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**NOTICE TO TAXPAYERS REGARDING  
“MATERIALS AND SUPPLIES” UNDER THE  
MICHIGAN BUSINESS TAX ACT**

**Issued: June 9, 2017**

In calculating the modified gross receipts tax base under the Michigan Business Tax (“MBT”), taxpayers deduct “purchases from other firms” from gross receipts.<sup>1</sup> The MBT Act defines “purchases from other firms” as including “to the extent not included in inventory or depreciable property, materials and supplies, including repair parts and fuel.”<sup>2</sup> The MBT Act does not define the term “materials and supplies.” The Department provided its interpretation of “materials and supplies” in MBT FAQ M4.

The Department’s interpretation was recently rejected in *Plastic Surgery Associates, PC v Dep’t of Treasury* and *Andrie Inc v Dep’t of Treasury*.<sup>3</sup> Although the conclusion was the same in both cases, the *Andrie Inc* court held that in order to deduct expenses as materials and supplies under MCL 208.1113(6)(c) the “materials and supplies” must be “ordinary, necessary expenses actually consumed and used within the tax year in the carrying on of a trade or business.” In support of its holding, the court relied on IRC 162(a).

The Department acquiesces in the result reached in *Plastic Surgery Associates, PC* and *Andrie Inc* regarding “materials and supplies.” However, to the extent that either case could be interpreted to expand “materials and supplies” beyond tangible personal property or to delay the deduction to the date of consumption or use rather than the date of the “purchase[] from [an]other firm,” the Department disagrees. Rather, the Department’s revised interpretation of “materials and supplies” is *tangible personal property purchased in the tax year that are ordinary and necessary expenses to be used in carrying on a trade or business*. The Department will apply this interpretation to all tax years open under the statute of limitations.<sup>4</sup>

<sup>1</sup> MCL 208.1203(3).

<sup>2</sup> MCL 208.1113(6)(c). “Inventory” and “depreciable property” referenced in this subsection refer subsections (6)(a) and (b) in the definition of “purchases from other firms.”

<sup>3</sup> *Plastic Surgery Associates*, No 16-000011 (Mich Tax Tribunal Nov, 2016); *Andrie*, No 15-000135-MT (Mich Ct CI Jan 24, 2017).

<sup>4</sup> MCL 205.27a.