



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

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**LETTER RULING 2013-3**

**LR 2013-3. Michigan Business Tax; Claim of Small Business Alternative Credit by an Irrevocable Trust**

You ask whether an irrevocable trust is subject to the small business alternative credit disqualifiers or reduction percentages applicable to individuals under MCL 208.1417(1)(a) and (c) of the Michigan Business Tax Act (MBTA).

Under the MBTA, the small business alternative credit is available to "any taxpayer with gross receipts that do not exceed \$20,000,000.00 and with adjusted business income minus the loss adjustment that does not exceed \$1,300,000.00 as adjusted annually for inflation . . . ." MCL 208.1417(1). However, an individual, partnership, limited liability company, or S corporation is disqualified from claiming the credit if the individual or any owner of the listed entity receives more than \$180,000 as a distributive share of the adjusted business income minus loss adjustment of the individual or listed entity. MCL 208.1417(1)(a).

Furthermore, the credit is subject to reduction percentages if the distributive share of the adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or S corporation is greater than \$160,000 but less than or equal to \$180,000. MCL 208.1417(c).

An irrevocable trust is not listed as being subject to the disqualifiers or reduction percentages; therefore, irrevocable trusts are not subject to the disqualifiers or reduction percentages listed under MCL 208.1417(1)(a) and (c). See *Alliance Obstetrics & Gynecology, PLC v Michigan Dep't of Treasury*, 285 Mich App 284 (2009).

However, the credit is not available to an irrevocable trust if the trust has gross receipts that exceed \$20,000,000.00 or has adjusted business income minus loss adjustment that exceeds \$1,300,000.00 as adjusted annually for inflation. MCL 208.1417(1).

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LR 2013-3

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