



Taxation Section

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Michigan Taxation An Overview

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Michigan Business Tax

Introduction

General Types of Taxes

- Business Taxes
 - Income/Franchise Tax
 - Sales and Use Tax
 - Real and Personal Property Taxes
 - Other/Miscellaneous Taxes
- Individual Taxes
 - Personal Income Tax
 - Estate Tax
 - Real Property Tax
 - Sales and Use Tax

Terms and Concepts

- Income Tax – Federal Taxable Income
- Privilege Tax – Tax on the exercise of a privilege
 - Exercise of a business franchise in Michigan (income, net worth, gross receipts)
 - Exercise of the right to sell or consume in Michigan
- Ad Valorem Tax
 - Tax based on value of property being taxed

Michigan Business Tax

- Single Business Tax Repeal Effective After 12/31/2007
- Michigan Business Tax Effective 1/1/2008
- Four New Taxes in a Single Act
 - Business Income Tax
 - Modified Gross Receipts Tax
 - Insurance Company Premiums Tax
 - Financial Institutions Tranchise Tax Based on Net Capital
- Plus: Alternative Small Business Tax (Small Business Credit)
- All Taxes \longrightarrow (Tax Base) \times (Apportionment) \times (Rate)

Michigan Business Tax

Business Income Tax

- 4.95% tax on apportioned business income
 - Surcharge 21.99% applies, which make effective rate 6.0385%
- Apportionment: $(\text{business income}) \times \left(\frac{\text{Michigan Sales}}{\text{total sales}} \right)$
- Unitary Basis – Greater than 50% common ownership and a “flow of value”
- Nexus and PL 86-272: physical presence must be more than solicitation of sales

Michigan Business Tax

Modified Gross Receipts Tax (“MGRT”)

- Calculated as $.8\% \times$ Modified Gross Receipts
 - Surcharge applies 21.99% which makes effective rate $.976\%$
- Modified Gross Receipts = Gross Receipts less “purchases from other firms”
- “Purchases from other firms” protects retailers and includes inventory, equipment, materials and supplies
- Dep’t: Materials and supplies used in connection with production of inventory
- Apportionment (MGRT base) $\times \left(\frac{\text{Michigan Sales}}{\text{total sales}} \right)$
- Nexus: Economic nexus

Michigan Business Tax

Alternative Small Business Tax for Business with no more than \$20M in gross receipts, no more than \$180,000 in officer/shareholder compensation, and no more than \$1.3M in business income, small business credit allows for an alternative tax of $\times 1.8\%$ of adjusted business income

- Apportioned based on sales also

Michigan Business Tax

Financial Institutions

- Separate tax on “net capital” 27.99 surcharge
 - 27.7% surcharge for 2008
 - 23.4% surcharge for 2009 and future years
 - No \$6M limitation

Insurance Companies

- Separate tax of 1.25% of gross direct premiums written on Michigan risk.
 - No surcharge
 - No unitary

Michigan Business Tax

Miscellaneous Issues

- Extensive Credits
 - Personal property tax credits
- Site based tax credits/benefits
- Unitary Filing – individuals, trusts, LLCs, etc.
- Nexus for MGRT – economic presence
- Surcharge
 - enacted to replace revenue lost from repeal of expanded use tax on services
 - placed out beginning in 2017 if certain personal income growth measures exceed zero for one of three prior years

Michigan Business Tax

Procedures

- Revenue Act Applies – stability in compliance and enforcement
- Finality of Taxes – no compromise
- Officer Liability/Successor Liability

Michigan Sales and Use Tax

Sales Tax

- Burden on consumer
- Collected by seller
- Streamline sales tax compliance

Michigan Sales and Use Tax

Use Tax

- Consumption or use of tangible personal property in Michigan
- Burden on consumer
- Self reported

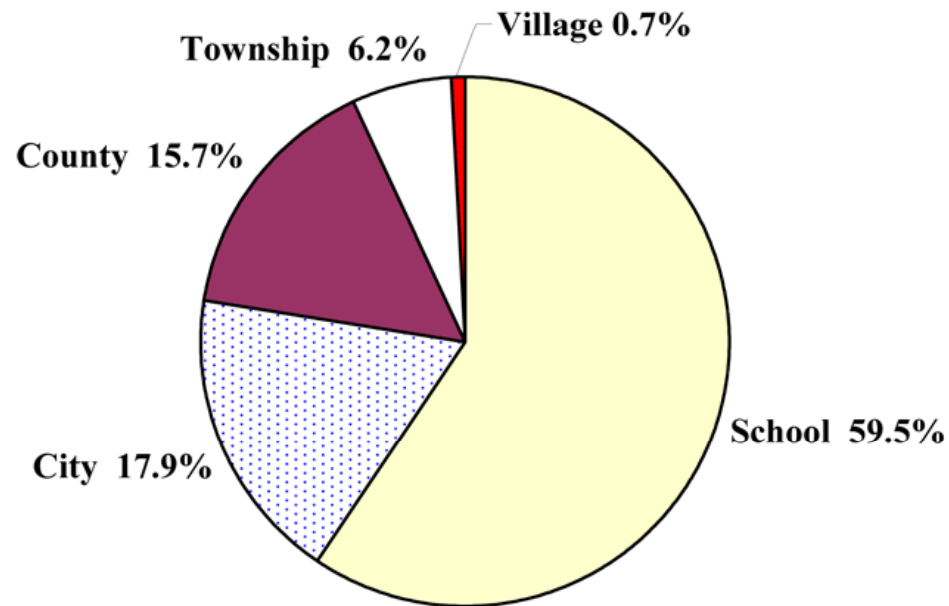
Michigan Property Taxes

- Overview: History, Revenue and Budgets
- Tax and Assessment Administration
- Fair Market Value
- Development of Assessed Value and State Equalized Values
- Development of Taxable Value, “Capping” and “Uncapping.”

History, Revenue and Budgets: Fun Facts to Know and Yell

- Established in 1893, the General Property Tax Act now taxes real property and business-owned personal property.
 - Eliminated taxes on homestead personal property (1930), business inventories (1974), millage reduction on business property (2006).
- 37% of Michigan's tax revenue, the single largest source of tax revenue. \$14.254 billion in 2007
- Homeowners pay 60% of all property taxes, commercial and industrial property owners pay 36%. But....
- Nationally, businesses pay the same amount of state and local property taxes that they pay for state and federal income taxes, *combined*.
- *Where does the money go?*

Exhibit 8
Most CY 2005 Property Taxes for Schools



Source: State Tax Commission.

Tax and Assessment Administration

- 1,803 local units collect and assess property taxes
 - 242 townships, 274 cities and 258 villages
 - 2,500 Michigan licensed assessors
- Law
 - State Constitution, Article 9;
 - General Property Tax Act MCL 211.1, *et seq.*;
 - Statutes and Administrative Rules for
 - The State Tax Commission
 - The State Assessor's Board
 - The Michigan Tax Tribunal
 - Local Charters

“True Cash Value:” Michigan’s Definition of Fair Market Value

- “**True Cash Value** means the usual selling price at the place where the property ...is at the time of assessment.”
MCL 211.27
 - May include auction sales but not if the sale was a bankruptcy.
 - For residential property, cannot consider cost of normal repairs and maintenance.
- Determined by **Mass Appraisal** on **December 31** of the previous calendar year.

What's a "mass appraisal?"

- Uses a standardized cost less depreciation method and adds the value of the land.
- Uses market-based multipliers and standardized sales studies to determine the average level of assessment for a group of similar properties.
- BUT does not always reflect the applicable method of valuation or unique aspects of the property.

Assessed Value and State Equalized Values

- **Assessed Value** is 50% of the assessor's determination of "true cash value."
- **State Equalized Value** is the assessed value that has been "equalized" by the state.
 - "Equalization" is a process in which county and state officials ensure that property is within a ratio of actual assessments to the projected average assessment (not more than 50% of true cash value" determined by of actual studies.
 - Until 1994, SEV was the tax base to which a millage rate was applied.

Taxable Value

- **Taxable Value** is the lesser of assessed value or “capped value.”
- What is capped value? It is a statutory formula for limiting the increase in tax base for particular properties to the inflation rate or 5% whichever is less.
- The formula: **Capped Taxable Value = (Prior Year's TV - LOSSES) x CPI or 5% + ADDITIONS.**

Taxable Value Example

- \$380,000 home in 2007:
 - AV/SEV is \$190,000; 2007 TV is \$120,000.
- In 2008, home decreases in value to \$340,000:
 - AV/SEV is \$170,000; 2008 TV is \$122,760
 - Capped TV= $(\$120,000 - 0) \times 1.023 + 0$
- In 2009, homeowner wins a tax appeal, which decreases the value to \$230,000.
 - AV/SEV is \$115,000; 2008 TV is \$115,000

Uncapping

- When property is transferred, the “cap” on taxable value is lifted in *the following calendar year*.
- The new taxable value will be the same as the assessed value.
- Several exemptions from “uncapping” apply to family transfers, business reorganizations, qualified agricultural property.

Calculation of the Tax: Millage and the Headlee Amendment

- What's a mill?
 - The tax rate.
 - 1/1000 (.001) of a dollar; or for each \$1,000 of taxable value, one mil is \$1 of tax.
 - Average millage for homesteads is 32.6 and for business property the average millage is 51.38.
 - Determined in September.
- Headlee Amendment of 1978 requires,
 - that increases in tax revenue may not exceed the rate of inflation; and,
 - that if, excluding growth from new development, the tax base increase exceeds the inflation rate, the millages must be “rolled back”.

MBT Property Tax Relief

- 18 mill school operating tax exemption for principal residences, industrial personal property and qualified agricultural property. MCL 280.1211
 - Commercial personal property is exempt from 12 mills.
 - Industrial personal property is also exempt from the 6 mill state education tax. MCL 211.903.
- Refundable MBT Credit
 - A credit of 35% of the personal property tax paid on a timely filed personal property tax return.

What to watch for?

- Assessment Change Notices will be issued in mid-February with the single largest increase in taxable value, 4.4%.
 - Appeals before Boards of Review in second week of March of primarily residential property.
 - Tribunal appeals for commercial and industrial property filed by May 31.
 - Tribunal appeals for residential and agricultural property July 31.
- In 2010, property tax revenue may begin to decline.
 - Lower projected CPI.
 - Cumulative effect of foreclosures, business failures and lower property values.

Miscellaneous Taxes

Michigan Personal Income, Estate,
Motor Fuel, Cigarette Tobacco, and
Real Estate Transfer Taxes

Personal Income Tax

- Michigan Personal Income Tax flows from federal adjusted gross income (AGI).
- Provides \$5.5 billion in state revenue.
- Michigan is below average in personal income tax revenue collection.
- Below-average collections put pressure on business taxes to resolve shortfalls.

Estate Tax

- Michigan estate tax flows from the federal Estate Tax Return.
- From 2005 to 2010, following federal tax law changes - no Michigan estate tax.
- Michigan is an unusual 'no estate tax' state.

Motor Fuel Tax

- The Motor Fuel Taxes are transaction taxes imposed on gasoline, diesel and other fuels when the fuels are imported into Michigan.
- Motor Fuel Tax revenue is earmarked for the state transportation system (new construction and maintenance of road, highway and bridge infrastructure).
- Gasoline tax provides \$932 million in revenue; diesel and motor carrier fuel taxes an additional \$141 million in revenue.
- Two gasoline taxes – one when gas imported, one at the pump.
- Truckers pay for diesel at the pump, or based on miles driven through Michigan.

Cigarette and Tobacco Taxes

- \$2.00/pack excise tax on cigarettes and a 32% tax on the wholesale price of other tobacco products.
- Cigarette and Tobacco Tax revenue is earmarked primarily for the School Aid Fund and Medicaid.
- Tax revenues down due to high federal + state taxes and Internet sales.
- Cigarettes and tobacco are taxed when imported into Michigan – tax flows through to the consumer.
- It is illegal to possess cigarettes in Michigan unless the package was subject to Michigan cigarette tax.
- Treasury will pursue and penalize Internet buyers who dodge this tax.

State and County Real Estate Transfer Tax

- Imposed on sellers by county and state treasurers.
- Exemptions from tax are available, many only apply to one transfer tax
- The tax is imposed on “Value,” or “fair market worth” of the transferred property.
- Tax also imposed on certain transfers of entity stock or interests – imposed to end a popular tax avoidance scheme.



Conclusion/Questions

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