed, the Supplier is required to remit the tax on the return filed for the period during which the payment was received. The Supplier must provide a statement of explanation that identifies the period for which the tax was paid and any other information or documentation Treasury requires.

**Dyed Diesel/Biodiesel Fuel**

Dyed diesel/biodiesel fuel is exempt from the motor fuel tax unless it is used for taxable purposes.

Persons licensed as Terminal Operators, Suppliers, Permissive Suppliers, Occasional, Bonded or Tank Wagon Operator Importers, Exporters, Transporters, or Carriers are required to report the removal, importation, or exportation of dyed diesel/biodiesel fuel even though it is not taxable in most cases.

Retail Marine Diesel Dealers must be licensed and file quarterly fuel tax reports. Dyed diesel/biodiesel fuel can be used in marine vessels; however, the tax must be collected and reported on transactions which are not exempt.
Note: It is against both State and federal law to operate a motor vehicle on public roads of the State using dyed diesel fuel.

**Eligible Purchaser**

An eligible purchaser meeting the requirements in MCL 207.1075 may delay payment of the motor fuel tax to the Supplier to one business day before the tax is due to Treasury as described in MCL 207.1074.

**Exports**

Although PA 403 imposes tax on motor fuel upon importation or upon removal across a terminal rack, there are some situations in which the fuel is exported where the tax does not apply.

Licensed Suppliers are not required to remit Michigan motor fuel tax when they remove fuel across a terminal rack in Michigan for delivery to a location outside of Michigan if they are licensed for motor fuel tax in the destination state. Licensed Suppliers who sell fuel at a rack in Michigan to other licensed Suppliers for immediate export are not required to collect tax from the licensed Supplier to whom they are selling if the Supplier purchasing the fuel is licensed for motor fuel tax in the destination state.

Suppliers who sell motor fuel to Exporters licensed with Treasury or to other persons for immediate export are not required to collect the Michigan motor fuel tax if proof of export is available in the form of a terminal-issued shipping paper, and the Supplier has pre-collected the destination state tax.

Not all states have the statutory provisions to allow pre-collection of their tax by Suppliers. If motor fuel is sold by Michigan Suppliers to licensed Exporters or other persons for delivery to a state that does not allow pre-collection, the Michigan tax must be charged. Suppliers are required to issue, or instruct the terminal operator to issue, shipping papers that meet the requirements listed in MCL 207.1103(d) indicating the state to which the fuel is to be delivered and specifying that Michigan tax has been paid or accrued by the Supplier. If the purchaser subsequently pays tax to the destination state, the purchaser may submit proof to Treasury and request refunds of the Michigan motor fuel tax using the refund claims process.

There are also instances where the destination states do not impose tax on a particular type of fuel that is being purchased for export to their state. When this occurs, Suppliers will not charge the Michigan motor fuel tax if the purchaser is a licensed Exporter. The Suppliers must issue, or instruct the terminal operators to issue, shipping papers that meet the requirements listed in MCL 207.1103(d) indicating the state to which the fuel is to be delivered, specifying the delivery is subject to the statutory requirements of the destination state, and Michigan tax has not been paid or accrued.

Note: If the purchaser is not licensed with Treasury as an Exporter, the Suppliers must charge the Michigan tax.
**Fuel Diversions**

PA 403 requires payment of the tax when fuel is diverted to Michigan from its original state of destination. The Act further provides for refunds under certain circumstances when fuel is diverted from Michigan to a location outside of the State. In either instance, specific requirements must be met.

**Fuel Diversion Numbers**

When fuel is diverted from its original state of destination, the owner of the fuel, or the shipper if other than the owner, must obtain a fuel diversion number no later than the next business day after the diversion takes place. An owner can register to report future diversions of Michigan tax-paid fuel to another state or Canada or fuel diverted to Michigan by visiting [www.trac3.net](http://www.trac3.net), clicking on Registration, and entering the required company information. The company identification information only has to be entered once. Information can be verified by clicking on the Confirm option.

Because Internet access may be limited at certain times, Treasury can be called for a diversion number at 517-636-4600, Monday through Friday, 8 a.m. to 4:30 p.m.

**Diversions-In**

Importers are required to report and pay tax on fuel diverted to Michigan when the shipping paper indicates a different state of destination.

Licensed Bonded Importers must remit tax on fuel diverted from an original state of destination other than Michigan to a location in Michigan on *Motor Fuel Tax Payment/Proposed Adjustments Coupon* (Form 4020). The transactions are then reported quarterly on *Fuel Importer Return* (Form 3992).

Licensed Occasional Importers must remit tax on diverted fuel within three business days on *Three Day Payment Voucher* (Form 3778). The transactions are then reported quarterly on Form 3992.

Licensed Tank Wagon Operator-Importers must report the transactions on *Fuel Importer Return* Form 3992 and remit tax.

When unlicensed importers divert fuel to Michigan from the original state of destination, payment is required within three business days after the date taxable fuel is delivered into Michigan. The collection cost allowance is **not** available.

Licensed Exporters who divert fuel from its original state of destination to Michigan must also pay the tax within three business days after the date the taxable fuel is delivered into Michigan. Again, the collection cost allowance is **not** available.

If an Importer or licensed Exporter purchased the diverted fuel from a Michigan licensed Supplier, the Importer or licensed Exporter may enter into an agreement with the Supplier to have the Supplier collect and remit the tax. The agreement must include, at a minimum, the names of the parties to the agreement, the date the agreement was made, the fuel type, and the number of gallons of fuel. The Supplier must fax or mail a copy of the agreement to Special Taxes Division, Motor Fuel Unit, by the due date of the return period in which the diversion took place.
Diversions-Out

Exporters may seek a refund of the Michigan motor fuel tax, less the collection cost allowance, when tax-paid fuel originally destined for Michigan is diverted to a location outside of the State. Licensed and unlicensed exporters must submit a written request for refund along with a copy of the diversion, invoice, bill of lading, and proof of destination state tax paid.

The Exporter is required to obtain a fuel diversion number by the next business day after the diversion takes place.

Fuel Imported From Outside the United States

If motor fuel upon which tax was not prepaid to a Michigan licensed Supplier or Permissive Supplier is to be imported from another country, an import verification number must be obtained from Treasury within 24 hours before entering Michigan for each load imported. The person bringing the fuel into Michigan from another country must call the toll-free line at 1-888-213-0676 to obtain the import verification number. The line is available 24 hours a day, seven days a week.

Note: If a person diverting fuel into Michigan has obtained the required fuel diversion number, they do not need to contact Treasury for an import verification number. Bonded Importers are required to remit monthly estimated tax payments with Form 4020 or by Electronic Funds Transfer (EFT) on or before the 20th day of the month following the close of the previous month. A quarterly return must then be filed to reconcile activity for the full reporting quarter. The estimated payments are deducted from the calculated tax due on the return. The quarterly return is due on the 20th of the month following the close of the reporting quarter.

Occasional Importers are required to remit tax on fuel imported from outside the United States on Form 3778 within three business days after the date taxable fuel is delivered into Michigan or after the date the valid import verification number is obtained from Treasury, whichever is earlier. A quarterly return is then filed to reconcile all activity for the full reporting quarter. Payments are deducted from the calculated tax due on the return. The quarterly return is due on the 20th of the month following the close of the reporting quarter.

Invoicing

Motor fuel retailers should properly invoice the sales of motor fuel. Proper invoicing facilitates the customers’ ability to file refund claims and prepare any fuel tax returns that may be due.

A properly prepared invoice should contain the following information:

1. Seller’s name, address, and account number (FEIN, TR, or ME);
2. Date of sale;
3. Name of purchaser. For motor carrier fuel tax purposes, if the purchaser is in a lease agreement, a receipt will be accepted in either name (lessor or lessee), provided a legal connection can be made between the parties;
Invoicing Tax-Exempt Undyed Diesel Fuel Sales

Undyed tax-exempt diesel retail fuel sales are limited to 100 gallons or less per transaction. If more than 100 gallons are purchased, the tax must be charged and the purchaser must file a claim for refund if the fuel is consumed in a nontaxable manner. It is important to note the claim for refund must be filed within **18 months** from the date of purchase of the motor fuel.

A properly prepared invoice for tax-exempt sales of diesel fuel in quantities of 100 gallons or less must include the following:

1. Seller’s name, address, and account number (FEIN, TR, or ME);
2. Date of sale;
3. Name of purchaser;
4. Descriptions of tax-exempt sale (e.g., home heating, nonhighway equipment, etc.);
5. Type of fuel sold;
6. Number of gallons sold;
7. Price per gallon, including the full tax rate;
8. A separate line showing a credit for the Michigan motor fuel tax charged in item 7 or a statement that **no Michigan motor fuel tax is included in the price per gallon**;
9. Signature of the purchaser or purchaser’s agent and the seller or seller’s agent; and
10. Invoices must be prepared in duplicate, with the original invoice furnished to the purchaser and the copy kept by the seller for four years.
**Record Keeping**

**Shipping Papers**

Refineries, terminal operators, and operators of bulk plants, with the exception of bulk plant operators who deliver into tank wagons, must issue **automated machine-generated** shipping papers. The papers are to be provided to the driver of the fuel transportation vehicle or operator of a train pulling a rail car transporting fuel, and must include all of the following:

1. Address and terminal number of the facility from which the fuel is removed or the address of the bulk plant from which the fuel is withdrawn;
2. Date the fuel is removed or withdrawn;
3. Gross and net gallons removed or withdrawn;
4. State of destination as represented by the transporter, shipper, or shipper’s agent; and
5. Notices required by PA 403. MCL 207.1103, 1112, and 1113 impose requirements for the placement of notices on shipping papers (e.g., Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use).

When unforeseen circumstances prevent the issuance of automated machine-generated shipping papers, the refinery, terminal, or bulk plant operator may issue a manually prepared shipping paper provided the following requirements are met:

- The refinery, terminal, or bulk plant operator is required to contact Treasury to obtain a Service Interruption Authorization Number, which will be valid for a period of not more than 24 hours. If the cause of the service interruption is not corrected within 24 hours, the refinery, terminal, or bulk plant operator must contact Treasury for another number at 1-888-213-0676. The automated telephone system is available 24 hours a day, 7 days a week.
- The Service Interruption Authorization Number must be included on the shipping papers.

**Shipping papers must be maintained at the delivery location for a 30-day period.**

All records must be kept for a period of four years from the due date of the return or the date the return was filed, whichever is later. These records may be kept at the delivery location or another business location of the licensee.

Accurate and complete records of all transactions must be maintained for no less than four years.

**Right to Examine Records**

Treasury has the authority to audit and examine records, books, papers, and equipment of any person including, but not limited to, licensees and bulk end users to ensure that the tax imposed by PA 403 has been paid.
At the request of Treasury, the person is required to make the records, books, or papers available at the person’s place of business in Michigan, or at Treasury’s location if the records are maintained at a location outside of the State, within three business days.

Failure to comply may result in civil and/or criminal penalties.

**RETAIL MARINE DIESEL DEALERS**

Retail Marine Diesel Dealers are required to license and file quarterly fuel tax returns. Retail Marine Diesel Dealers can purchase undyed diesel/biodiesel fuel tax paid. Dyed diesel/biodiesel fuel can be purchased tax free but tax is due on the quarterly returns for all fuel sold to nonexempt entities.

The Natural Resources and Environmental Protection Act (PA 451 of 1994) imposes a privilege tax on all gasoline and diesel fuel sold in Michigan which is used to generate power for the operation or propulsion of vessels on the waterways of the State.

Diesel fuel consumed in the watercraft cited below is exempt from the marine waterways tax:

- Watercraft used for commercial fishing;
- Watercraft used by Sea Scouts;
- Watercraft used in interstate or foreign commerce;
- Watercraft used by the Federal, State, or Local Government;
- Watercraft owned by a railroad or railroad car ferry company; or
- Watercraft used in trade, including watercraft used in connection with an activity which constitutes a person’s chief business or livelihood.

**Note:** It is the responsibility of the Retail Marine Diesel Dealer to collect the marine diesel/biodiesel fuel tax from any vessel that is not exempt from the tax, whether the fuel is dyed or undyed diesel/biodiesel fuel.

Please see above reference to Dyed Diesel/Biodiesel Fuel for additional clarification.

**Who Must Be Licensed as a Retail Marine Diesel Dealer**

A licensed Retail Marine Diesel Dealer is any person who engages in the business of selling or distributing diesel/biodiesel motor fuel into boats or other marine vessels or into the bulk storage of an unlicensed end user of marine fuel.
General Information on Marine Retail Sales of Motor Fuel

PA 451 imposes tax on fuel used in vessels on the waterways of the State at the same rate as the tax imposed under PA 403. PA 451 further requires that the tax be collected in the same manner and at the same time as PA 403.

PA 403 prohibits the use of dyed diesel/biodiesel fuel on public roads and highways of the State; however, it does not prohibit the use of dyed diesel/biodiesel fuel in marine vessels.

Dyed diesel/biodiesel fuel is exempt from the tax under PA 403 so Retail Marine Diesel Dealers can acquire dyed diesel/biodiesel fuel without payment of the tax to their fuel supply source. If untaxed dyed diesel/biodiesel fuel is sold for a taxable purpose, Retail Marine Diesel Dealers must collect the marine fuel tax from the customer and remit the tax with the return.

A Retail Marine Diesel Dealer cannot take credit for dyed diesel/biodiesel fuel acquisitions on the returns, as the fuel supply source should not have charged the tax.

A Retail Marine Diesel Dealer can also acquire undyed diesel/biodiesel fuel. If undyed diesel/biodiesel fuel is acquired, the Retail Marine Diesel Dealer must pay the full tax rate to the fuel supply source.

When sales of undyed diesel/biodiesel fuel are made, the Retail Marine Diesel Dealer will receive a credit on the return for the tax paid to the fuel supply source.

**Tax-free sales of undyed diesel/biodiesel fuel into marine vessels are limited to 100 gallons per sale.** If more than 100 gallons of undyed diesel/biodiesel fuel is delivered into a vessel, the tax must be charged. The purchaser, if eligible, may file a claim for refund of the motor fuel tax.

**Invoicing Tax-Exempt Sales of Marine Diesel/Biodiesel Fuel**

A properly prepared invoice for tax-free sales of marine diesel/biodiesel fuel, whether dyed or undyed, must contain the following information:

1. Seller’s name, address, and account number (FEIN, TR, or ME)
2. Date of sale
3. Name of purchaser
4. Type of tax-exempt sale (e.g., Sea Scouts, commercial fisherman, etc.)
5. Type of fuel sold (dyed or undyed diesel or biodiesel)
6. Number of gallons sold
7. Price per gallon including tax
8. A separate line showing a credit for the waterways tax charged in item 7 or a statement that no Michigan motor fuel tax is included in the price per gallon
9. Signature of the purchaser or purchaser’s agent and the seller or seller’s agent
10. Invoices must be prepared in duplicate, with the original invoice furnished to the purchaser and the copy kept by the seller for four years.

**Returns and Schedules**

A licensed Retail Marine Diesel Dealer may file the following forms electronically using Web direct fillable forms or on paper:

- *Retail Marine Diesel Dealer Schedule of Receipts* (Form 3767)
- *Retail Marine Diesel Dealer Tax Return* (Form 3769)
- *Retail Marine Diesel Dealer Schedule of Disbursements* (Form 4429)

**Alternative Fuel**

The use of alternative fuel in a highway vehicle upon Michigan roads and highways is taxable under the provisions of PA 403.

**Definitions of Terms Used**

**Alternative Fuel.** A gas, liquid, or other fuel that, with or without adjustment or manipulation such as adjustment or manipulation of pressure or temperature, is capable of being used for the generation of power to propel a motor vehicle, including, but not limited to, the following terms:

- **CNG.** Compressed natural gas (Methane) in a gases form that has been compressed to fuel or propel a motor vehicle.

- **Hydrogen.** Highly flammable gas burned as conventional gas fuel to propel a motor vehicle.

- **Hydrogen compressed natural gas (Hythane).** A mixture of compressed natural gas and hydrogen used as fuel to propel a motor vehicle.

- **LNG.** Methane or natural gas in a cryogenic liquid form used as fuel to propel a motor vehicle.

- **LPG.** Gases derived from petroleum or natural gases which are in the gaseous state at normal atmospheric temperature and pressure, but may be maintained in the liquid state at normal atmospheric temperature by suitable pressure. LPG includes those products predominately composed of propane, propylene, butylene, butane, and similar products.

Alternative fuel does not include motor fuel, electricity, leaded racing fuel, or an excluded liquid.

**Alternative Commercial User.** A commercial or other business enterprise or entity that is a consumer or end user of alternative fuel to propel a motor vehicle on the public roads and highways of this state. Alternative fuel commercial user does not include a person licensed as an alternative fuel dealer.

**Alternative Fuel Dealer.** A person that is that is in the business of selling retail alternative fuel, and that uses alternative fuel.
Use, Used, or Uses. Means any of the following:

1. Selling or delivering alternative fuel not otherwise subject to tax under the Act, either by placing it into a permanently attached fuel supply tank of a motor vehicle or exchanging or replacing of the fuel supply tank of a motor vehicle.

2. Delivery of alternative fuels into storage devoted exclusively to the storage of alternative fuels to be consumed in motor vehicles on public roads or highways.

3. Withdrawing alternative fuels from the cargo tank of a truck, trailer, or semi-trailer for the operation of a motor vehicle upon public roads and highways, whether used in vapor or liquid form.

4. Placing or delivering alternative fuel into the fuel supply tank of a motor vehicle by or through the operation of an alternative fuel filling station, exchanging or replacing an alternative fuel supply tank of a motor vehicle with another alternative fuel supply tank of a motor vehicle filled with alternative fuel, or by any other means not involving the delivery, receipt, or purchase of alternative fuel from an alternative fuel dealer or any other means not otherwise described in (1) to (3).

Who Must Be Licensed

Alternative Fuel Dealer. A person who performs any of the operations as outlined in the “Definition of Terms Used” section under the terms “Use, Used, or Uses.”

Alternative Commercial User. A business enterprise or entity who is a consumer or end user of alternative fuel in which tax has not been paid to an Alternative Fuel Dealer.

Returns and Schedules

A licensed Alternative Fuel Dealer must file the following form on paper:

Dealer’s Alternative Fuel Tax Return (Form 577)

IFTA MOTOR CARRIER TAX GENERAL INFORMATION

Interstate motor carriers are regulated under the Motor Carrier Fuel Tax Act (PA 119) and the International Fuel Tax Agreement

Intrastate motor carriers are not required to license or report for fuel tax purposes.

IFTA is an agreement between all of the contiguous states in the U.S. and most Canadian provinces.

Under IFTA, motor carriers file a fuel tax license application with their base jurisdiction and the base jurisdiction issues the motor carrier credentials. Credentials consist of a license and a set of decals for each power unit. Credentials are valid for licensing purposes in all participating IFTA jurisdictions through the end of the calendar year in which they are issued. Credentials must be renewed annually.
The IFTA motor carrier files quarterly returns with the base jurisdiction, reporting fuel purchases and miles traveled in all jurisdictions.

The tax on diesel fuel is set quarterly.

**HIGHLIGHTS**

The U.S. Customs Service granted Class 9 Customs Bonded Warehouse status effective September 5, 2000, to the Ammex, Inc. facility adjacent to the Ambassador Bridge at 3400 W. Lafayette, Detroit, Michigan.

Recent court decisions granted the Ammex, Inc. facility the right to sell gasoline and diesel fuel tax free, effective September 5, 2000, when they were granted their current status.

Diesel fuel purchased at the Ammex, Inc. facility does not include the Michigan fuel tax and may not be claimed as a tax-paid purchase on the IFTA return.

**Dyed Diesel Fuel**

The use of dyed diesel fuel in vehicles on the public roads and highways is prohibited and violators are subject to severe penalties.

A motor carrier may designate a bulk storage tank for dyed diesel fuel for use in off-road equipment. The motor carrier is required to keep a log of fuel disbursements from this tank. This log must have the date of the disbursement, gallons disbursed, and the identification of the equipment being fueled.

**Refunds for Certain Attached Equipment**

MCL 207.1045 provides for a refund of fuel tax paid on undyed diesel fuel consumed in attached equipment. The statute defines attached equipment as equipment used by the end user in the regular course of their business that is powered by diesel fuel from the common fuel supply tank. Attached equipment includes, but is not limited to, certain pumping, spraying, seeding, spreading, shredding, lifting, winching, dumping, cleaning, mixing, processing, and refrigeration equipment. Attached equipment does not include a heater, air conditioner, radio, or any other equipment that is used in the cab of the motor vehicle and does not include any other equipment that Treasury determines does not meet this definition.

To qualify for the attached equipment refund, vehicles must be exclusively used for business or commercial purposes. The refund does not apply to automobiles even if they are used for business or commercial purposes.

The attached equipment refund is limited to 15 percent of the tax paid on fuel consumed in highway vehicles that qualify for the refund. If claimants believe that a different percentage should be allowed, they should contact Special Taxes Division, Motor Fuel, for instructions.

The refund must be claimed within 18 months from the date of the fuel purchase.
Notes: There are no provisions in the Motor Carrier Fuel Tax Act or the IFTA Articles of Agreement for the nonhighway use of motor fuel in a highway vehicle. The attached equipment refund provisions are found in Michigan’s Motor Fuel Tax Act (PA 403 of 2000). The attached equipment claim for refund is strictly a Michigan provision and consideration for certain attached equipment cannot be taken on the IFTA fuel tax return.

A motor carrier cannot adjust the IFTA fuel tax returns for fuel consumed in attached equipment. This includes, but is not limited to, the “Taxable Miles” and “Taxable Gallons” columns on the IFTA fuel tax return.

Questions concerning motor carrier licensing and tax reporting requirements can be e-mailed to IFTA_licensing@michigan.gov, or write to Treasury at:

Michigan Department of Treasury
Special Taxes Division – IFTA Tax Unit
P.O. Box 30474
Lansing, Michigan  48909-7974

The Special Taxes Division, IFTA Tax Unit, may also be contacted at 517-636-4580.

**Who Must Be Licensed as an IFTA Motor Carrier**

Persons operating interstate “qualified motor vehicles” must be licensed as IFTA motor carriers. IFTA defines a “qualified motor vehicle” as a motor vehicle used, designed, or maintained for transportation of persons or property and:

- Having two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 11,797 kilograms; or
- Having three or more axles regardless of weight; or
- Is used in combination when the weight of such combination exceeds 26,000 pounds or 11,797 kilograms gross vehicle or registered gross vehicle weight.

When counting the axles to determine if a vehicle or combination of vehicles qualify for licensing, the axles on the trailing unit are not counted, only the axles on the power unit are counted.

In order for recreational vehicles to qualify for IFTA purposes, they must meet the above requirements and be used in connection with a business endeavor.

**IFTA Base Jurisdiction**

R212 of the IFTA Articles of Agreement defines base jurisdiction as “the jurisdiction where qualified motor vehicles are based for vehicle registration purposes” and:

.100 Where the operational control and operational records of the licensee’s qualified motor vehicles are maintained or can be made available; and
.200 Where some travel is accrued by qualified motor vehicles within the fleet. The commissioners of two or more affected jurisdictions may allow a person to consolidate several fleets that would otherwise be based in two or more jurisdictions

**IFTA Account Number**

The account number for an IFTA motor carrier is the FEIN. If the IFTA carrier does not have an FEIN, the IFTA Articles of Agreement require that the motor carrier use an owner’s, partner’s, or corporate officer’s Social Security number (SSN) for identification purposes. The account number printed on the license and returns will be the FEIN or SSN preceded by “MI” and followed by a fleet designator (usually “00”). If several fleets are involved, the last two-digits may be “01,” “02,” “03,” etc.

If an interstate motor carrier does not have an FEIN, Treasury will issue a TR number for general tax purposes; however, this number will not be printed on the license or as the IFTA account number on the tax return. A TR number will only be used for refunds or tax assessments.

IFTA carriers are encouraged to contact the Internal Revenue Service (IRS) to obtain an FEIN if they do not already have one. The IRS can be reached at 800-829-4933 or at [www.irs.gov](http://www.irs.gov).

**IFTA New and Renewal Applications**

Michigan IFTA Fuel Tax License Application must be completed by a new applicant, or a prior licensee who has been discontinued for more than one quarter. To ensure prompt processing of the IFTA application, applicants must complete all sections, including the corporate officer information. Applications with missing information cannot be processed.

Renewal Application for Michigan IFTA Fuel Tax License for the upcoming year is available online beginning November 1 of the current year to all IFTA carriers who are currently licensed. The IFTA license year is January 1 through December 31. Renewal applications should be filed as soon as possible to ensure credentials will be received by the carrier on time. There is no fee associated with renewal.

**Note:** Renewal applications will not be processed unless all required IFTA tax returns have been filed and outstanding IFTA tax liabilities have been paid or payment arrangements have been made.

Carriers that do not leave the State or file zero reports for three consecutive quarters may not be renewed. Vehicles that qualify for IFTA licensing cannot legally leave the State without valid IFTA credentials or trip permits.
IFTA Temporary Decal Permits

A licensed IFTA Motor Carrier can obtain a temporary decal permit for a qualified motor vehicle(s). Temporary decal permits are valid for a period of 30 days. This allows enough time for Treasury to process the motor carrier’s request for additional decals and for the motor carrier to affix decals to the vehicle(s). Temporary decal permits are vehicle-specific and temporarily take the place of the motor carrier’s additional decals. To qualify for a temporary decal permit, the motor carrier must already be licensed for the tax year. Temporary permits are not issued to applicants who are filing their first application or first renewal application for the tax year.

Trip Permits

A motor carrier located outside of the State can get a five-day fuel tax trip permit which allows the motor carrier to operate a “qualified motor vehicle” in Michigan that has not been licensed for IFTA fuel tax purposes. These permits are vehicle-specific and valid for five consecutive days. Permits can be obtained from the various permitting services and the fee is $20 per permit plus any fees the permitting service may charge. Michigan limits the purchase of fuel tax trip permits to three per calendar year.

IFTA Grace Period for Licensing

The IFTA license year runs from January 1 through December 31. Renewal applications are due by December 31 each year. A licensed IFTA carrier has until the last day in February of the new license year to display that year’s decals. While this gives motor carriers who have applied a two-month grace period after the license year ends, they are encouraged to apply for the next year’s license and decals as soon as possible. IFTA carriers waiting until December 31 to apply for their next year’s license run the risk of not receiving their credentials prior to the expiration of the grace period. This lapse in licensing may result in the motor carrier being cited by law enforcement agencies for not having a current fuel tax license. All activity conducted under the prior year decals must be reported.

Bonding

Treasury may require bonding as a condition of licensing. If bonding is required, Treasury will notify the IFTA carrier in writing and will specify the amount of the required bond. A bonding company licensed to do business in Michigan must issue the bond. It is the responsibility of the motor carrier to locate a bonding company. In lieu of a surety bond, Treasury may accept a cash bond. Any questions on bonding should be directed to the Special Taxes Division, IFTA Tax Unit, at 517-636-4580.
License Revocation

IFTA carriers may have their licenses revoked if they fail to file IFTA fuel tax returns and pay the tax when due. If an IFTA carrier’s license is being reviewed for revocation, Treasury will notify the motor carrier in writing of the time and place for a “show cause” hearing. At the hearing, the IFTA carrier will have the opportunity to discuss the delinquency with Treasury and arrange for corrective action. Failure to appear at the “show cause” hearing or failure to comply with conditions set forth in the hearing will result in the immediate revocation of the IFTA carrier’s fuel tax license. Once an IFTA carrier’s fuel tax license is revoked, the IFTA carrier, or the IFTA carrier’s representative, may not operate the “qualified vehicles” until the reason for the revocation has been remedied. If an IFTA carrier does operate a qualified vehicle with a revoked fuel tax license, law enforcement agencies may impound the vehicle. This can become costly for the IFTA carrier as they will be held liable for storage fees and any other fees involved in impounding the vehicle.

IFTA Fuel Tax Returns and Schedules

The following returns and schedules must be filed by licensed IFTA carriers:

- *IFTA Quarterly Fuel Use Tax Return* (Form IFTA-100)
- *IFTA Quarterly Fuel Use Tax Schedule* (Form IFTA-101)

The following forms are used in preparing the IFTA fuel tax return:

- *IFTA Final Fuel Use Tax Rate and Rate Code Table* (Form IFTA-105)

  Note: This form is revised quarterly because of tax rate changes in the participating jurisdictions.

- *Continuation of The IFTA-105 - IFTA Final Fuel Use Tax Rate and Rate Code Table* (Form IFTA-105.1)

  Note: This form is revised quarterly because of tax rate changes in the participating jurisdictions.

Be sure to use the correct rate code tables for the quarterly return being filed. Updated rate codes are available on Treasury’s Web site at www.michigan.gov/ifta

Electronic Filing of IFTA Returns

Michigan is requiring all IFTA quarterly tax returns to be filed electronically. Credit and debit electronic EFTs can also be made after an application has been completed and approved. Information is available on Treasury’s Web site at www.michigan.gov/ifta
IFTA Record Keeping Requirements

IFTA carriers must keep records of all fuel purchases and mileage. IFTA carriers must report fuel purchases and miles traveled in each jurisdiction. The motor carrier is required to keep a log of fuel disbursements from bulk storage tanks into IFTA qualified vehicles. This log must have the date of the disbursement, gallons disbursed, and the identification of the equipment being fueled. Records must be kept for a minimum of four years from the due date of the return or the date the return was filed, whichever is later.

Farm plated vehicles have special reporting requirements. See the notice on Treasury’s Web site at www.michigan.gov/taxes (click on the Fuel and Tobacco Tax link).

Inadequate record keeping is a primary reason why fuel tax deficiencies are discovered in a field audit. If an IFTA carrier fails to keep adequate fuel purchase and mileage records, the statute requires that Treasury adjust the fleet average mileage to four miles per gallon.

Due Date of Return

IFTA returns are due quarterly on January 31, April 30, July 31, and October 31. If the due date of the return falls on a weekend or legal holiday, the return is due on the next business day. If the U.S. Postal Service postmark date is on or before the due date of the return, the return is considered timely.

Penalty and Interest Provisions

Penalty is charged pursuant to the IFTA Articles of Agreement R1220. The penalty charge is $50 or ten percent of the tax due, whichever is greater. IFTA carriers are also subject to the penalty provisions in MCL 205.23 or 205.24 for failure to pay taxes in a timely manner when assessed.

In addition, Treasury, on a case-by-case basis, may charge discretionary penalties as provided for in MCL 205.23.

Interest is also charged for late payment of tax on a return. R1230 of the IFTA Articles of Agreement provide an annual interest rate of two percentage points above the underpayment rate established under Section 6621(a)(2) of the IRC, adjusted on an annual basis on January 1 of each year for carriers based in U.S. jurisdictions. Canadian IFTA carriers pay a rate equal to the Canadian Federal Treasury Bill rate plus two percent and the rate is adjusted every calendar quarter.

Interest for IFTA carriers is calculated separately for each jurisdiction. An overpayment in one jurisdiction shall not affect the interest calculation for any other jurisdiction. Because interest is charged on an individual jurisdictional basis and not on the net amount of tax due, the interest can sometimes exceed the amount of tax due.

Lease Agreements

Lease agreements are a common practice in the motor carrier industry. This practice can and does complicate the filing and processing of fuel tax returns. Many IFTA carriers have found themselves facing large tax liabilities because they failed to understand who has the tax reporting responsibility under a lease agreement. The following may assist IFTA carriers in lease situations:
• Before signing a lease agreement, be sure the fuel tax licensing and reporting requirements for both the lessor and the lessee are acknowledged in writing.

• Lessors should not assume the other party is filing the fuel tax returns on their behalf.

• Lessors should cancel their IFTA fuel tax license if they are in a lease agreement where all of the following conditions have been met:
  − Lessee has provided the fuel decals and a copy of the license for the vehicle and the license and decals are in the lessee’s name.

  Note: If the license and decals are not in lessee’s name, contact the Special Taxes Division, IFTA Tax Unit, at 517-636-4580 for instructions. Lessee has agreed, in writing, to file for the activity of the lessor on the lessee’s fuel tax returns.

  − Lessee has exclusive use of the equipment.

• IFTA licensees are required to file quarterly returns as long as they maintain an active account. This is true even if the licensee is in a lease agreement where another party has provided the credentials and agreed to report all activity. If the licensee is in a long-term lease agreement, the licensee’s individual account should be canceled.

• If a licensee decides to maintain an individual account while in a lease agreement, a “no activity” return must be filed. A legible copy of the lease agreement should be attached to the return.

• If no return is filed, estimated assessments will be issued against the licensee.

• The lease agreement should clearly state who has the fuel tax licensing and tax reporting responsibility. If the lessee does not have exclusive use of the equipment, the lessor must account for the use of the equipment when the lessee is not using it. Sometimes equipment has multiple lessees and the lessor must account for the activity of each lessee.

• It is important to remember the lessor and lessee may be held jointly and severally liable for any liability created by the operation of the leased vehicle.

Discontinuance of Business

If a motor carrier ceases to engage in business in Michigan, the motor carrier shall notify Treasury in writing within 15 days after discontinuance. When filing a final fuel tax return, the motor carrier should check the box marked “Cancel License.” If the motor carrier fails to check the box, Treasury may issue estimated tax assessments for failure to file fuel tax returns as it is presumed the motor carrier is still operating.
OIL AND GAS SEVERANCE

General Information

The oil and gas severance tax is levied upon each producer engaged in the business of severing oil or gas from the soil. The Michigan Oil and Gas Severance Tax Act, MCL 205.303, places the responsibility of reporting and paying the severance tax on the producer of Michigan oil and gas. The Act also requires that if the common purchaser deducts the tax from payments paid to the producer, the common purchaser is required to remit the tax to Treasury.

Definition of Key Terms

Producer. A person who owns or is entitled to delivery of a share in kind or a share of the monetary proceeds from the sale of gas or oil at the time of its production or severance.

Taxpayers are not required to be licensed, but additional information may be required to determine the reporting responsibility for each well.

Monthly tax returns are due on the 25th of each month following the preceding month of production of the severed product. Returns not filed by the 25th are subject to the late filing penalty and interest provisions of the Michigan Revenue Act MCL 205.1 et. seq.

Due to the nature of the industry of severing gas and oil from the soil, a taxpayer may elect to file an estimated liability and payment. For more information concerning estimated tax payments, see Revenue Administrative Bulletin (RAB) 1989-14.

Tax Rates

Severance tax rates are:

- Oil: 6.6 percent of gross cash market value
- Oil - Marginal or stripper wells: 4 percent of gross cash market value
- Gas: 5 percent of gross cash market value.

Oil and Gas Fee

There is a maximum fee of 1 percent of the gross cash market value on gas and oil. This fee may vary annually. For the latest fee information, visit Treasury’s Web site at www.michigan.gov/taxes or call the Special Taxes Division, Severance Tax Unit, at 517-636-4600.

Tax Returns and Schedules

Severance tax returns and schedules are also available on Treasury’s Web site.

- Oil Severance Tax Return (Form 381)
- Gas Severance Tax Return (Form 382)
- Production Report - Gross Production By Well Schedule (Form 383)
- Exempt Production and Value Report By Well Schedule (Form 384)
- Gas Storage Field Report (Form 385).
TOBACCO PRODUCTS TAX

General Information

PA 327 of 1993, as amended, imposes tax upon the consumer of tobacco products; requires certain persons to collect and remit the tax for the consumer; and sets specific requirements for licensing, stamping, collecting, and remitting tax. The Act also provides for both civil and criminal penalties for violations.

Tax Rates

Effective July 1, 2004, the tax rate for cigarettes is 100 mills per cigarette. A deduction of 1.50 percent is provided for Wholesalers and Unclassified Acquirers to allow for the cost of remitting the tax on cigarettes.

The tax rate for other tobacco products is 32 percent of the wholesale price. A deduction of one percent is provided for Wholesalers and Unclassified Acquirers to allow for the cost of remitting the tax on tobacco products other than cigarettes.

Note: Effective November 1, 2012 and continuing until October 31, 2016, the tax rate on cigars shall not exceed 50 cents per individual cigar (PA 325, MCL 205.427(1)(G)).

Definition of Key Terms Used

Cigarette. A roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any ingredient, which roll has a wrapper or cover made of paper or any other material.

Manufacturer. A business that produces or manufactures cigarettes or other tobacco products and sells the tobacco to a Michigan licensed wholesaler or unclassified acquirer. A person who operates or who permits any other person to operate a cigarette making machine in Michigan for the purpose of producing, filing, rolling, dispensing, or otherwise generating cigarettes. A person meeting this description shall constitute a non-participating manufacturer.

Noncigarette Smoking Tobacco. Tobacco sold in loose or bulk form that is intended for consumption by smoking.

Secondary Wholesaler. A person who sells a tobacco product for resale, who purchases a tobacco product from a wholesaler or unclassified acquirer licensed under the act, and who maintains a nonresidential, secured established place of business in the State where a substantial portion of the business is the sale of tobacco products and related merchandise at wholesale, and where at all times a substantial stock of tobacco products and related merchandise is available to retailers for resale.

Note: Secondary Wholesalers may only purchase and sell tax-paid, pre-stamped products.

Smokeless Tobacco. Snuff, chewing tobacco, and any other tobacco that is intended to be consumed by means other than by smoking.
Stamp. A distinctive character, indication, or mark, as determined by Treasury, attached or affixed to an individual package of cigarettes by mechanical device or other means authorized by Treasury to indicate that the tax imposed under the Act has been paid.

Stamping Agent. A licensed Wholesaler or Unclassified Acquirer other than a manufacturer who is authorized by Treasury to affix stamps to individual packages of cigarettes on their own behalf, or on behalf of another licensed Wholesaler or Unclassified Acquirer other than a manufacturer.

Tobacco Products. Cigarettes, cigars, non-cigarette smoking tobacco, or smokeless tobacco.

Unclassified Acquirer. A person other than a transportation company or purchaser at retail from a retailer who imports or acquires tobacco products from a source other than a licensed Wholesaler or Secondary Wholesaler for use, sale, or distribution. Also includes a person who receives cigars, non-cigarette smoking tobacco, or smokeless tobacco directly from a manufacturer licensed under the Tobacco Products Tax Act, or from another source outside Michigan who is not licensed under the Act. A Wholesaler is not an Unclassified Acquirer.

Note: An Unclassified Acquirer, including a Direct Buy Vendor, is responsible for affixing stamps to individual packages of cigarettes or placing the prescribed marking on shipping containers of tobacco products other than cigarettes, prior to delivery, sale, or distribution, and for remitting tax.

Direct Buy Vendors purchase some or all of the tobacco products to be placed in their vending machines from manufacturers.

Wholesale Price. The actual price paid for a tobacco product by a Wholesaler to a manufacturer, including any tax, but excluding any discounts or reductions.

Wholesaler. A person who purchases all or part of the tobacco products from the manufacturer, sells 75 percent or more to others for resale, and is required to maintain inventory of Michigan tobacco products at all times. The inventory of tobacco products may be stored in a licensed facility in any state, provided the tobacco products are designated for Michigan inventory at the time of purchase, are segregated from inventory for other states, and written records are maintained. A Wholesaler may also be a chain store retailing tobacco products to consumers if 75 percent of their tobacco products are purchased from manufacturers.

Note: A Wholesaler is responsible for affixing stamps to individual packages of cigarettes or placing the prescribed marking on shipping containers of tobacco products other than cigarettes, prior to delivery, sale, or distribution, and for remitting tax.

Licensing

Wholesalers, Secondary Wholesalers, Transporters, Transportation Companies, and Unclassified Acquirers, including Direct Buy Vendors and manufacturers, must be licensed to report and remit tax, if applicable, directly to the State.
Secondary Wholesalers and Vending Machine Operators, other than Direct Buy Vendors, must be licensed, and may only purchase tax paid tobacco products. Vending Machine Operators do not file tobacco products tax returns and must obtain vending machine markers to be placed on all machines from which tobacco products are dispensed. The markers need to be updated annually. The license year for tobacco products tax is July 1 through June 30. Licenses must be renewed annually. Tobacco Tax License Application (Form 336) must be filed to either obtain a new license or to renew a license.

Applicants for new or renewed Wholesaler, Secondary Wholesaler, and Unclassified Acquirer licenses must submit current financial statements, including the balance sheet, income statement, and accountant’s notes with their applications. Wholesalers and Unclassified Acquirers may be required to provide surety bonds in amounts to be determined by Treasury.

Applicants for vending machine operator’s licenses, either new or renewed, must attach vending machine location lists to their license applications.

First-time applicants are required to submit evidence of a minimum net worth of $25,000, proof that the applicant owns or leases a secure nonresidential facility for the purpose of receiving and selling tobacco products, proof of United States citizenship or eligibility to obtain employment, and any other information Treasury may deem necessary.

First-time applicants must also submit the following forms:

- **Application For Non-Cigarette Tobacco Products Stamp** (Form 323) (Wholesalers and Unclassified Acquirers of tobacco products other than cigarettes).

- **Stamping Agent Agreement** (Form 3371) (Wholesalers and Unclassified Acquirers of cigarettes who wish to have an agent affix stamps for them, if license application is approved).

- **Trading Partner Agreement** (Form 3999) (Wholesalers, Secondary Wholesalers, and Unclassified Acquirers of Cigarettes and Other Tobacco Products (OTP) who choose to submit the monthly tobacco tax return via ASCII file, if license application is approved).

- **Tobacco Products Electronic Filing Application** (Form 4154) (All Wholesalers, Secondary Wholesalers, and Unclassified Acquirers of Cigarettes and OTP must complete to become authorized to file electronically, if license application is approved).

- **Tobacco Products Electronic Funds Transfer (EFT) Credit Application** (Form 4239). (All Wholesalers and Unclassified Acquirers of Cigarettes and OTP who choose to submit the monthly tobacco tax payment via ACH Credit, if license application is approved). *(A fee may be assessed by the applicant’s financial institution.)*

- **Tobacco Products Electronic Funds Transfer (EFT) Debit Application** (Form 4240). (All Wholesalers and Unclassified Acquirers of Cigarettes and OTP who choose to submit the monthly tobacco tax payment via ACH Debit, if license application is approved). *(No fee is assessed for this service.)*
License Fees

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wholesaler</td>
<td>$100</td>
</tr>
<tr>
<td>Secondary</td>
<td>25</td>
</tr>
<tr>
<td>Unclassified Acquirer*</td>
<td></td>
</tr>
<tr>
<td>Manufacturer</td>
<td>100</td>
</tr>
<tr>
<td>Retail importer/mail order buyer - OTP</td>
<td>10</td>
</tr>
<tr>
<td>Retail importer - cigarettes</td>
<td>100</td>
</tr>
<tr>
<td>Direct buy vendor</td>
<td>100</td>
</tr>
<tr>
<td>Michigan retailer buying OTP</td>
<td>10</td>
</tr>
<tr>
<td>from out-of-state distributors not licensed in Michigan or manufacturers licensed in Michigan*</td>
<td></td>
</tr>
<tr>
<td>Transportation Company</td>
<td>5</td>
</tr>
<tr>
<td>Transporter</td>
<td>50</td>
</tr>
<tr>
<td>Vending Machine Operator (other than direct buy vendor)</td>
<td>25</td>
</tr>
</tbody>
</table>

*The Act requires importers to be licensed as Unclassified Acquirers and to pay the tax upon importation. Many of the tobacco products other than cigarettes are specialty items for which there is no distributor in Michigan. Retailers are only able to purchase these products from supply sources located outside Michigan. To ensure that tax is remitted, Treasury will license retailers who wish to purchase tobacco products other than cigarettes from unlicensed out-of-state distributors or licensed manufacturers as Unclassified Acquirers.

Stamping Packages of Cigarettes and Shipping Containers of Non-Cigarette Tobacco Products

Licensed Wholesalers and Unclassified Acquirers (or their authorized Stamping Agents) of cigarettes are required to place stamps obtained from Treasury on the bottom of individual packages of cigarettes to be sold within Michigan. The stamp must be in an aggregate denomination equal to the amount of tax applicable to the contents of each package.

Michigan has implemented a digital stamp program authorized by the Legislature in 2012. Instead of stamping cigarette packages with thermal paper stamps, the new stamps are pressure applied and contain a hologram with imbedded security features. The new digital stamps will provide better enforcement tools and tracking information to ensure cigarette sales are being reported accurately and the proper amount of tax is being paid.

Licensed Wholesalers and Unclassified Acquirers (or their authorized Stamping Agents) of non-cigarette tobacco products are required to place a stamped marking on all shipping containers of non-cigarette tobacco products to be sold within Michigan. The stamp must be obtained from Treasury.

The Act provides for civil and criminal penalties for noncompliance. Treasury and its authorized agents may seize tobacco products that are not stamped in accordance with the Act.

Stamping Agents, who must be licensed Wholesalers or Unclassified Acquirers under the Act, may be appointed by licensed Wholesalers or Unclassified Acquirers who do not choose to stamp their own tobacco products. Form 3371 must be approved with Treasury by the person wishing to assign an agent.
Reporting

Treasury has an electronic reporting system. Taxpayers prepare and file their returns online and make payment electronically.

Wholesalers, Secondary Wholesalers, Unclassified Acquirers, and Direct Buy Vendors are required to file monthly tax returns electronically, with full payment of the tax due, if applicable, for sales of tobacco products. The report must account for all tobacco products and stamping activity for each reporting period. Returns are due on the 20th of the month following the close of the report month and must be filed even if no tax is due. Filing instructions are provided with the return forms and schedules or can be obtained by contacting the Special Taxes Division, Tobacco Tax Unit, at 517-636-4630.

Manufacturers who are only responsible for tax on promotional products for which their customers have not been charged, must be licensed as Unclassified Acquirers and must file a monthly return even if no tax is due. A manufacturer’s report, listing all sales to Michigan licensees, must also be filed monthly.

Tobacco Master Settlement Agreement

On November 23, 1998, Michigan signed the Master Settlement Agreement (MSA) along with 45 other states, the District of Columbia, several territories, and a number of tobacco product manufacturers.

Under the MSA, tobacco product manufacturers who signed the MSA agree to deposit funds into an escrow account for subsequent distribution to the settling states. The purpose of the funds is to settle existing and potential suits filed by the states against the tobacco product manufacturers.

On December 28, 1999, the Michigan Legislature enacted PA 244. This act requires tobacco product manufacturers either participate in the MSA or, as a nonparticipating manufacturer (NPM), deposit funds into an escrow account based on the number of cigarettes sold in each calendar year.

For purposes of PA 244, the definition of “cigarette” includes “roll-your-own” (RYO) tobacco (0.09 ounces of RYO tobacco equals one cigarette).

The definition of “tobacco product manufacturer” under PA 244 includes the manufacturer of cigarettes (including RYO tobacco) intended to be sold in the United States, and the first purchaser for sale within the United States of cigarettes (including RYO tobacco) that were not intended for United States sale.

To determine accurately the number of units of cigarettes (including RYO tobacco) manufactured by NPMS and sold within Michigan, Treasury requires that licensed Wholesalers and Unclassified Acquirers file a monthly Schedule K with their Tobacco Products Tax Return. The Schedule K is used to report the number of cigarette sticks and volume of RYO tobacco acquired or imported, name of the NPM, brand code, and brands of products acquired or imported. Returns to the NPM or exports to other states are also reported and deducted from acquisitions and imports to arrive at the units subject to escrow by the NPM.
Treasury has developed a Web site that provides, directly or by reference to other sites, the names of participating manufacturers and NPMs who have complied with the requirements, as well as other pertinent information related to PA 244 and the MSA. The Web address is www.michigan.gov/tobaccotaxes.

Direct questions about the filing of Schedule K to Special Taxes Division, Tobacco Tax Unit, at 517-636-4630. Technical questions concerning the MSA and PA 244 should be directed to Bureau of Tax Policy at 517-373-9600.

ESCROW REQUIREMENT

Effective June 13, 2016, NPMs are now required to deposit their escrow funds and certify the deposit on a quarterly basis. See MCL 445.2052.

THE EQUITY ASSESSMENT PRE-PAYMENT REQUIREMENT

PA 327 of 1993 was amended on January 8, 2004. The amendment required all NPMs who anticipate selling their cigarettes and RYO products in Michigan to pre-pay an equity assessment by February 9, 2004, for 2004 sales. The bill also requires NPMs to make additional annual pre-payments by March 1 of each year, based on the anticipated cigarette and RYO tobacco sales for that calendar year. Treasury will perform a reconciliation of the pre-payment to actual sales by April 15 of each year.

The equity assessment is based on the estimated tobacco sales for the current year or a minimum payment of $10,000 to be paid prior to commencing selling cigarette and RYO tobacco products into the State.

The amendment to PA 327 states that a Stamping Agent shall not affix a State stamp to any package of cigarettes or shipping container of RYO tobacco of an NPM unless the manufacturer is listed on Treasury’s Web site at www.michigan.gov/tobaccotaxes.

Treasury may seize or confiscate from any person an NPM’s cigarettes or RYO tobacco products in that person’s possession which are in violation of the Act.

ELECTRONIC FILING OF TOBACCO TAX RETURNS

The State offers electronic filing of tobacco tax returns. All current tobacco tax returns have been updated to accommodate electronic filing.

To obtain current forms, applications to register for electronic filing and/or payment, and to get information regarding electronic filing, visit Treasury’s Web site at www.michigan.gov/tobaccotaxes.
STATE REAL ESTATE TRANSFER TAX

PA 330 of 1993 enacted the State Real Estate Transfer Tax (SRETT). SRETT applies to written instruments executed within the State. SRETT applies to written instruments executed outside of the State if the contract or transfer evidenced by the written instrument concerns property wholly located within the State. The SRETT Act covers contracts for the sale or exchange of property, interest in the property, combination of sales or exchanges, assignment or transfer of property, or any interest in the property. “Property” includes land, tenements, real estate, real property and all rights to and interests in land, tenements, real estate, or real property. If real property and personal property are not valued separately, SRETT is imposed on the total combined value.

PA 473 of 2008 amended SRETT to include the contracts for the transfer or acquisition of a controlling interest in any entity only if the real property owned by that entity comprises 90 percent or more of the fair market value of the assets of the entity determined in accordance with generally accepted accounting principles. “Controlling interest” means more than 80 percent of the total value of all classes of stock of a corporation; more than 80 percent of the total interest in capital and profits of a partnership, association, limited liability company, or other incorporated form of doing business; or more than 80 percent of the beneficial interest in a trust. Recording in this case is mandatory.

The person who is the seller or grantor of the property is liable for the tax imposed under the SRETT Act. “Person” means an individual, partnership, corporation, limited liability company, association, governmental entity, or other legal entity. The tax imposed under SRETT is payable to the county treasurer where the real property is located not later than 15 days after the delivery of the instrument effecting the conveyance by the seller or grantor to the buyer or grantee or not later than 15 days after the transfer of a controlling interest in any entity with an interest in real property. The date of the instrument effecting the transfer is presumed to be the date of delivery of the instrument.

Tax imposed under SRETT is at the rate of $3.75 for each $500 or fraction of $500 of the total value of the property being transferred. “Value” means the current or fair market worth in terms of legal monetary exchange at the time of the transfer. The tax shall be based on the value of the real property transferred and shall be collected at the time the instrument of conveyance is submitted for recording. In the case of controlling interest in any entity that owns real property, value shall mean the value of the real property or interest in the real property, apportioned based on the percentage of the ownership interest transferred or acquired in the entity.

A written instrument subject to the SRETT must state on its face the total value of the real property being transferred unless an affidavit is attached to the written instrument on a form prescribed by Treasury declaring the total value of the real property being transferred. If the sale or transfer is a combination of real and personal property, the tax is applicable only to the transfer of the real property if the values of the real and personal property are stated separately on the face of the written instrument or an affidavit is attached to the written instrument setting forth the respective values of the real and personal property.
HEALTH INSURANCE CLAIMS ASSESSMENT

PA 142 of 2011 created the HICA Act. Beginning January 1, 2012, certain third party administrators, carriers, and self-insured entities are required to pay an assessment on certain paid health care claims. HICA is a successor to the Health Maintenance Organization (HMO) use tax. It is intended to generate funds that will be used to leverage federal Medicaid matching funds.

Beginning July 1, 2014 the assessment rate was reduced from one percent to three quarters of one percent. The new rate should be used for claims with dates of service on or after July 1, 2014. The old rate will continue to apply for dates of service prior to July 1, 2014.

HICA is levied upon:

- Certain insurance carriers
- Self-insured entities
- Employers
- Employee organizations
- Third party administrators that pay health insurance claims for residents for health-related services performed in Michigan.

The assessment is levied upon the “paid claims” of those entities. (See MCL 550.1732(s).) An organization will be subject to the assessment if they meet the definition of “carrier” or “third party administrator” under the Act. (See MCL 550.1732(s), 550.1732(v).)

The assessment is only owed once with respect to any single “paid claim” where more than one entity may be subject to the assessment; such as, an employer and their third party administrator. The statute provides a hierarchy to determine which entity is liable for paying the assessment. (See MCL 550.1733(3).) HICA does not contain an exemption for filers owing assessment amounts below a certain de minimis threshold.

The Act uses the terms “insured individual” and “covered life” (see MCL 550.1733(4)). While these terms are not defined in the Act, an individual person can be an “insured individual” or a “covered life” only with respect to a specific policy or program of insurance coverage. Treasury has interpreted the provision to mean the $10,000 cap will be applicable per insurer or third party administrator.

For purposes of HICA, a Michigan “resident” is an individual who is domiciled in the State of Michigan on the date that the service in question is performed. “Domicile” means a place where an individual has their fixed, permanent and principal home to which, whenever absent there from, they return or intend to return. An individual’s domicile in one place continues until a different domicile is established. A rebuttable presumption shall exist that an individual’s home address, as maintained in the ordinary business records of a carrier or third party administrator, indicates the domicile of that individual under this definition. An individual who is domiciled in Michigan, but attends college in another state, is a Michigan resident for purposes of the HICA Act. If that individual obtains health services in Michigan while home between semesters, a “paid claim” for the performance of those services will be subject to the assessment under the HICA Act.
All HICA payments are required to be remitted using EFT. Filers must register for either EFT Debit or Credit by completing the *Electronic Funds Transfer Application – Health Insurance Claims Assessment* (Form 4926) available on Treasury’s Web site at [www.michigan.gov/biztaxpayments](http://www.michigan.gov/biztaxpayments).

Quarterly payments are due April 30, July 30, October 30, and January 30 of each year and must be made by EFT. *Quarterly Worksheet for Health Insurance Claims Assessment (HICA)* (Form 4930) is available on Treasury’s Web site to assist in determining the quarterly liability. The worksheet is not submitted to Treasury, but should be retained in the filer’s records for a period of four years. If no assessment is owed for the period, a $0.00 EFT transmission may be sent to complete the filing information for the quarter, but is not required.

*Annual Return for Health Insurance Claims Assessment (HICA)* (Form 4931) is required to be filed for each entity registered to make HICA payments, even if no payment is due or no refund is requested. Form 4931 is due February 28 for the previous assessment year. Form 4931 can be e-filed using Treasury’s secure Web site [www.treas-secure.state.mi.us/HICA](http://www.treas-secure.state.mi.us/HICA).

If a due date falls on a weekend, State holiday for Michigan, or legal banking holiday, the payments and returns are due on the next succeeding business day.

“Paid claims” subject to the assessment are defined, in part, as payments “made to a health and medical services provider.” (See MCL 550.1732(s).) “Health and medical services” is separately and very broadly defined under the Act. (See MCL 550.1732(j).) All of the following are included in the definition of “health and medical services,” and claims based on these services will be subject to the HICA Act assessment:

- Services included in furnishing medical care, dental care, pharmaceutical benefits, or hospitalization
- Ancillary services including, but not limited to, ambulatory services and emergency and nonemergency transportation
- Services provided by physicians (including both M.D.s and D.O.s), nurses, dentists, chiropractors, acupuncturists, audiologists, optometrists, speech-language therapists, pharmacists, physical therapists, podiatrists, psychologist, occupational therapists, dietitians and nutritionists, social workers, and respiratory care therapists
- Behavioral health services, including, but not limited to, mental health and substance abuse services.

Additionally, the term “health and medical services” specifically excludes services provided by veterinarians, marriage and family therapists, athletic trainers, massage therapists, licensed professional counselors andsanitarians. (See MCL 550.1732(j)(iii).)

The HICA assessment does not apply to:

1. Payments for services provided before January 1, 2012;
2. Claims paid for services provided to persons who are not residents of Michigan;
3. Claims paid for services provided outside of Michigan to Michigan residents;
4. Claims-related expenses

5. Claims paid under specified accident or accident-only coverage, credit, disability income, long-term care, automobile insurance, homeowners’ insurance, farm owners’ insurance, commercial multi-peril coverage, workers’ compensation, and coverage issued as a supplement to liability insurance;

6. Claims paid under a federal employee health benefit program, Medicare, Medicare Advantage, Medicare Part D, Tricare by the U.S. Veterans Administration and for certain risk pools, and

7. Reimbursements to individuals under a flexible spending arrangement, a health savings account, an Archer medical savings account, a Medicare Advantage medical savings account, or other health reimbursement arrangements authorized under federal law.

HICA does not address the relationship between an employer and their employees. Other laws, such as contract law and labor law, may govern the relationship. HICA neither permits nor prohibits an employer from passing the cost of HICA on to their employees.

HICA defines “carrier” to include an employer or employee organization that establishes or maintains a group health plan. (See MCL 550.1732(a).) However, if a self-insured employer uses a third party administrator to pay its health care claims, under the hierarchy provided under the statute, the third party administrator would be responsible for paying HICA to Treasury. (See MCL 550.1733(3).)

Under the statute, third party administrators are required to pay the one percent HICA on covered claims that they pay or process, even if the claims are not paid from the assets or bank account of the third party administrator, and instead are funded directly by the third party administrator’s client. The definition of “paid claims” under the statute includes payments that are made under a service contract for administrative services only. (See MCL 550.1732(s).)

**Note:** There is nothing in the language of the HICA Act that would specifically exempt nontaxable entities from the assessment, as long as they are otherwise a carrier, third party administrator, or self-insured entity under the terms of the Act.

The assessment levied under HICA should be paid by the third party administrator. Both the organization, as a self-insured entity, and the third party administrator are potentially subject to the assessment under the HICA. However, the assessment is only owed once with respect to any single “paid claim.” The statute provides a hierarchy to determine which entity must pay the assessment.

The statute provides that “[a] group health plan sponsor is not responsible for assessment . . . for a paid claim where the assessment on that claim has been paid by a third party administrator . . .” (Section 3(2)(a).) The statute further provides that the third party administrator “shall be responsible for all assessments on claims paid by the third party administrator.” (Section 3(2)(b).)
When two entities are subject to HICA for the same claim, the statute provides a hierarchy to determine which entity must actually pay the assessment. In the case of a third party administrator and a stop loss or excess loss insurer, the statute provides:

“If there is both a third party administrator and an excess loss or stop loss insurer servicing the group health plan, the third party administrator shall be responsible for all assessments for paid claims that are not reimbursed by the excess loss or stop loss insurer and the excess loss or stop loss insurer shall be responsible for all assessments for paid claims that are reimbursable to the excess loss or stop loss insurer.” (See MCL 550.1733(3)(d).)

Under this provision, the third party administrator will be responsible for HICA on “paid claims” up to the attachment point (the point at which the stop loss or excess loss coverage begins to apply), and the stop loss or excess loss carrier will be responsible for the assessment on the amount of each “paid claim” that exceeds the attachment point.

While both a health plan sponsor and their third party administrator may be subject to HICA, the assessment is only owed once with respect to any single “paid claim.” The statute provides a hierarchy to determine which entity must pay the assessment. The statute provides:

 “[a] group health plan sponsor shall not be responsible for an assessment . . . for a paid claim where the assessment on that claim has been paid by a third party administrator . . .” (See MCL 550.1733(2)(a).) The statute further provides that the third party administrator “shall be responsible for all assessments on claims paid by the third party administrator.” (See MCL 550.1733(2)(b).)

The third party administrator is responsible for paying HICA with respect to claims they pay on behalf of a group health plan sponsor. Michigan law prohibits Treasury from disclosing taxpayer information to third parties, except in certain specific situations. (See MCL 205.28(1)(f).) Treasury is unable to provide information or confirmation to clients of third party administrators regarding assessments that have been paid on the third party administrator’s “paid claims.” Although Treasury will be unable to provide this type of information, employers, group health plan sponsors, and others using third party administrators should check with their third party administrators, who should be able to provide confirmation that the HICA assessment was properly paid.

Carriers of Medicare supplemental insurance will be subject to HICA if they meet the definition of “carrier” in the statute and they do not fall under any of the statute’s specific exemptions. (See MCL 550.1732(a).) There is no specific statutory exemption for carriers of Medicare supplemental insurance. These carriers, and claims paid pursuant to their coverage, are included in the assessment.

Note: HICA is repealed effective January 1, 2018.

PA 161 of 2014 reinstates HICA’s partner tax, the HMO Use Tax. The HMO Use Tax is a six percent tax on medical services provided by Medicaid HMO and Prepaid Impatient Health Plans. Payments made for HMO Use Tax must be made by EFT Credit method and are due on a monthly or accelerated schedule.
PA 458 of 2012 requires that taxpayers with a Use Tax liability greater than $720,000 or more in the immediately preceding calendar year remit their payments on an accelerated schedule. Treasury began requiring accelerated payments in 2015.

All HMO Use Tax filers must file an annual reconciliation return by February 28 for the previous calendar year.