

### **MICHIGAN EMPLOYER LIABILITY**

TOOLKIT

**UNEMPLOYMENT INSURANCE AGENCY** 

#### MICHIGAN EMPLOYER LIABILITY TOOLKIT

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PROCESSING AND DELIVERY INFORMATION

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#### Introduction

The purpose of this toolkit is to explain when an employing unit becomes a liable employer under the Michigan Employment Security (MES) Act to pay unemployment taxes in Michigan and how to register. The toolkit will highlight the following topics:

- Employing Unit.
- Employer Defined.
- Employer and Employment Types.
- Common Exempt Employing Units.
- Employing Unit Registration.
- Information Needed to Register.
- Registering Online.
- Employer Notification.



### **Employing Unit**

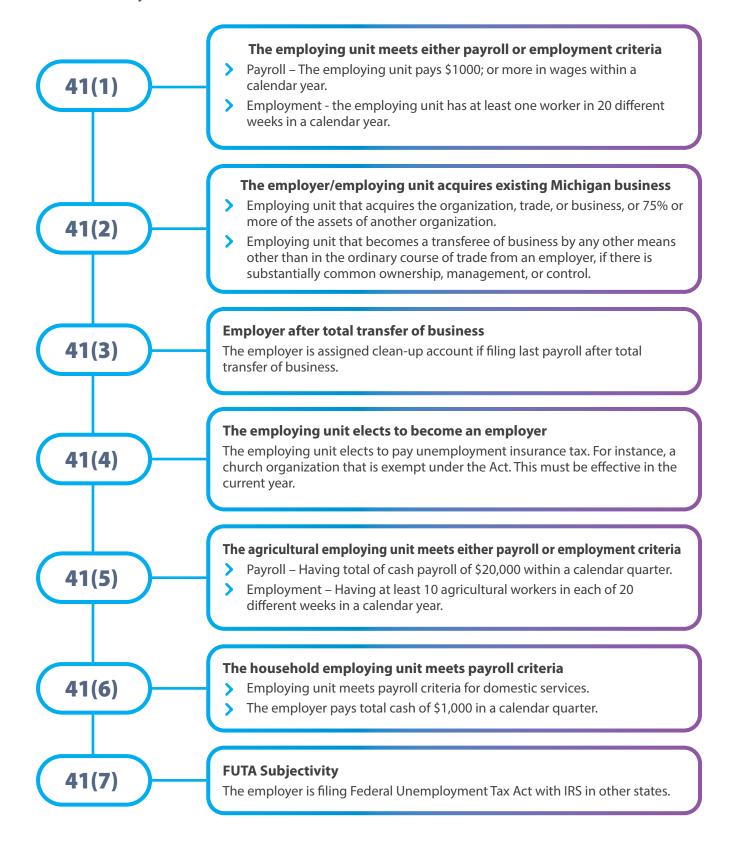
Before a business or an individual is determined by the Unemployment Insurance Agency (UIA) to be liable, the UIA refers to the business or the individual as an employing unit.

### **Employer Defined**

To become a liable employer, UIA uses the following requirements in Section 41 of the MES Act to determine if the employing unit is an Employer and then notifies the new employer for the decision.

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#### **Summary of Section 41**



#### **Employer Acquisition (Business Transfer)**

This type of acquisition can either be mandatory or a voluntary transfer resulting in transfer of experience (the tax rate history), which can be total, partial, or no transfer, from the existing business.

#### **Forms of Acquisition**

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- Transfer in the form of acquiring the use of Michigan assets like lease.
- Incorporating an existing business.
- Merger of existing entities.
- Reorganization.

#### **Mandatory Transfer**

- O The employing unit acquires 75% or more assets and there is no common ownership interest between the entities.
- O Transfer involving common ownership interest between the entities. The percentage of assets does not matter in this type of acquisition.

Mandatory transfer may result in rating transfer:

- O Total Rating 100% assets and/or payroll acquisition of the business or
- Partial Rating less than 100% assets and/or payroll acquisition of the business.

Form 1184, Employer's Report on Partial Transfer of Business, is needed if the acquisition is less than 100%. Information provided by the employer will assist in determining what percentage of the former owner experience to transfer.

#### **Voluntary Transfer**

Voluntary transfer is always a partial transfer of experience.

- The employing unit acquires less than 75% assets of an existing Michigan business.
- Form 1184-1, Report and Agreement on Partial Transfer of Business Certification, is required to secure consent from both parties involved in this type of sale to determine what percentage of the former owner's rating history to be transferred. Assigning a portion of the former's owner rate history will require submitting the Form 1184-1 with the registration documents either 518 or Standalone Schedule B Form if notifying UIA for the first time about the acquisition.

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# Tax Debt Transfer or Assessment Under Section 15(g) of (MES) Act

Outstanding taxes due (contributions) on the predecessor account is transferred or assessed to the successor employer who then becomes liable for the unpaid taxes and interest but -

- O Employing unit must acquire the organization, trade, business, or 75% or more of Michigan business.
- O Determined as successor under Section 41(2) by UIA.
- O Both parties remain responsible until the debt is paid.

#### **Exception to Transfer the Debt**

Amount due from the seller is more than the amount of liability. The employer needs to provide independent valuation of the business at the time of the transfer.

#### Other Responsibilities

If the previous employer failed to file any quarterly tax reports, the successor will be taxed at a higher tax rate.

- Either the purchaser or seller may request from UIA, in writing, not less than 10 days before the transfer of business, Form UIA 1395, Clearance of Account, to find out any amounts owed to UIA.
- By law, the seller must provide the buyer with certain unemployment insurance information at least two days before an offer to purchase is accepted on Form UIA 1027, Business Transferor's Notice to Transferee of Unemployment Tax Liability and Rate, covering:
  - 1) Seller unemployment tax rate.
  - 2 Outstanding liabilities.
  - 3 Details about jobless benefit payments and taxes.
  - 4 Employees laid off in the year before the sale.
  - (5) Names of all current employees.

#### **Employer and Employment Types**

Section 14 of the Michigan Employment Security (MES) Act authorizes the UIA to determine whether an employing unit qualifies as a Michigan Employer to file and pay UIA quarterly taxes and whether the services performed are employment as an employee or independent contractor.

#### **Limitation to Issue Determination**

Michigan law specifies how far back UIA shall issue determination or redetermination.

- O In the absence of fraud, the requirement is current year plus prior 3 years.
- O The requirement shall be 6 years if fraud is determined.

#### **Employer Types**

Employing units that are determined as Michigan employers can either be contributing or reimbursing.



#### **Contributing Employer**

Most employers are contributing employers and the taxes they pay to UIA are called Contributions.

**Report** – Required to file quarterly taxes.

Payment – Quarterly taxes due to be paid are based on tax rate assigned up to the taxable wage base limit.

**Tax Rate** – Assigned annually based on employer's history of payroll, taxes paid, and benefit payments made to former employees.

The following employing units fall under contributing employers:

- For-profit employing units by default.
- Non-profit employing units by default but may elect as reimbursing employer.

#### **Client Level Reporting and Power of Attorney (POA)**

If an employer signs up with a Professional Employer Organization (PEO), the PEO is required to file the report under the employer's (client) UI account if already assigned. This is called "Client Level Reporting (CLR)" which went into effect on January 1, 2014. If there is no account in existence upon signing up with the PEO, then the employer must register to obtain an Employee Account Number to allow the PEO to comply with CLR. In order to be able to file a report on behalf of any client, the PEO or POA must first create a Michigan Web Account Manager (MiWAM) account (sign up as service provider) if it does not have an account. Then, log into the MiWAM account to add POA authorization/MiWAM permissions to gain access.

#### **Multiple Establishments**

UI considers an employing unit within this state maintaining 2 or more separate establishments under the provision of the Section 40 of MES Act as a single employing unit if commonly owned, managed, and/or controlled and are engaged in the same or similar business activity. A single employer account number is allowed.

#### **Reimbursing Employer**

A reimbursing employer is a liable employer that pays UIA, dollar-for-dollar, the amount the UIA paid in benefits in that calendar quarter (including the state portion of Extended Benefits) to its former workers who receive unemployment benefits based on wages paid to the worker by the reimbursing employer.

**Report** – Required to file quarterly wage/tax reports.

**Payment** – Receive Form UIA 1763, *Reimbursing Employer Billing For Benefit Charges*, from UIA when unemployment benefits are paid to former employees.

#### **Billing cycles**

- Annually Governmental and Indian tribes/tribal units.
- Quarterly Non-profit.

Tax Rate – Not assigned.

#### **Employing Units That Fall Under Reimbursing Employers**

- Governmental entity (city, county township, school district) is a reimbursing employer by default.
- Indian tribes and tribal unit.
- Non-profit entity electing reimbursing status.

#### 501(c)3 Requirement

Copy of IRS 501(c)3 letter is required if a non-profit is electing as reimbursing status.

#### **Out-of-State Governmental Entities**

- Must provide UIA with documentation of affiliation to a Michigan-based governmental to be treated as a governmental reimbursing employer.
- If not, must provide a 501(c)3 to be treated as a non-profit reimbursing employer.
- O Assigned contributing status, if unable to obtain affiliation with any governmental entity in Michigan or 501(c)3.

#### **Bond/Letter of Credit**

The following reimbursing employers are subject to security requirements if their annual gross pay equals or exceeds \$100,000. The requirement is 4% of taxable payroll.

- Non-profit.
- Indian tribes/tribal units.
- Governmental (out-of-state).

#### **How to Calculate Required Security Amount**

The annual gross payroll for the 12-month period ending on June 30 of the year before security is required (July 1 through June 30) which represents the Third and Fourth quarters of the prior year along with the First and Second quarters of the current year multiplied by 4%.

#### **Group Accounts**

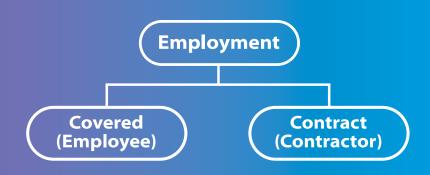
The law permits non-profit employers that elect to be reimbursing employers to form or be part of a group account for the purpose of sharing the cost of benefits paid to the former employees. The UIA must be notified that a reimbursing employer wishes to join a group.



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#### **Employment Types**

Workers are classified as either an employee or independent contractor.



#### **Covered Employment**

Employer with workers classified as employees is termed Covered employment. Most employers consider their workers as employees but there are many cases where employing units and employers misclassify them as contractors. UIA relies on IRS 20 factors to determine the employment type when in dispute.

#### **Contract Employment**

Employers with workers classified as independent contractors is termed Contract employment. Some services performed by a worker will fit into contract employment. The decision to determine who is a contractor rests with UIA by relying on IRS 20 factors whenever a worker is misclassified as a contractor.

#### **Corporate Officer Wages**

For UIA purposes, services performed by a corporate officer are subject to UIA tax reporting and are not exempt. If the corporate officer is performing any services for his or her business entity, then the wages from the services are taxable for UIA purposes. If the employing unit does not have an Employer Account Number (EAN), then UIA registration is required.

#### **Seasonal Employment**

Michigan law allows an employer to apply for seasonal designation if they operate during not more than 26 weeks (182 days) within any 52- week period but **UI Form 1155**, *Designation as Seasonal Employer*, must be received 20 days before the beginning of the seasonal period. Once the seasonal designation request is approved, it denies unemployment benefits to the seasonal workers if the employer has given those workers a reasonable assurance of returning to work the next season.

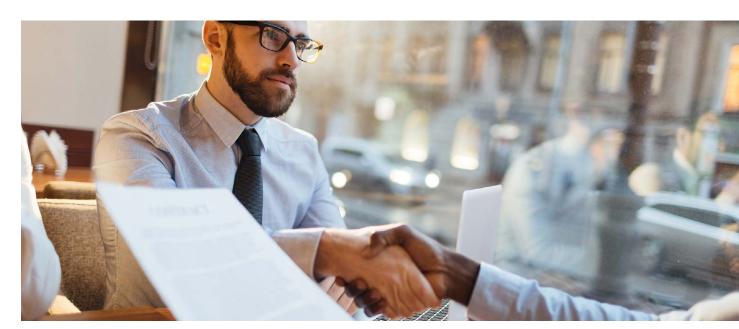
- Construction industry is exempt by law.
- O Any seasonal business or employer must still file quarterly wage/tax report.

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#### **Common Exempt Employing Units**

The following employing units are not considered employers for UIA purposes if operating without employees:

- Limited Liability Company (LLC).
- Sole Proprietorship.
- O Partnership.



#### **Employing Unit Registration**

Employing units must properly notify the UIA of their existence in business so the UIA can make an official determination as to whether it is a liable employer.

It is recommended to use the online portal to register for an EAN.

#### **Online Registration**

#### Michigan Business Tax Registration, Online & Form 518

UIA offers an online process to register for and receive your EAN. The online registration eliminates the need to complete and mail in Form 518, *Michigan Business Tax Registration* booklet. It will also result in the assignment of a MiWAM account, with immediate limited access, being automatically created instead of going through different steps to create and gain access if completing paper application.

- Begin Online Registration.
- O Download the State of Michigan Form 518, Michigan Business Tax Registration booklet.

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### **Information Needed to Begin Your Registration**

- A Federal Employer Identification Number (FEIN).
- The owner, corporate officer, partner or member's date of birth, Social Security Number (SSN) and corresponding address.
- The Individual Taxpayer Identification Number (ITIN) assigned by the Internal Revenue Services (IRS) for an entity owned by a foreign individual.
- (4) For new employer, make sure you know:
  - O Date of first employment (hiring date).
  - When you met the payroll requirement (liability threshold).
- If you have changed the entity type of your existing business (e.g., from sole proprietor to partnership, or incorporating a sole proprietorship or partnership) or acquired all or any part of the assets, organization, trade, or business of an existing business having employees in Michigan, then you need:
  - O EAN and FEIN of the business being acquired.
  - O Date of the acquisition.
  - O Percentage of assets acquired.
  - Percentage of organization (employees) acquired.
  - O Verify if the former owner has multiple locations relating to the EAN of your acquisition.

### **Registering Online**

Where do you go to Register?

There are multiple ways to start the online registration:

- 1 Go to Michigan.gov/UIA
  - O Under Services, Employer Services
    - Click on Register a Business.
    - O Click **Start eRegistration** tab to complete the 12 steps, then submit.
  - O Under Employers, click on Employer homepage, under Register for Michigan Taxes
    - Click on Employer Registration.
    - O Click **Start eRegistration** tab to complete the 12 Steps, then submit.
- (2) Go to MiWAM Employer Registration
  - O Click **Start eRegistration** tab to complete the 12 Steps, then submit.

#### **Confirmation Number**

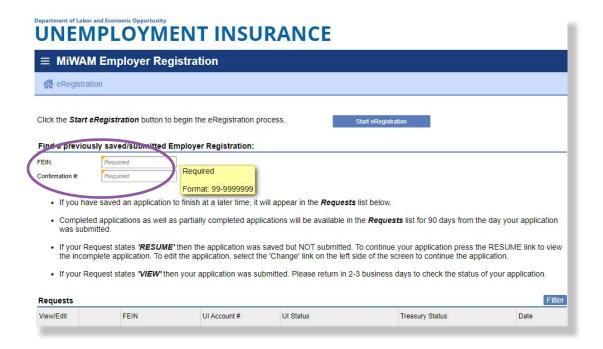
- Received after completing and submission of the on-line application.
- O Received if saving the online application to complete later.

Completed application with future liability date can be updated but user has 90 days from when the application was initially submitted.

You can receive your UIA EAN in less than 3 days if your liability date is prior or current date.

#### **How Do You Update, Track or Complete Saved Application?**

Enter valid FEIN and confirmation number at Start eRegistration page.



- EAN will display if there is no pending issue with the application.
- The employer has 90 days from when the application is saved or submitted to make changes.
- To update or complete Saved application.
  - O Click **Resume or View** just below **View/Edit.**
  - O Click View Submission.
  - O Click **Change** tab and then select applicable step to continue or update.
  - O Resubmit the application when done.

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#### **Employer Notification**

Upon receipt of registration documents, UI will determine whether the employing unit is a liable employer under MES Act and then issue Form 1183, *Notice of Determination of Employer Status*. A contributing employer will also be issued Form UIA 1771, *Tax Rate Determination*. The employer is now required to file quarterly tax report(s) after Form 1183 is issued.

If employing unit becomes an employer, then they are liable for the entire year. For instance, agricultural or household employing unit becomes liable employer during the Third quarter of the year, the employer must still file all prior quarterly wage/tax reports (First and Second quarters) in the same calendar year if wages were paid.

#### Michigan Web Account Manager (MiWAM)

For employers that registered through the online portal and after the Employer Account is automatically assigned without staff intervention:

Online account called MiWAM is created	ted
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- UIA Form 1023, Authorization Code, is mailed.
- O Temporary (limited) access is also granted only for 10 days to allow Wage/Tax report to be filed.
- Must enter Authorization Code upon receipt to gain permanent access.

Exceptions where MiWAM account is not added:

- Online registration becomes an exception requiring staff to complete the registration process to obtain an EAN, for instance if there is already an existing closed employer account on record.
- Paper registration is completed by staff to obtain an EAN.
- Email for the new online application is already in use.

The employer is encouraged to create a MiWAM account (**sign up as an employer**) even if they have a third party (payroll company) to file and/or pay their quarterly Wage/Tax Report. The employer is solely responsible for any missing report or unpaid taxes.

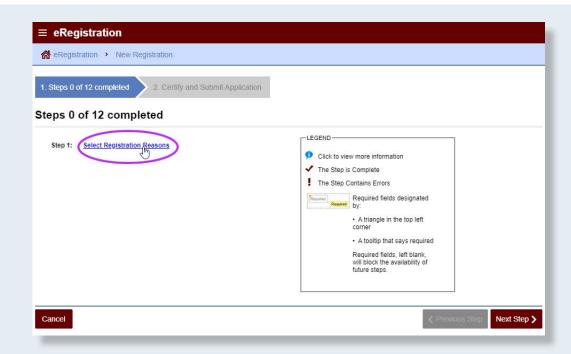
#### Missing Reports and Non-Liable (NL) Employer

For employers that fail to comply and file the required wage/tax report may result in UI changing the employer status to NL. The employer is encouraged to file quarterly wage/tax reports when EAN is assigned and avoid going through another registration process if UIA changes the account status to NL.

#### The 12-Steps of eRegistration



Click Select Registration Reasons to begin Step 1.

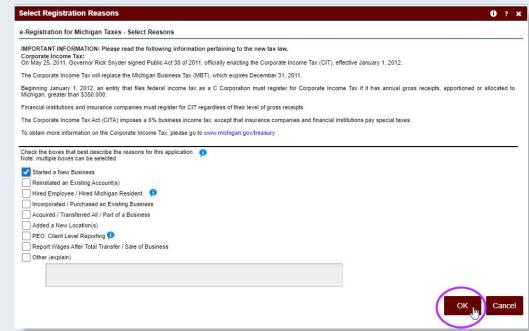


Select the reason for your registration.

Note: If you get an error message by selecting "Reinstated an Existing Account", you need to select another reason to continue. This happens when the UIA already has closed the employer account and the account has been terminated over 1 year or is active (if you already have an active account, it will generate an error).

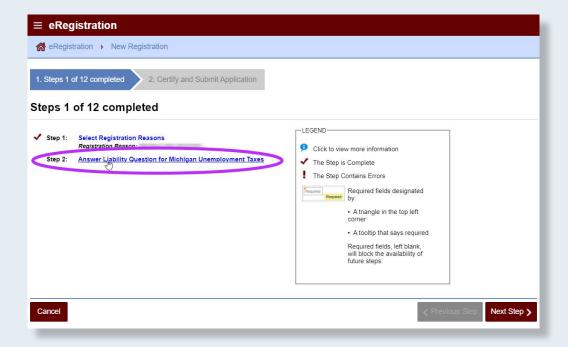
Click OK to continue.







Click Answer Liability Questions for Michigan Unemployment Taxes to begin Step 2.



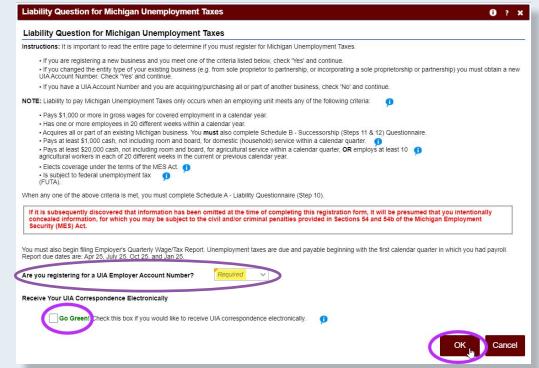
Answer "Yes" if you are registering for a UIA Employer Account Number.

#### Note:

- You must answer Yes if you are a corporate officer and are the only employee of the business.
- You must answer NO if you are a sole proprietor, partnership, or an LLC with no employees other than yourself.

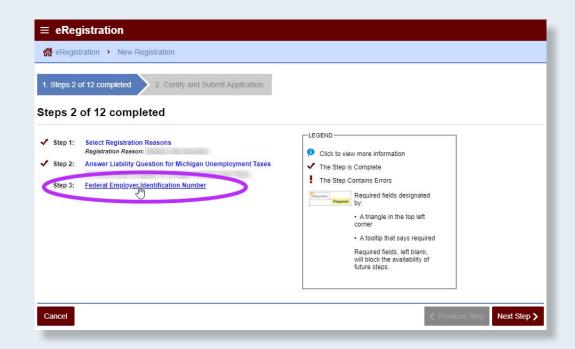
Click OK to continue.







Click Federal Employer Identification Number to begin Step 3.



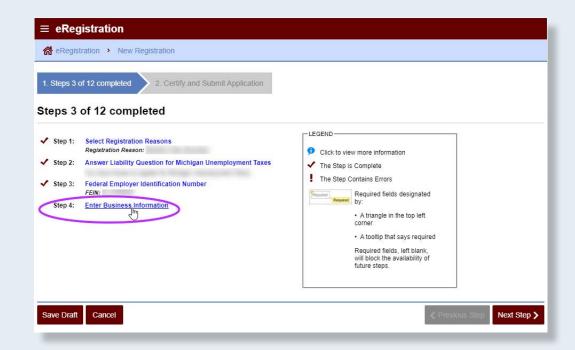
Enter the business' FEIN and click OK to continue.







Click Enter Business Information to begin Step 4.

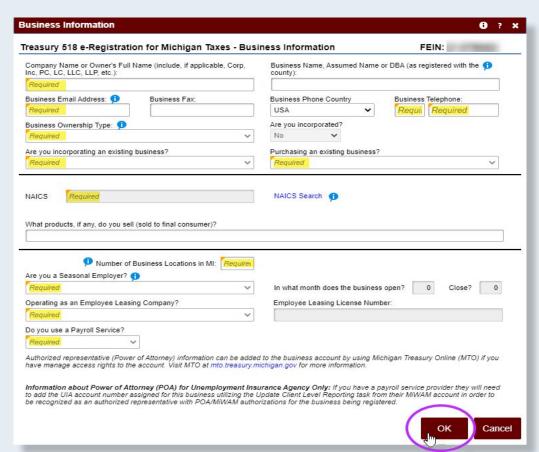


#### Enter the *Required* information.

- Be sure to use company name if Corp Inc, PC LC, LLC or LLP.
- Be sure to use individual name if sole proprietor or partnership.
- Ownership type.
- · Contact information.
- · Number of locations.
- Service provider info, if applicable.

Click OK to continue.



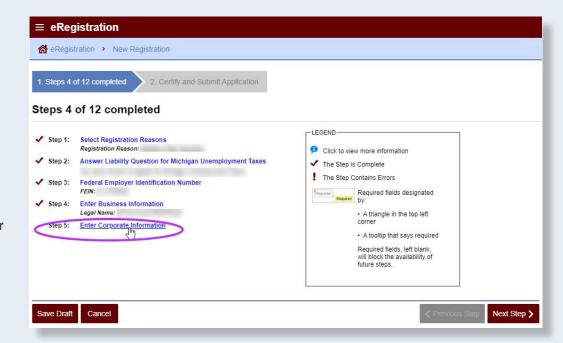


#### STEP 5

If you indicated the business' organization type is a corporation, Click Enter Corporate Information to begin Step 5.

Note: Corporate field is not required if incorporated outside of Michigan.

If you indicated any other business organization type, skip to Step 6.



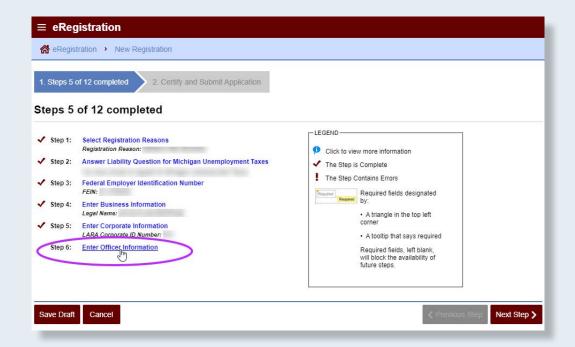
Enter the *Required* information and click *OK* to continue.



Corporate Information	0 7 X
Treasury 518 e-Registration for Michigan Taxes - C	orporate Information
State of Incorporation:	Required
Date of Incorporation:	Required
Licensing and Regulatory Affairs (LARA) Corporate ID Number.	
If you do not have a Corporate ID Number, did you apply for one?	•
	OK Cancel

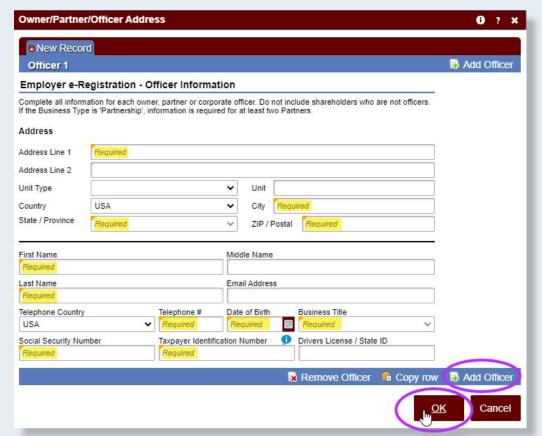


Click Enter Officer Information to begin Step 6.



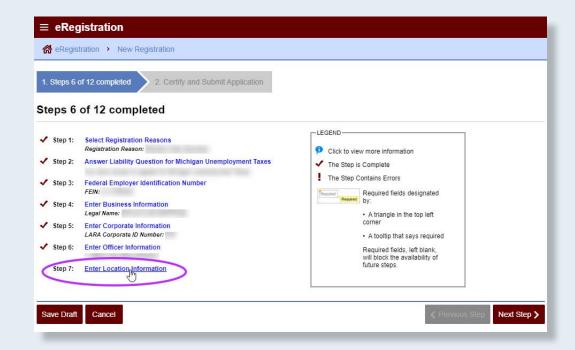
Complete all information for each owner, partner or corporate officer and click *OK* to continue.







Click Enter Location Information to begin Step 7.

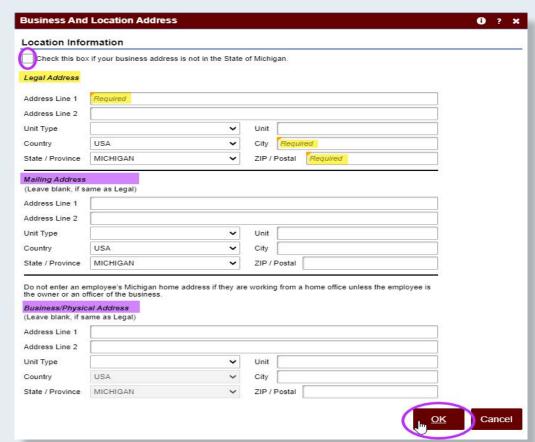


Check the location box if your business is not located in the State of Michigan. Enter the employer address.

Note: Do not add an employee's address as a physical address if the business is not located in Michigan.

Click OK to Continue.

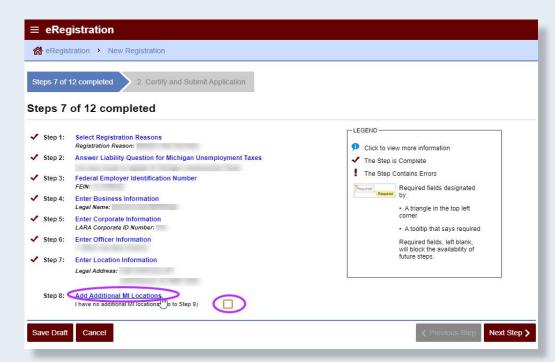




#### STEP 8

Click Add Additional MI Locations to begin Step 8 if you have other physical locations beyond those identified in Step 7.

If you do not have additional physical locations in Michigan, check the box to skip to Step 9.

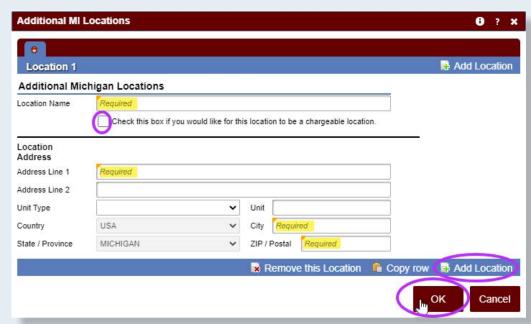


Complete for additional Michigan locations\* and check the checkbox if it should be a chargeable location.

Note: This step will only display if you indicate more than one location under Step 4.

Click OK to Continue.

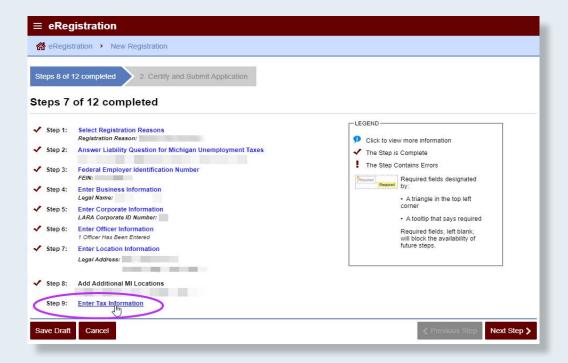




<sup>\*</sup>An employer can have multiple locations. The employer can request that benefit charges are broken down by location which is called a chargeable location. The Agency will furnish at least quarterly, to each employer, a statement summarizing the total of the benefits charged against the employer's account during the period. If the employer requests, the summary can be broken down by places of employment.



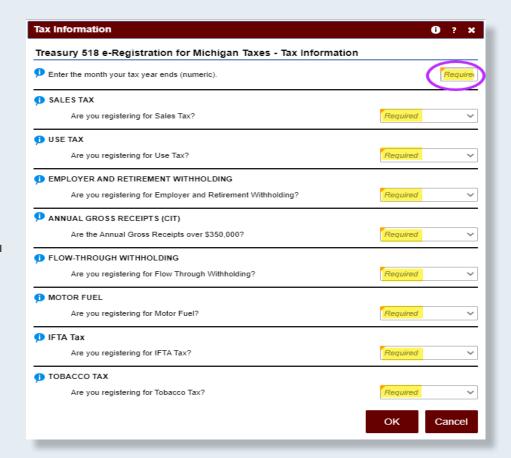
Click Enter Tax
Information to begin
Step 9.



Enter the month your tax year ends.

For SUW (Sales, Use, Withholding)\* taxes, the tax year will be the same as the calendar year (ending in December).

For CIT (Corporate Income Tax)\*\* tax, the tax year will be the same as your fiscal year (ending in the month you indicate here).



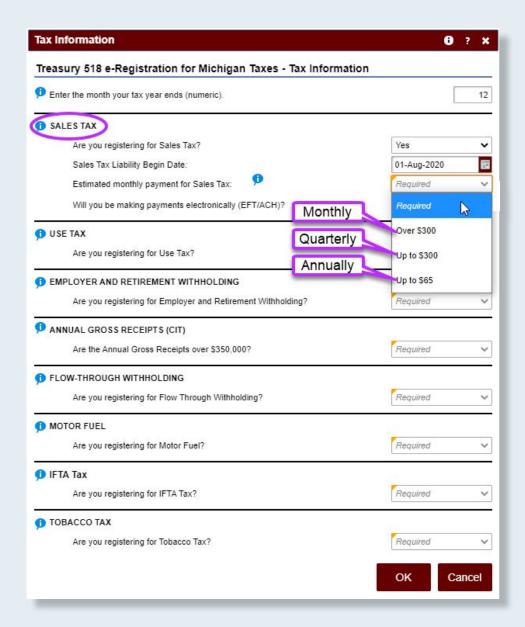
<sup>\*</sup>Line items 2, 3, 4

<sup>\*\*</sup>Line item 5

#### STEP 9

If your business will be responsible for sales tax, select Yes to register and enter the date the sales tax liability will begin (MM/DD/YYYY).

Select the amount of sales tax you think you will owe per month.
These thresholds translate to your initial filing frequency (how often you need to report and pay this tax to Treasury).

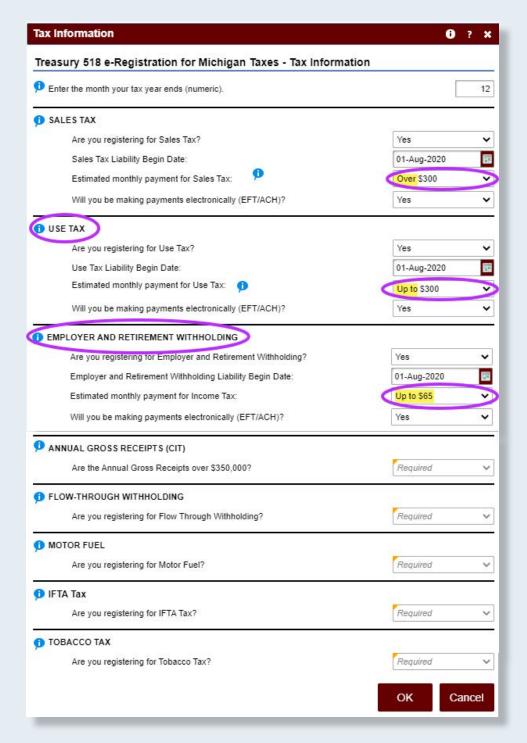




SUW taxes are reported on a combined return.

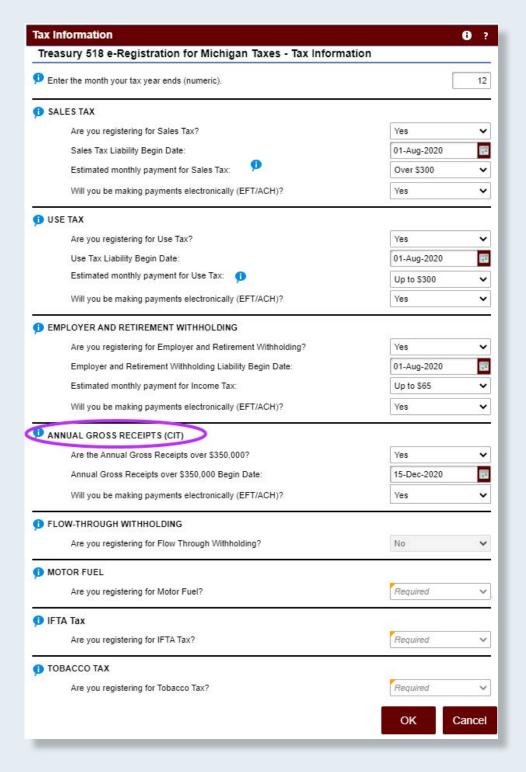
If your business will be responsible for use tax on sales and rentals and/ or withholding tax, you will register and select estimated monthly tax due thresholds.

If you select different thresholds for the SUW taxes, the highest estimated threshold you select will dictate the initial filing frequency for all registered SUW tax types.





If your business is taxed as a C-Corporation federally *and* you anticipate apportioned gross receipts exceeding \$350,000 by the end of the tax year, register for CIT tax.



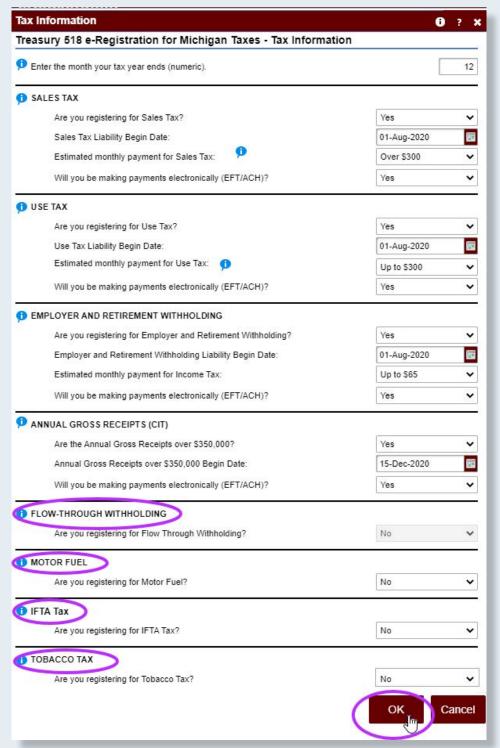


Flow-through withholding tax is no longer an active tax in Michigan and will automatically populate "No".

Select the appropriate registration status for Motor Fuel, IFTA (International Fuel Tax Agreement), and Tobacco taxes.

Click OK to continue.

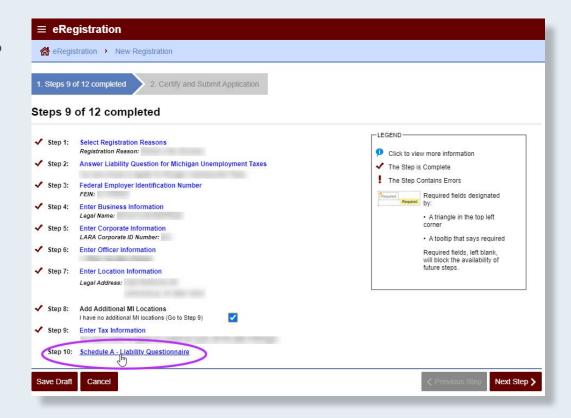




### STEP 10

Click Schedule A – Liability Questionnaire to begin Step 10.

Based on previous responses, this step may be grayed out if it does not apply. If so, proceed to Step 11.





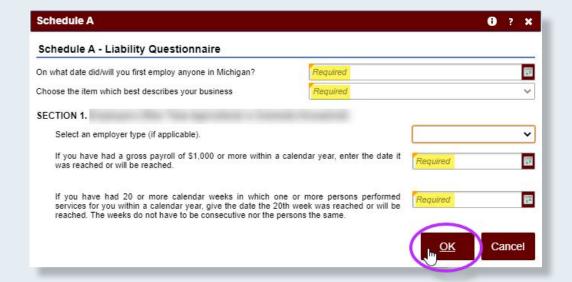
Enter the date you first employed someone in Michigan.

Select whether you are a regular (1), agricultural (2), or household (3) employer and the corresponding date you met or will meet the liability requirement as an employer.

#### Note:

- You must provide only one (1) payroll requirement, either when you reached \$1,000 or 20 weeks of employment.
- Do not select Employer Type FUTA Subjectivity or Elective Coverage if you have already met the liability requirement.
- A governmental entity or non-profit organization must identify in the employer type drop box whether you intend to be a contributing or reimbursing employer.

Click OK to continue.



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If you have acquired a business, the "Date You First Employ Anyone in Michigan" and the "Date You Have Reached the Payroll Requirement" must be the same as the "Date You Acquired the Assets, Organization, Trade, or Business" on Schedule B.

#### STEP 10

- Enter the date you first employed someone in Michigan.
- Choose applicable business description (section 1-3).
- Enter the date you met or will meet the payroll requirement.

If you selected Nonprofit Employers, this is how the screen will appear.

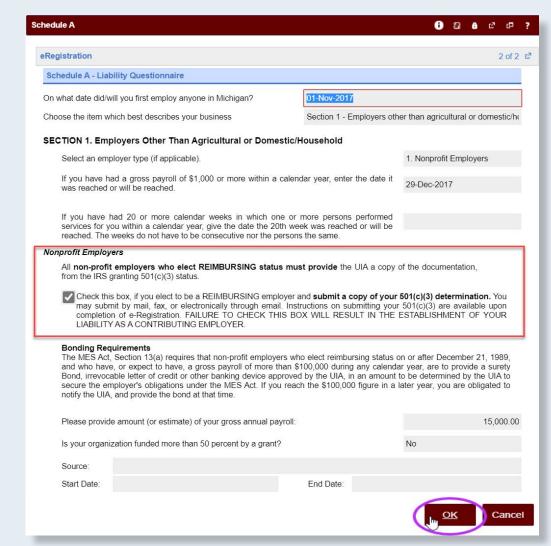
Provide the requested information.

- Annual gross payroll.
- If funded by grant, then provide source, start, and end date.

Note: All non-profit employers who elect reimbursing status with gross payroll of more than \$100,000, are required to provide Surety Bond, Irrevocable letter of credit or other banking device approved by UIA.

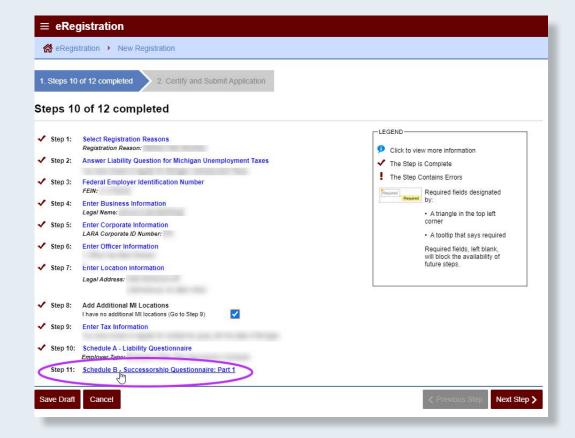
Click OK to continue.







Click Schedule B – Successorship Questionnaire: Part 1 to begin Step 11.





Select the correct response for each line item and enter how many businesses.

Note: If you made multiple acquisitions, you will be required to complete a separate Schedule B for each acquisition under Step 12.

Click OK to continue.



#### Schedule B - Successorship Questionnaire: Part 1 0 ? x Schedule B - Successorship Questionnaire You must complete all the items in this application accurately and completely. Failure to do so will be evidence of intentional misrepresentation and may subject you to the civil and/or criminal penalties provided in Sections 54 and 54b of the Michigan Employment Security (MES) Act. Successorship Reporting Requirement: If you have acquired any part of the Michigan assets, trade or business of another employer, by purchase, rental, lease, inheritance, merger, foreclosure, bankruptcy, gift or any other form of transfer, you must provide the following information. If you made multiple acquisitions, you must provide the following information. If you made multiple acquisitions, you must complete a separate UIA Schedule B for each Acquisition. If you made no acquisitions, you are still required to answer the following questions. If subsequent to completing this registration form, you transfer the assets (by sale or transfer), or business (products/services), in whole or in part, to a new or previously existing business in Michigan, you must notify this Agency immediately by completing and submitting an additional Schedule B. Federal Employer Identification Number (FEIN): 1. In the past 6 years, have you formed, acquired or merged with a business by any means? 0 If yes, how many businesses have you formed, acquired or merged with by any means? 2. At the current time, are you forming or acquiring a business by any means? 0 If yes, how many businesses are you forming or acquiring by any means? 3. At the current time, are you incorporating an existing business entity? 0 If yes, how many businesses are you incorporating from an existing business entity? Required 4. At the current time, are you merging, by any means, with one or more business entities? 0 If yes, how many businesses are you merging, by any means? 5. Are you intending to form a business at a future time, by any means? Cancel

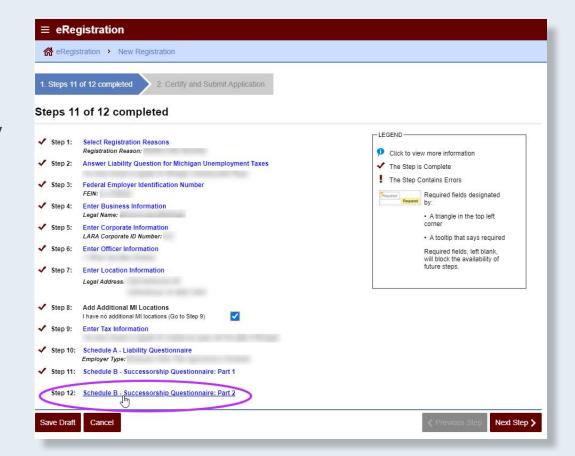


Click Schedule

B – Successorship

Questionnaire: Part 2 to
begin Step 12.

Based on previous responses, this step may be grayed out if it does not apply. If so, proceed to Next Step.



 $\triangleleft$ 



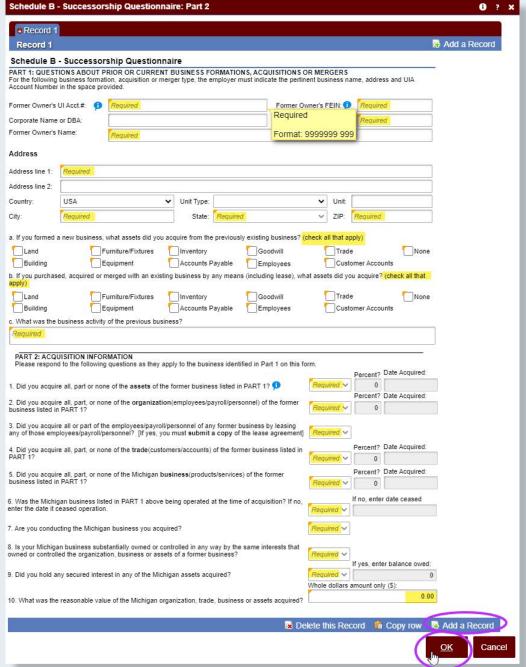
Enter former owner account and acquisition information.

#### Enter:

- Name, address, contact, Employer Account Number (EAN) or Federal Employer Identification Number (FEIN).
- Percentage of sale of the assets, payroll, business and trade.
- Acquisition date and amount (indicate if there is substantial owner interest between the parties.)

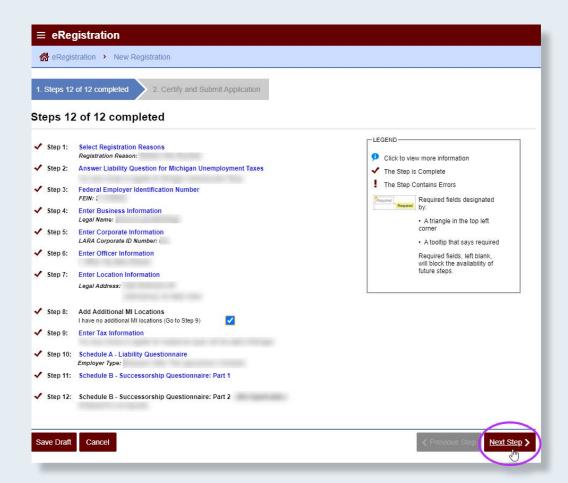
Click OK to continue.



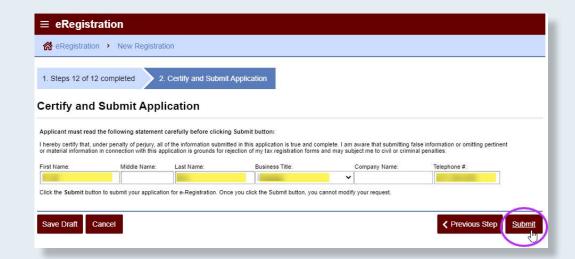


### **CERTIFY AND SUBMIT APPLICATION**

Click Next Step.



Complete the certification section and click *Submit*.

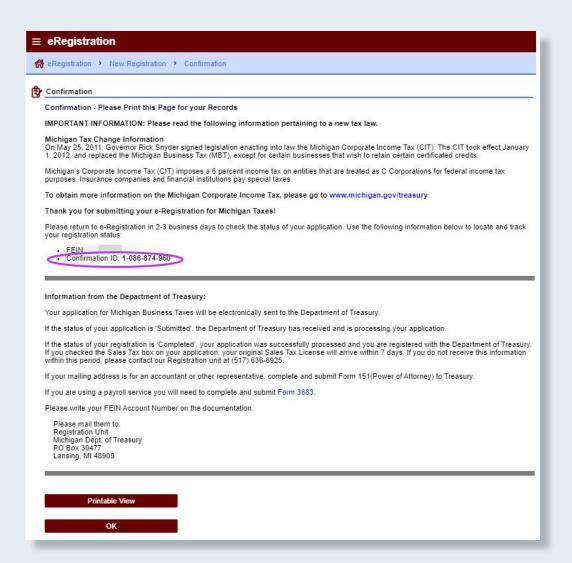


### CONFIRMATION NUMBER

You will receive a confirmation number, indicating your registration application was successfully submitted.

Exit MiWAM.







#### PROCESSING AND DELIVERY INFORMATION

Wait until the \$1,000 liability date you referenced in Step 10 is reached; the e-registration application will not be processed until this time.

Form 1183 - Confirmation of Status and Form 1771 - Tax Rate Determination will be sent to the business' mailing address or the email address (depending on the election made in Step 2) the next business day.

MiWAM email sent and Form 1023 – Authorization Code for Master Access will be sent via mail the next business day.



# STATE OF MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY UNEMPLOYMENT INSURANCE AGENCY

#### Michigan.gov/UIA

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