

Michigan expands voluntary disclosure agreement benefits

October 24, 2013

In brief

Effective October 15, 2013, [H.B. 4586](#) provides several changes to Michigan's voluntary disclosure agreement program, including limiting the look-back period to a combined four years for all taxes. The state previously applied a separate four-year look-back period for each business tax.

Interested taxpayers discouraged by the prior expanded look-back period, or encouraged by the benefits resulting from other changes, should consider the benefits of entering into a voluntary disclosure agreement with the state.

In detail

Effective October 15, 2013, H.B. 4586 makes the following changes to Michigan's voluntary disclosure agreement (VDA) program:

- **Combined look-back period limited to four years.** Prior law was unclear regarding whether the VDA's four-year look back period was applied separately for each tax or on a combined basis. H.B. 4586 provides that the combined look-back period for all taxes covered in an agreement is generally limited to the four most recent completed fiscal or calendar years over a 48-month period.
- **Certain refunds required.** H.B. 4586 requires the refund of taxes to a taxpayer that entered into a VDA after October 1, 2012, and before May 1, 2013, if the combined look-back period under that agreement exceeded a combined 48 months.
- **Corporate Income Tax included.** H.B. 4586 expressly includes Michigan's Corporate Income Tax among the taxes covered by the look-back period of the VDA.
- **Reference to nexus standard modified.** Prior law provided that a nonfiler could enter into a VDA if it had a filing responsibility under nexus standards issued by the department after December 31, 1997.

H.B. 4586 adds that such nexus standards may be those issued by the department *or enacted into law* after December 31, 1997, which incorporates the statutory Corporate Income Tax nexus standards that have not yet been addressed in Department guidance.

The takeaway

H.B. 4586 provides a significant benefit to taxpayers entering into VDAs with the state. The state's interpretation of the prior version of the VDA statute resulted in the imposition of a separate four-year look-back for every business tax. This could have resulted in a four-year look-back for the Single Business Tax, a four-year look-back for the Michigan Business Tax, and any applicable

Corporate Income Tax years. With this statutory change, taxpayers negotiating VDAs should be encouraged that their total look-back period under all taxes administered under the VDA is limited to a total of four years.

Let's talk

If you have any questions regarding Michigan voluntary disclosure agreements, please contact:

State and Local Tax Services

Eric Burkheiser
Partner, *Detroit*
+1 (313) 394-6407
eric.v.burkheiser@us.pwc.com

Ralph Cornell
Partner, *Detroit*
+1 (313) 394-6607
ralph.s.cornell@us.pwc.com

Ralph Ourlian
Director, *Detroit*
+1 (313) 394-6080
ralph.r.ourlian@us.pwc.com

Tim Pratschler
Director, *Detroit*
+1 (313) 394-6508
timothy.s.pratschler@us.pwc.com