BUSINESS STRATEGISTS
CERTIFIED PUBLIC ACCOUNTANTS
ECHELBARGER, HIMEBAUGH, TAMM & CO., P.C.

Excess Compensation Reduction/Gross Receipts Reduction (Defined)

The Act provides several elective methods of computing tax depending on a person's eligibility. These alternatives were designed to give relief to taxpayers with a high labor base or high tax base in relation to gross receipts. All alternatives are determined as a reduction to the adjusted tax base.

Tax

The original tax rate was 2.35% of adjusted tax base. (MCL 208.31(1)(a)) Effective October 1, 1994, the tax rate was changed to 2.30%. (MCL 208.31(1)(b)) Public Act 115 of 1999 provided for annual reductions in the tax rate. Section 31 was amended to provide for 0.1 percent reduction in the tax rate starting January 1, 1999 and each January 1 after 1999 when the annual financial report of the state shows a balance in the economic stabilization fund in excess of $250 million. (MCL 208.31(5)) Public Act 531 of 2002 accelerated the repeal of the Single Business Tax to tax years beginning after December 31, 2009. The tax rate for 2006 is 1.9%

Excess Compensation Reduction

A taxpayer may elect to reduce the adjusted tax base by the percentage that total compensation divided by the total tax base exceeds 63%. (MCL 208.31(4))
Use Form C-8000S REDUCTIONS TO ADJUSTED TAX BASE.

Gross Receipts Reduction

A taxpayer may elect the option to reduce the adjusted tax base to equal 50% of adjusted gross receipts (gross receipts plus any capital acquisition recapture). (MCL 208.31(2))
Use form C-8000S REDUCTIONS TO ADJUSTED TAX BASE.

Gross Receipts Defined

The Single Business Tax instruction booklet includes a Gross Receipts Checklist. However, they state in a Note: This checklist is not intended to be all encompassing. The following is their checklist, which is to be used very carefully, and reference to the actual statute is advised.

Receipts include - but are not limited to:

1. Receipts (sales price) from the sale of assets used in a business activity;
2. Sale of Products;
3. Services performed;
4. Gratuities stipulated on a bill;

5. Sales tax collected on the sale of tangible personal property;
6. Dividend and interest income;
7. Gross commissions earned;
8. Rents;
9. Royalties;
10. Professional services;
11. Sales of scrap or other similar items;
12. Client reimbursed expenses not obtained in an agency capacity;
13. Gross proceeds from intercompany sales.

Receipts exclude:

1. Proceeds from sales by a principal that are collected in an agency capacity solely on behalf of the principal and delivered to the principal;
2. Amounts received as an agent solely on behalf of the principal that are expended by the taxpayer under certain circumstances;
3. Amounts from gross income of a foreign corporation engaged in the international operation of aircraft under section 883(a) of the internal revenue code;
4. Amounts received by an advertising agency used to acquire advertising, media time, space, production, or talent on behalf of another person;
5. Amounts received by a person that manages real property owned by a client that are deposited into a separate account kept in the name of the client and that are not reimbursed and are not indirect payments for management services provided to the client.

Gross Receipts Computation

A taxpayer may elect to file a one-page Single Business Tax Return Form C-8044 Single Business Tax Simplified Return by using the 50% of gross receipts method. Only three items have to be determined for the computation:

1. Gross receipts
2. Recapture of the capital acquisition deduction
3. Business Income
4. Adjusted Business Income

The tax base is determined by taking 50% of the sum of gross receipts plus the capital acquisition recapture. It should be noted that this method produces the maximum Single Business Tax liability that can be paid under the Act.

After 50% of gross receipts and capital acquisition recapture are determined, the tax rate is applied to calculate the tax due before credits. The unincorporated "S" corporation credit is then subtracted, leaving the tax due for the return.

The Small Business Credit can be used in this computation. However, to take this credit, C-8000C CREDITS must be filled out in its entirety. This means that all elements needed to develop the adjusted tax base (as if the "50% Method" were not elected) must be calculated.

Statutory Definition Of Gross Receipts

Section 7 (MCL 208.7) provides a statutory definition of "Gross Receipts" and "Sales".

Public Act 477 of 2000, effective for tax years starting after December 31, 2000, amended Section 7 of the Single Business Tax Act. The new law “gross receipts” as the entire amount received by the taxpayer from any activity whether intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit or advantage to the taxpayer or others. The act removed the reference to gross receipts in the subsection (1) definition of sale or sales, but retained the balance of the definition. The legislation also provided clarification of the agency exceptions from gross receipts.

Public Act 606 of 2002, effective for tax years that begin on or after October 1, 2003 provides some limited relief from the PA 477 expanded gross receipts definition.

PA 606 provided the following exclusions from the definition of gross receipts:

1. Certain sales of accounts receivable,
2. Proceeds from the original issuance of stock or equity instruments,
3. Proceeds from the original issue of debt instruments,
4. Refunds from returned merchandise,
5. Cash and in-kind discounts,
6. Trade discounts,
7. Federal, state or local tax refunds,
8. Security deposits,
9. Payments of the principal portion of loans,
10. Value of property received in a like kind exchange,
11. Proceeds from the sale or other disposition of tangible, intangible, or real property that is a capital asset,
12. Certain proceeds from a policy of insurance and related claims or judgments.

Please note that interest, dividends and royalties are not excluded from the definition of gross receipts despite the fact that these items are otherwise excluded from the tax base and apportionment factors for SBT purposes. Also, proceeds from the sale of depreciable assets are not excluded.

Following is the current Section 7 of the Single Business Tax Act (MCL 208.7), as amended by Public Act 477 of 2000, and as shown in bold, as amended by Public Act 606 of 2002.

> (1) As used in this act: (a) “Sale” or “sales” means the amounts received by the taxpayer as consideration from the following:
> (i) The transfer of title to, or possession of, property that is stock in trade or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the tax period or property held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business.

(ii) The performance of services, which constitute business activities other than those included in subparagraph (i), or from any combination of business activities described in this subparagraph and subparagraph (i).
(iii) The rental, lease, licensing, or use of tangible or intangible property which constitutes business activity.
(b) “Sale” or “sales” does not include dividends, interest, and royalties received by the taxpayer to the extent deducted from the taxpayer's tax base under section 9(7) but does include royalties, fees, or other payments or consideration not deducted from tax base under section 9(7) except those royalties paid to a franchisor as consideration for the use outside of this state of trade names, trademarks, and similar intangible property.
(2) “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or political subdivision of any of the foregoing.
(3) “Gross receipts” means the entire amount received by the taxpayer from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others except for the following: (a) Proceeds from sales by a principal that the taxpayer collects in an agency capacity solely on behalf of the principal and delivers to the principal.
(b) Amounts received by the taxpayer as an agent solely on behalf of the principal that are expended by the taxpayer for any of the following:
(i) The performance of a service by a third party for the benefit of the principal that is required by law to be performed by a licensed person.
(ii) The performance of a service by a third party for the benefit of the principal that the taxpayer has not undertaken a contractual duty to perform.
(iii) Principal and interest under a mortgage loan or land contract, lease or rental payments, or taxes, utilities, or insurance premiums relating to real or personal property owned or leased by the principal.
(iv) A capital asset of a type that is, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated cost recovery by the principal for federal income tax purposes, or for real property owned or leased by the principal.
(v) Property not described under subparagraph (iv) purchased by the taxpayer on behalf of the principal and that the taxpayer does not take title to or use in the course of performing its contractual business activities.
(vi) Fees, taxes, assessments, levies, fines, penalties, or other payments established by law that are paid to a governmental entity and that are the legal obligation of the principal.
(c) Amounts that are excluded from gross income of a foreign corporation engaged in the international operation of aircraft under section 883(a) of the internal revenue code.
(d) Amounts received by an advertising agency used to acquire advertising media time, space, production, or talent on behalf of another person.

(e) Notwithstanding any other provision of this section, amounts received by a taxpayer that manages real property owned by the taxpayer's client that are deposited into a separate account kept in the name of the taxpayer's client and that are not reimbursements to the taxpayer and are not indirect payments for management services that the taxpayer provides to that client.
(f) Proceeds from the taxpayer's transfer of an accounts receivable if the sale that generated the accounts receivable was included in gross receipts for federal income tax purposes. This subdivision does not apply to a taxpayer that during the tax year both buys and sells receivables.
(g) Proceeds from any of the follow

- (i) The original issue of stock or equity instruments.
- (ii) The original issue of debt instruments.

(h) Refunds from returned merchandise.
(i) Cash and in-kind discounts.
(j) Trade discounts.
(k) Federal, state, or local tax refunds.
(l) Security deposits.
(m) Payment of the principal portion of loans.
(n) Value of property received in a like kind exchange.
(o) Proceeds from a sale, transaction, exchange, involuntary conversion, or other disposition of tangible, intangible, or real property that is a capital asset as defined in section 1221(a) of the internal revenue code or land that qualifies as property used in a trade or business as defined in section 1231(b) of the internal revenue code, less any gain from the disposition to the extent that gain is included in federal taxable income.
(p) The proceeds from a policy of insurance, settlement of a claim, or a judgment in a civil action less any proceeds under this subdivision that are included in federal taxable income.