Michigan - 2011 tax year refund based on MTC election due April 1

March 8, 2013

In brief

A time sensitive opportunity exists for a taxpayer to elect to use the equally weighted three-factor formula under the Multistate Tax Compact (MTC) in lieu of the single sales factor when calculating the Michigan Business Tax for the 2011 tax year.

Michigan enacted legislation effective January 1, 2011, that precludes taxpayers from apportioning income under the MTC. Notwithstanding this legislation, a position exists that the MTC election is still valid for the 2011 tax year.

Refund claims relative to the 2011 tax year should be filed within 90 days of the due date set for filing the original return if the election was not made on an original return. For companies that extended their December 31, 2011, Michigan return by filing a Michigan extension by April 30, 2012, and which also had a federal extension, the original return was due December 31, 2012, so any refund claim would need to be filed by April 1, 2013 (90 days after December 31, 2012, is March 31, 2013, which falls on a Sunday). The 90 day statute of limitations is outlined in MCL 205.27a and is applied when constitutional arguments are being raised.

As it relates to refund claims utilizing the MTC election for the 2008, 2009, and 2010 tax years, there are other, non-constitutional arguments being raised, so the 90 day statute of limitations is of less concern.

Let's talk

If you have any questions, please contact one of the following individuals:

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