

MICHIGAN BUSINESS TAX ACT (EXCERPT)
Act 36 of 2007

***** 208.1117 THIS SECTION IS REPEALED BY ACT 90 OF 2019 EFFECTIVE FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2031 *****

208.1117 Definitions; T, U.

Sec. 117.

(1) "Tangible personal property" means that term as defined in section 2 of the use tax act, 1937 PA 94, MCL 205.92.

(2) "Tax" means the tax imposed under this act, including interest and penalties under this act, unless the term is given a more limited meaning in the context of this act or a provision of this act.

(3) "Tax-exempt person" means an organization that is exempt from federal income tax under section 501(a) of the internal revenue code, and a partnership, limited liability company, joint venture, unincorporated association, or other group or combination of organizations acting as a unit if all such organizations are exempt from federal income tax under section 501(a) of the internal revenue code and if all activities of the unit are exclusively related to the charitable, educational, or other purposes or functions that are the basis for the exemption of such organizations from federal income tax, except the following:

(a) An organization exempt under section 501(c)(12) or (16) of the internal revenue code.

(b) An organization exempt under section 501(c)(4) of the internal revenue code that would be exempt under section 501(c)(12) of the internal revenue code but for its failure to meet the requirement in section 501(c)(12) that 85% or more of its income must consist of amounts collected from members.

(4) "Tax year" means the calendar year, or the fiscal year ending during the calendar year, upon the basis of which the tax base of a taxpayer is computed under this act. If a return is made for a fractional part of a year, tax year means the period for which the return is made. Except for the first return required by this act and except as otherwise provided under this subsection, a taxpayer's tax year is for the same period as is covered by its federal income tax return. A taxpayer that has a 52- or 53-week tax year beginning not more than 7 days before December 31 of any year is considered to have a tax year beginning after December of that tax year. If the term tax year in this act is used in reference to 1 or more previous or preceding tax years and those referenced tax years are before January 1, 2008, then those referenced tax years are deemed those same tax years during which former 1975 PA 228 was in effect. A taxpayer that has a fiscal tax year ending after December 31, 2011 is considered to have 2 separate tax years as follows: the first tax year is for the fractional part of the fiscal tax year before January 1, 2012, and the second tax year is for the fractional part of the fiscal tax year after December 31, 2011. Each short period tax return filed for each fractional part of the fiscal year pursuant to this subsection is considered an annual return under section 505.

(5) "Taxpayer" means, through December 31, 2011, a person or a unitary business group liable for a tax, interest, or penalty under this act. Beginning January 1, 2012, taxpayer means any of the following:

(a) A person or unitary business group that has been approved to receive, has received, or has been assigned a certificated credit but is not subject to the tax imposed under part 2 of the income tax act of 1967, 1967 PA 281, MCL 206.601 to 206.699, and that elects under section 500 to file a return and pay the tax imposed under this act, if any.

(b) A person or unitary business group that has been approved to receive, has received, or has been assigned a certificated credit and that elected under section 680 of the income tax act of 1967, 1967 PA 281, MCL 206.680, to file a return and pay the tax imposed under this act, if any. Except as otherwise provided under section 500(7), if a person or unitary business group that elects under section 680 of the income tax act of 1967, 1967 PA 281, MCL 206.680, to file a return and pay the tax imposed under this act is part of a unitary business group as defined under this act, the unitary business group as defined under this act shall file the return and pay the tax, if any, under this act.

(c) A person that acquires, pursuant to the modification of an existing written agreement approved by a resolution of the Michigan strategic fund board on November 27, 2018 and the subsequent transfer of that written agreement, a certificated credit authorized by the Michigan economic growth authority in 2004 under section 431, or the unitary business group of which the acquiring person is a member, elects under section 680(5) of the income tax act of 1967, 1967 PA 281, MCL 206.680, to file a return and pay the tax imposed under this act in lieu of the tax imposed under part 2 of the income tax act of 1967, 1967 PA 281, MCL 206.601 to 206.699.

(6) "Unitary business group" means a group of United States persons, other than a foreign operating entity, 1 of which owns or controls, directly or indirectly, more than 50% of the ownership interest with voting rights or ownership interests that confer comparable rights to voting rights of the other United States persons, and that has business activities or operations which result in a flow of value between or among persons included in the unitary

business group or has business activities or operations that are integrated with, are dependent upon, or contribute to each other. For purposes of this subsection, flow of value is determined by reviewing the totality of facts and circumstances of business activities and operations.

(7) "United States person" means that term as defined in section 7701(a)(30) of the internal revenue code.

(8) "Unrelated business activity" means, for a tax-exempt person, business activity directly connected with an unrelated trade or business as defined in section 513 of the internal revenue code.

History: 2007, Act 36, Eff. Jan. 1, 2008 ;-- Am. 2009, Act 142, Eff. Dec. 31, 2007 ;-- Am. 2011, Act 39, Imd. Eff. May 25, 2011 ;-- Am. 2011, Act 209, Eff. Jan. 1, 2012 ;-- Am. 2011, Act 292, Eff. Jan. 1, 2012 ;-- Am. 2019, Act 90, Imd. Eff. Oct. 10, 2019

Compiler's Notes: Enacting section 1 of Act 36 of 2007 provides: "Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007." Enacting section 1 of Act 142 of 2009 provides: "Enacting section 1. This amendatory act is retroactive and is effective for tax years beginning after December 31, 2007." Enacting section 1 of Act 39 of 2011 provides: "Enacting section 1. The Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, is repealed effective on the date that the secretary of state receives a written notice from the department of treasury that the last certificated credit or any carryforward from that certificated credit has been claimed." Enacting section 2 of Act 292 of 2011 provides: "Enacting section 2. It is the intent of the legislature that the \$75,000,000.00 savings realized in reduced credits allowed under section 434(5) and (6) of the Michigan business tax act, 2007 PA 36, MCL 208.1434, as a result of this amendatory act shall be passed on and utilized to replace any revenue lost due to any personal property tax reform." Enacting section 2 of Act 90 of 2019 provides: "Enacting section 2. This amendatory act is retroactive and effective for tax years beginning after December 31, 2017."

Popular Name: MBT