

## **INTERNAL POLICY DIRECTIVE 2006-6**

August 15, 2006

### **SINGLE BUSINESS TAX DATE OF RENAISSANCE ZONE ELIGIBILITY FOR FISCAL YEAR TAXPAYERS**

#### **POLICY ISSUE**

Whether a fiscal year taxpayer located in a renaissance zone who is otherwise eligible for a Single Business Tax ("SBT") credit under MCL § 208.39b and whose tax year includes a time period prior to the date on which the renaissance zone designation is effective may take such a credit in that tax year or whether that taxpayer may not take such a credit until the start of the next fiscal year.

#### **POLICY DETERMINATION**

Fiscal year taxpayers located in a renaissance zone and eligible for an SBT credit under MCL § 208.39b may first take such a credit in the tax year which includes the date that the renaissance zone designation becomes effective.

#### **DISCUSSION**

MCL § 208.39b reads in pertinent part:

Except as provided in subsection (2) and for tax years that begin after December 31, 1996, a taxpayer that is a business located and conducting business activity within a renaissance zone may claim a credit against the tax imposed by this act for the tax year to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, equal to the tax liability attributable to business activity conducted within a renaissance zone in the tax year or, for tax years that begin on or after January 1, 2003, either of the following:

(a) . . . for a business that first locates and begins conducting business activity within a renaissance zone after November 30, 2002, the lesser of the following:

(i) The tax liability attributable to business activity conducted within a renaissance zone in the tax year.

(ii) Ten percent of adjusted services performed in a designated renaissance zone.

In other words, taxpayers with eligible business activity within a designated renaissance zone may claim a credit against the SBT based on the tax liability attributable to certain activities conducted within the renaissance zone.

Renaissance zone designations take effect on January 1 in the year following designation. MCL § 125.2686(5). Thus, for calendar year taxpayers eligible for renaissance zone SBT credits, the effective date of any renaissance zone designation generally coincides with the start of their taxable year. In contrast, for fiscal year taxpayers eligible for renaissance zone SBT credits, the effective date of any renaissance zone designation does not coincide with the start of their taxable year.

Prior to this Internal Policy Directive, the Department's policy was as follows:

A taxpayer whose tax year includes a time period prior to a property's designation as a renaissance zone may not take a credit against the SBT until the start of the next fiscal year. Under these circumstances, this taxpayer's final year in which they may claim the credit would be that fiscal year that includes the expiration date of the renaissance zone.

This policy stemmed from the implementation of the initial renaissance zones in which tax credits did not take effect until tax years beginning after December 31, 1996. Neither the Renaissance Zone Act nor the Single Business Tax Act provides any further guidance on the tax years in which credits may be taken in the context of effective dates for renaissance zone designations.

However, both the Renaissance Zone Act and the Michigan Strategic Fund Act (under which certain tool and die renaissance zones are designated) mandate that the acts "shall be construed liberally to effectuate the legislative intent and the purpose of the act . . . and all powers granted in the act shall be broadly interpreted to effectuate such intent and purposes . . ." MCL §§ 125.2091, 125.2694.

Accordingly, the Department now adopts the policy that fiscal year taxpayers located in a renaissance zone and eligible for an SBT credit under MCL § 208.39b may first take such a credit in the tax year which includes the date that the renaissance zone designation becomes effective.

This policy does not change the manner in which renaissance zone credits are calculated for SBT purposes, nor does it require changes to SBT forms, including form C-8000MC. The business activity factor of the SBT renaissance zone credit is merely calculated as if the taxpayer is within a renaissance zone for a period less than the full tax period and the average value of property within the zone must be calculated using a monthly average. Thus, the monthly value of fiscal year taxpayer property within the zone for each month prior to the date that the renaissance zone designation becomes effective is 0. By using the monthly average for property values, and the payroll for services performed within the zone for the time period that the zone is effective, the C-8000MC renaissance zone credit worksheet automatically calculates the proper credit amount for the first and last tax years of fiscal year taxpayers under this policy.

This new policy is effective for all tax years within the statute of limitations. For a fiscal year taxpayer that first took an SBT credit under MCL § 208.39b under the former policy, the final year to claim the credit will also be governed by the former policy unless such a taxpayer files an amended return for the tax year that includes the date that the renaissance zone designation became effective in accordance with this Internal Policy Directive.