

Instructions for Form 4548 2009 Michigan Business Tax (MBT) Quarterly Return

Michigan Business Tax Estimates

New for Tax Year 2009: All business taxpayers, regardless of business type, will use Form 4548. Follow general instructions for all business types and specific instructions as identified for Standard Taxpayers, Financial Institutions, and Insurance Companies.

The Michigan Business Tax (MBT) consists of a franchise tax for financial institutions, a premiums tax for insurance companies, and a Business Income and Modified Gross Receipts Tax for standard taxpayers (all taxpayers other than financial institutions and insurance companies). In addition, every standard and financial taxpayer is subject to an annual surcharge equal to a percentage of their MBT liability after apportionment or allocation. Insurance companies are not subject to a surcharge.

Taxpayers with an annual combined MBT liability reasonably expected to exceed \$800 must make quarterly estimated payments.

The sum of estimated payments must equal at least 85 percent of total liability and the amount of each payment must reasonably approximate the tax liability incurred during the period. If the tax year was less than 12 months (e.g., the business was opened or closed during the year), annualize the tax to see if estimates must be filed.

MBT estimated payments are not required for taxpayers with a short year of less than four calendar months.

Standard Taxpayers and Financial Institutions. Taxpayers include a single individual or entity or a Unitary Business Group (UBG). A UBG is a group of United States persons, other than a foreign operating entity, one of which owns or controls (directly or indirectly) more than 50 percent of the ownership interests with voting or comparable rights of the other United States persons and that has business activities resulting in a flow of value between or among persons in the group, or has business activities that are integrated with, are dependent upon, or contribute to each other. All MBT estimated payments for a UBG should be made by the Designated Member.

When to File MBT Quarterly Tax Returns

For a calendar year taxpayer, quarterly returns are due the 15th day of April, July, October and January. For a fiscal year taxpayer, quarterly returns are due the 15th day of the first month after each quarter. For any tax year that includes an estimate period of less than three months, the quarterly return for that period is due on the 15th day of the month immediately following the final month of the estimate period.

NOTE: Insurance companies must file on a calendar year basis.

How Much to Pay

Standard Taxpayers and Financial Institutions. Compute

quarterly estimated MBT payments based on the filer's actual combined tax base for the period, plus the applicable annual surcharge.

Insurance Companies. Compute quarterly estimated payments on the greater of the amount of tax imposed under Chapter 2A of the MBT Act (MCL 208.1101 et seq.) or under Section 476a of the Insurance Code of 1956, 1956 Public Act (PA) 218, MCL 500.476a.

All Taxpayers. Penalty and interest for underpaid estimates will not be charged if payments are made on time and the sum of the estimated payments equals at least 85 percent of your annual liability, and the amount of each payment reasonably approximates the tax liability incurred during the period. For tax years ending in 2009, if the prior year's MBT liability (annualized, if a short period) does not exceed \$20,000, estimated tax payments may also be based on the prior year's total tax liability (annualized, if a short period) made in four equal installments.

NOTE: For a taxpayer that calculates and pays estimated payments for federal income tax purposes pursuant to section 6655(e) of the internal revenue code, that taxpayer may use the same methodology as used to calculate the annualized income installment or the adjusted seasonal installment, whichever is used as the basis for the federal estimated payment, to calculate the estimated payments required each quarter under this section.

Estimating Tax Liability

Standard Taxpayers

MBT is due only if a taxpayer's apportioned or allocated gross receipts are \$350,000 or greater for the tax year.

For standard taxpayers with apportioned or allocated gross receipts of \$350,000 or more, MBT is comprised of a 4.95 percent tax on the Business Income Tax base and a 0.8 percent tax on the Modified Gross Receipts Tax base. A credit is used to phase in the tax liability for taxpayers with apportioned or allocated gross receipts between \$350,000 and \$700,000. In addition, an annual surcharge is imposed on each taxpayer equal to 21.99 percent of its MBT liability after allocation or apportionment to Michigan, but before the calculation of credits available under the MBT Act. The amount of the surcharge levied against a standard taxpayer is capped at \$6,000,000 in any single tax year.

For most standard taxpayers, the Business Income Tax base is that part of federal taxable income derived from business activity, with certain adjustments. "Federal taxable income" means taxable income as 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.

Additions (to the extent deducted or excluded from federal taxable income) include:

- Interest income and dividends derived from obligations or securities of states other than Michigan,
- Taxes on or measured by net income and the tax imposed under MBT,
- Any carryback or carryover of a net operating loss,
- Loss attributable to another taxable entity,
- Royalty, interest, or other expense paid to a person related to the taxpayer by ownership or control for the use of an intangible asset if the person is not included in the taxpayer's UBG.

Subtractions (to the extent included in federal taxable income) include:

- Dividends and royalties received from persons other than United States persons and foreign operating entities,
- Income attributable to another taxable entity,
- Interest income derived from United States obligations,
- Net earnings from self-employment, as defined under Internal Revenue Code 1402, of the taxpayer or a partner or Limited Liability Company member of the taxpayer except to the extent that those net earnings represent a reasonable return on capital.

The Modified Gross Receipts Tax base for standard taxpayers consists of gross receipts less purchases from other firms and other limited subtractions. *Gross receipts* means the entire amount received by a taxpayer from any activity carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others, with certain specific exceptions. *Purchases from other firms* and *other limited subtractions* include:

- Inventory acquired during the tax year.
- Depreciable assets acquired during the tax year.
- To the extent not included in inventory or depreciable assets, materials, and supplies (tangible personal property), including repair parts and fuel, acquired during the tax year directly connected to and used or consumed in the production or management of inventory or the operation or maintenance of depreciable assets.
- Other expenses for staffing companies, certain construction contractors, and certain real estate brokers and appraisers.
- 100 percent of film rental or royalty payments paid by a theater owner to a film distributor and/or producer.
- Qualified Affordable Housing Deduction.

Some standard taxpayers may find that business income, gross receipts, and purchases from other firms may be approximated using monthly profit and loss statements.

Insurance Companies

Under MBT, insurance companies are subject to a 1.25 percent tax on gross direct premiums written on property or risk located or residing in Michigan with certain exclusions, including:

- Premiums on policies not taken.
- Return premiums on canceled policies.
- Receipts from sales of annuities.
- Receipts on reinsurance premiums if the tax has been paid

on the original premiums.

- The first \$190,000,000 of disability insurance premiums written in Michigan, other than credit insurance and disability income insurance premiums, reduced by two dollars for each dollar by which the gross direct premiums from insurance carrier services, both within and without Michigan, exceeds \$280,000,000.

Credits may be claimed against the tax for amounts paid to the following, using the assessments from the immediately preceding tax year:

- Michigan Workers' Compensation Placement Facility
- Michigan Basic Property Insurance Association
- Michigan Automobile Insurance Placement Facility
- Property and Casualty Guaranty Association
- Michigan Life and Health Guaranty Association.

In addition, credits are available for 50 percent of examination fees paid during the tax year, and 100 percent of the amount paid during the tax year pursuant to Section 352 of the Workers' Disability Compensation Act of 1969, as certified by the director of the Bureau of Workers' Disability Compensation.

Foreign and alien insurers may be liable for the Retaliatory Tax in Section 476a of the Insurance Code and must look to the laws of their state of incorporation to make the appropriate calculation. Insurance companies must pay the greater of the MBT or the Retaliatory Tax.

Financial Institutions

In lieu of other taxes imposed by MBT, every financial institution with nexus in Michigan is subject to a franchise tax imposed on its tax base, after allocation or apportionment, at the rate of 0.235 percent. In addition, an annual surcharge is imposed on each financial institution equal to 23.4 percent of its MBT liability after allocation or apportionment to Michigan, but before the calculation of credits available under the MBT Act.

A financial institution that is authorized to exercise only trust powers is not subject to this surcharge.

A *financial institution* is defined as:

- A bank holding company, a national bank, a state chartered bank, an office of thrift supervision chartered bank or thrift institution, or a savings and loan holding company other than a diversified savings and loan holding company as defined in 12 USC 1467a(a)(F).
- Any person, other than an insurance company subject to the tax imposed under Chapter 2A of the MBT Act, who is directly or indirectly owned by a financial institution described above and is a member of the UBG.
- A UBG made up of the entities described above.

The tax base of a financial institution is the financial institution's net capital, which is equity capital, as computed in accordance with generally accepted accounting principles, with certain adjustments. An addition to the Net Capital Tax base is required for the amount in excess of 125 percent of the minimum regulatory capitalization requirements of an insurance company subsidiary. (The amount capitalized would

be carried on the books of the insurance company subsidiary as an asset.) Deductions are allowed for goodwill, and the average daily book value of United States and Michigan obligations.

NOTE: If a financial institution does not maintain its books and records in accordance with generally accepted accounting principles, net capital may be computed in accordance with the books and records used by the financial institution, so long as the method fairly reflects the financial institution's net capital for purposes of MBT

Net capital is determined by averaging the financial institution's net capital as of the close of the current tax year with the preceding four tax years. This calculation is modified if a financial institution has been in existence for less than five tax years. The statute also provides additional guidance for mergers and acquisitions.

The tax base of financial institutions whose business activities are subject to tax both within and outside Michigan are then apportioned by the gross business factor, utilizing rules set in statute. Gross business means the sum of the following:

- Fees, commissions, or other compensation for financial services.
- Net gains, not less than zero, from the sale of loans and other intangibles.
- Net gains, not less than zero, from trading in stocks, bonds, or other securities.
- Interest charged to customers for carrying debit balances of margin accounts.
- Interest and dividends received.
- Any other gross proceeds resulting from the operation as a financial institution.

All Taxpayers

For more information visit the MBT Web site at www.michigan.gov/MBT. The Web site contains information taxpayers may find helpful in determining their estimated tax liability.

Using Personalized Estimate Returns

If you previously filed SBT, the Michigan Department of Treasury will send you personalized estimate returns. Subsequently, we will continue to send them to you if you make estimated payments.

- File the original returns and keep copies for your file. (The personalized returns are read by an optical scanner which can process only these original returns.)
- Use the personalized returns whether you fill them out yourself or get help from a tax preparer.
- Personalized returns shorten the processing time of your payment and reduce the chance of an error in your account.
- Do not use personalized returns if information on the return is incorrect and **DO NOT USE OTHER TAXPAYERS' RETURNS OR PHOTOCOPY THEIR FORMS**. If you do, your payments could be applied to the wrong account.

- If you use software to prepare your return, the software may create a personalized return for you.

If you lose a return, or have not made estimated payments before, visit www.michigan.gov/taxes to obtain a form or call toll-free 1-800-367-6263 to have tax forms mailed to you.

Combined Sales, Use, Withholding and Michigan Business Tax Payments

You may make MBT monthly estimated payments with your Sales, Use and Withholding Taxes return. If you choose this convenient option, you only need to file one form and write one check for all the taxes you pay. If filing monthly using the *Combined Return for Michigan Taxes* (Form 160), monthly payments may be filed on the 20th day of the month. For example, a calendar year taxpayer may file monthly MBT estimates using Form 160 on February 20, March 20, and April 20 rather than a single quarterly payment on April 15 provided the combined estimates for those months are calculated using the instructions provided with the form. For taxpayers electing to make **monthly** remittances by Electronic Funds Transfer where the requirement to file a paper Form 160 has been waived, MBT estimates remain due on the 20th day of the month following the month's end. The estimated MBT for the quarter must also reasonably approximate the liability for the quarter.

Reporting Payments

Regardless of which form is used to file estimated MBT payments, report all MBT estimate payments on the annual MBT return.

NOTE: An annual return must be filed to claim a refund of the estimated payments made.

Penalty and Interest

Penalty is 5 percent of tax due for the first two months. Penalty increases by an additional 5 percent per month, or fraction thereof, after the second month to a maximum of 25 percent.

If the sum of the estimated payments is less than 85 percent of the annual liability, or the amount of the estimated payment doesn't equal the quarter's liability, interest will accrue.

The interest rate is adjusted by the Department of Treasury January 1 and July 1 of each year to 1 percent above the prime rate. For a complete list of interest rates, see RAB 2008-5 on the Treasury Web site at www.michigan.gov/taxes.

Filing Quarterly Tax Returns

Make your check payable to "State of Michigan" and write your account number and "2009 MBT Quarterly" on the front of the check. Mail your check with the MBT Quarterly Return for that installment. Do **NOT** staple the check to the return. Mail the check and return to:

Michigan Department of Treasury
P.O. Box 30774
Lansing, MI 48909-8274