



Proposed Changes to Michigan's Business Tax

Todd W. Hoppe

Foster Swift Agricultural Law Update

April 2011

Michigan Governor Rick Snyder has proposed a replacement for the largely unpopular and complex Michigan Business Tax. Under the current Michigan Business Tax, most businesses with annual gross receipts in excess of \$350,000 are subject to a tax of 0.975% on their gross receipts (0.8% tax, plus a 21.99% surcharge), and an income tax of 6.0385% on their business income (4.95% tax, plus a 21.99% surcharge). Most businesses are subject to the tax. However, certain agricultural businesses (i.e., certain exempt agricultural cooperatives) are exempt. Additionally, the law contains a multitude of credits and special incentives, which reduce the tax base upon which MBT liability is calculated.

In response to the unpopularity of the Michigan Business Tax, and specifically credits and incentives that benefit only certain businesses and the gross receipts tax that burdens even unprofitable businesses, Governor Snyder has proposed a flat 6% corporate income tax on substantially all "C corporations." The tax would be calculated based upon taxpayers' federal taxable income, as reported on their IRS Form 1120 corporate income tax return. Most credits and incentives would be eliminated.

Pass-through entities, such as partnerships (including multiple-member limited liability companies taxed as a partnership), S Corporations, and sole proprietorships (including single member limited liability companies that are treated as "disregarded entities" for federal income purposes) would be exempt from the tax. Instead, the owners of those pass-through entities would be subject to Michigan's 4.35% individual income tax on all business income allocated to them.

This structure mirrors the federal income taxation of businesses, under which C corporations are subject to income tax at an entity level, pass-through tax entities pay no income tax, and the owners of pass-through entities pay taxes on business income allocated to them. The proposed Michigan corporate income tax does not exempt agricultural businesses, such as cooperatives, from the tax.

AUTHORS/ CONTRIBUTORS

Todd W. Hoppe

PRACTICE AREAS

Agri-Business



We will continue to monitor the status of Governor Snyder's legislative initiative and report on developments as they arise.
