

## STATE OF MICHIGAN



## 2011 TAX SCHOOL

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## APPEALS PROCESS

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## APPEALS PROCESS

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- ▶ Appeal rights are explained on the reverse side of the intent and final assessment forms and on refund denial or adjustment notices.
  - ◆ Intent to assess/Refund denial notices
    - Written appeal must be within 60 days of the intent/notice date for an informal conference.

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## APPEALS PROCESS

- ◆ *Final Assessment*
  - *Written appeal must be within 35 days of the final date for the tax tribunal and undisputed amounts paid.*
  - *Written appeal must be within 90 days of final date for court of claims and total assessment paid in full.*

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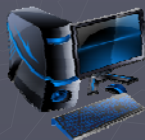
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## CONTACT US

*Practitioner Services*  
*www.michigan.gov/taxes*

- ▶ *Web Based*
- ▶ *Practitioners Only*




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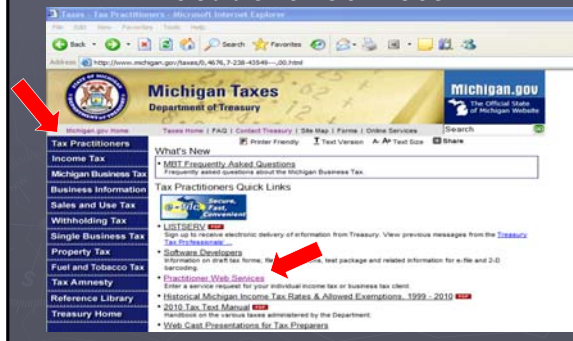
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## CONTACT US

*Practitioner Services*




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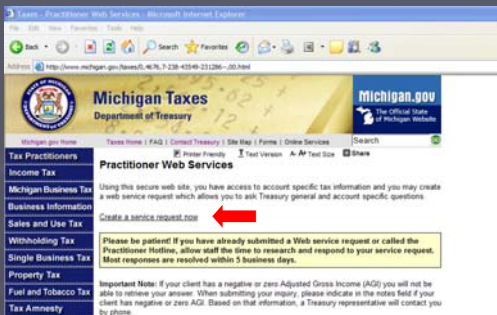
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# CONTACT US

Practitioner Services



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# WHAT'S NEW FOR 2011



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# WHAT'S NEW FOR 2011

*PA 38 of 2011 (HB 4361), signed into law on May of 2011, contains extensive changes to Michigan's Individual Income Tax. Most of these changes will not affect individual income tax returns until the 2012 tax year.*



*More to come....*

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## WHAT'S NEW FOR 2011

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- ▶ *The individual income tax rate for 2011 is 4.35 percent and remains that rate until January 1, 2013.*
- ▶ *The rate reduction to 4.25 percent that was scheduled to occur on October 1, 2011, was eliminated.*



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## WHAT'S NEW FOR 2011

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### *Small Business Investment Tax Credit*

- ▶ *For 2011 and 2012 tax year*
- ▶ *Investment of \$20,000 or more after December 31, 2010 and before January 1, 2013 made alongside of or through a seed venture capital or angel investor group approved by the Michigan Strategic Fund (MSF)*
- ▶ *Must have certificate from MSF to claim the credit*



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## WHAT'S NEW FOR 2011

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### Voluntary Contributions

- ▶ *New fund – Girl Scouts of Michigan Fund*
- ▶ *Five funds removed:*
  - *Animal Welfare Fund*
  - *Children of Veterans Tuition Grant*
  - *Children's Trust Fund*
  - *Military Family Relief Fund*
  - *United Way Fund*



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## WHAT'S NEW FOR 2011

### Michigan College Tuition Credit

- ▶ Bay Mills Community College
- ▶ Henry Ford Community College
- ▶ ITT Tech – Canton, Dearborn, Swartz Creek, Troy, Wyoming
- ▶ Oakland Community College



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## 2011 REMINDERS



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## 2011 REMINDERS

### Michigan Follows The IRS Calendar

- ▶ **January 17, 2012** (tentative)  
Begin transmitting of live returns.
- ▶ **October 15, 2012**  
Last day to transmit late returns or returns on extension using the electronic management system (EMS).
- ▶ **October 20, 2012**  
Last day to retransmit rejected late returns or returns on extension using EMS.
- ▶ **November 22, 2012**  
Last day to retransmit rejected late returns or returns on extension using modernized e-file (MeF).

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## 2011 REMINDERS

- ▶ Tax Rate 4.35%
- ▶ Exemption \$3,700
- ▶ Special Exemption \$2,400
- ▶ Child Care Deduction \$600
- ▶ Qualified Disabled Veteran \$300

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## 2011 REMINDERS

- ▶ Pension -       Single   \$45,842  
                          Joint    \$91,684
- ▶ Senior Citizen Interest, Dividends And  
Capital Gains - Single \$10,218  
                                  Joint   \$20,437

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## 2011 REMINDERS

- ▶ 2011 is the last year for Energy Efficient  
Qualified Home Improvement Credit and  
Energy Surcharge Credit

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## 2011 REMINDERS

### Roth IRAs

- ▶ 2010 Federal rollover rules allow installment reporting in 2011 & 2012
- ▶ Can be subtracted in 2011 if taxpayer is 59½ when rollover occurred in 2010
- ▶ In household income for 2011

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## 2011 REMINDERS

### Roth IRAs

- ▶ Distributions in HHI to the extent in AGI
- ▶ Distributions of earnings are HHI - follows Federal ordering rules
- ▶ Losses are not recognized in Michigan taxable income or HHI

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## 2011 REMINDERS

### Casualty And Theft Losses

- ▶ IRS Rev Rul 2009-9 & Rev Proc 2009-20 - address "Ponzi" scheme investment arrangements
- ▶ Theft losses claimed as Schedule A itemized deduction do not affect Michigan return

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## 2011 REMINDERS

### Casualty And Theft Losses

- ▶ If prior year Federal returns amended to remove investment income, must provide Michigan with proof IRS accepted Federal amended return upon request
- ▶ Generally, no obligation to restore investment income so no Section 1341 Claim of Right deduction

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## RETIREMENT/PENSIONS <sup>47</sup>



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## RETIREMENT/PENSIONS <sup>47</sup>

Retirement Or Pension Benefits Can Be Deducted On The MI-1040 Under Certain Conditions:

- ▶ Distributions received after retirement under plan provisions
  - ▶ Paid from retirement trust fund or annuity contract
- .....and

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### **RETIREMENT/PENSIONS**

- ▶ *Distributions must be paid to the participant of the plan*
- Or*
- ▶ *The surviving spouse if the decedent qualified for benefits prior to death.*

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### **RETIREMENT/PENSIONS**

*IRA Distributions Can Be Deducted Under The Following Circumstances:*

- ▶ *On retirement at age 59½ or older*
- ▶ *Disability prior to age 59½*
- ▶ *Death (Restrictions)*

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### **RETIREMENT/PENSIONS**

- ▶ *Part of a series of equal payments made for life*
- ▶ *Distributions used for qualified higher education expenses*

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## RETIREMENT/PENSIONS

### Senior Citizen Annuity

- ▶ Benefits received from a retirement annuity policy in which the payments are made for life to a senior citizen.
- ▶ Senior citizen at least age 65 on December 31 or the unmarried surviving spouse of the senior citizen.

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## RETIREMENT/PENSIONS

### 401(k) And 403(b) Plans

- ▶ Distributions are deductible if they are attributable to contributions mandated by the plan.
- ▶ A contribution is considered mandated if the employee must contribute to elicit employer match.

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## RETIREMENT/PENSIONS

### 401(k) And 403(b) Plans:

- ▶ Excess contributions by participant over plan limit - distribution must be prorated.
- ▶ Plans that only provide for employee contributions do NOT qualify.

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### RETIREMENT/PENSIONS

The Following Are NOT Deductible As Pension Benefits:

- ▶ *Deferred Compensation Plans - 457*
- ▶ *Early or premature distributions*
- ▶ *Distributions received by beneficiary other than spouse  
.....and*

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### RETIREMENT/PENSIONS

- ▶ *"Incentive to retire early" payments unless paid through retirement trust*
- ▶ *Certain payments from a commercial annuity contract*
- ▶ *Payments not made from a retirement trust, custodial account, or annuity contract*

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### RETIREMENT/PENSIONS

Once Conditions Are Met, There May Be Limits On The Amount That Can Be Deducted:

- ▶ *Public pensions may be deducted to the extent included in Adjusted Gross Income*
- ▶ *Private pensions are limited by statute*

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## RETIREMENT/PENSIONS

### PUBLIC PENSIONS

- ▶ *Federal Civil Service*
- ▶ *State Of Michigan Public Retirement Systems And Political Subdivisions Of Michigan*
- ▶ *Military Retirement*
- ▶ *Tier 2 Railroad Retirement*

.....and

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## RETIREMENT/PENSIONS

- ▶ *Public pensions from other states or any of its political subdivision that have a reciprocal deduction or exemption to Michigan*

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## MICHIGAN COMPOSITE RETURN




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## **MICHIGAN COMPOSITE** <sup>59</sup> **RETURN**

- ▶ *A return filed by an S-Corporation, partnership, or other flow through entity on behalf of their shareholders or partners who are nonresidents of Michigan. Estates and trusts may not file composite returns.*



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## **MICHIGAN COMPOSITE** <sup>59</sup> **RETURN**

- ▶ *Entity must have two or more nonresident members, shareholders, or partners*
- ▶ *RAB 2004-1 describes procedures for filing composite returns*



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## **Flow Through Entity** <sup>59</sup> **Withholding**

- ▶ *A flow through entity with income attributable to Michigan must register and withhold individual income tax on the taxable distributable share income of all nonresident members.*
- ▶ *RAB 2010-7 and 2010-8*
- ▶ *Withholding is not required if the income is not taxable (protected by PL 86-272, member is exempt from tax).*



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### **HOMESTEAD PROPERTY TAX CREDIT**



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### **HOMESTEAD PROPERTY TAX CREDIT**

- ▶ *HOUSEHOLD INCOME*
  - *Income is defined in MCL 206.510 as Federal AGI plus income specifically excluded or exempt from computation of Federal AGI.*
  - *(All Taxable and Nontaxable Income)*

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### **HOMESTEAD PROPERTY TAX CREDIT**

- ▶ *The taxes eligible for the credit are those levied in the tax year regardless of when paid.*
- ▶ *Collection fees of up to 1% of the property taxes and special assessments based on taxable value and applied to the entire taxing jurisdiction.*

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### **HOMESTEAD PROPERTY TAX CREDIT**

- ▶ *Married filing separate, both reside in the house the entire year.*
- ▶ *Only one homestead property tax credit can be claimed. Income from both spouses must be included in household income.*

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### **HOMESTEAD PROPERTY TAX CREDIT**

- ▶ *Married living in different states and filing a joint Federal return.*
- ▶ *Spouse living in Michigan can claim the credit. Household income includes income from both spouses*

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### **HOMESTEAD PROPERTY TAX CREDIT**

- ▶ *Married filing separate, two separate permanent residences in Michigan.*
- ▶ *Each may claim a credit for the principal residence that he/she resides in.*

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### **HOMESTEAD PROPERTY TAX CREDIT**

- ▶ *Married living in different state and filing separate returns.*
  
- ▶ *Spouse living in Michigan can claim the credit and includes only his/her income in household income.*

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### **HOMESTEAD PROPERTY TAX CREDIT**

- ▶ *Divorced couple, both own the house, only one living in the house the entire year.*
  
- ▶ *Only the spouse that resides in the home is eligible for the credit, unless the other spouse resided in the home during the year.*

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### **HOMESTEAD PROPERTY TAX CREDIT**

- ▶ *Shared Housing - two or more individuals sharing a homestead.*
  
- ▶ *Each can file a credit claim if each person is contracted to pay rent or owns a share of the home.*
  
- ▶ *Each claim is based on his/her household income and prorated share of the taxes or rent paid.*

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### **CANCELLATION OF DEBT**

- ▶ *If a debt is cancelled or forgiven, the amount of the debt must be included in gross income of the individual.*
- ▶ *Taxpayer may receive from the lender:*
  - *1099-A - used to compute federal gain or loss if the home is transferred in a foreclosure.*
  - *1099-C - reports any debt canceled by the lender in box 2.*

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### **CANCELLATION OF DEBT**

- ▶ *Income arising from the cancellation of debt included in Federal AGI is subject to Michigan Income Tax.*
- ▶ *Generally, the amount of the canceled debt is included in household income.*

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### **MICHIGAN TREATMENT**

*Foreclosure*

*Short Sale*

*Loan Modification*

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## **FACTS**

- ▶ *Christine bought a home in 2003*
- ▶ *Purchase price (basis) \$100,000*
- ▶ *Mortgage balance \$ 80,000*

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## **FORECLOSURE**

- ▶ *Foreclosure on October 1, 2010*
  - *Bank is owed \$80,000*
  - *Bank is lower bidder at \$65,000*
  - *Bank receives Sheriff's Deed*
  - *Redemption period is 6 months*
  - *Redemption expires April 1, 2011*

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## **FORECLOSURE**

- *During 2010, no gain or loss on foreclosure because redemption period has not expired.*
- *2010 property taxes can still be claimed for the 2010 property tax credit because Christine is still the owner.*

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## FORECLOSURE

- ▶ On April 1, 2011
  - ▶ Redemption period expires
  - ▶ Bank's deed becomes operative
  - ▶ Ownership rights transfer

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## FORECLOSURE

- ▶ Loss On Foreclosure Basis

	\$100,000
Auction Price	- <u>65,000</u>
Loss	\$35,000
- ▶ Capital loss of \$35,000 occurs in 2011 and is not deductible anywhere.

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## FORECLOSURE

- ▶ After redemption rights expire on April 1, 2011, the bank does not pursue Christine for the balance owed of \$15,000.
- ▶ Mortgage balance \$80,000
- ▶ Less sale proceeds to bank - 65,000
- ▶ Cancellation of debt (COD) \$15,000

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## FORECLOSURE

*COD of \$15,000 for 2011*

- *Not in AGI and is not taxable.*
- *In household income for property tax credit.*
- *Christine can claim 3 months of ownership and pro-rate the property taxes for 2011 for the property tax credit.*

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## SHORT SALE

- ▶ *Christine avoids foreclosure by working with the bank.*
- ▶ *She sells the house for \$65,000 to Fred.*
- ▶ *Bank forgives the difference of \$15,000.*

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## SHORT SALE

- ▶ *Basis* *\$100,000*
- ▶ *Selling Price* *-65,000*
- ▶ *Loss On Sale* *\$ 35,000*

*Loss not in taxable income or household income.*

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## SHORT SALE

- ▶ Mortgage balance \$80,000
- ▶ Less sale price 65,000
- ▶ Cancellation of debt \$15,000

*Cancellation of Debt not in AGI and not taxable; IS included in household income for property tax credit.*

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## LOAN MODIFICATION

- ▶ Christine avoids foreclosure by working with the bank.
- ▶ Bank agrees to reduce mortgage balance to \$65,000.
- ▶ Bank forgives \$15,000.

*Christine will receive a 1099-C for \$15,000.*

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## LOAN MODIFICATION

- ▶ Basis \$100,000
- ▶ Less COD -15,000
- ▶ Adjusted Basis \$ 85,000

*COD is not in current HHI because the COD reduces a tax attribute (basis). See RAB 1989-11.*

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## 2012 Tax Changes

### Disclosure

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Information regarding the tax changes for the 2012 tax year should be considered tentative. Further guidance will be provided by the Department of Treasury as it becomes available.

[www.michigan.gov/taxes](http://www.michigan.gov/taxes)

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## 2012 Tax Changes

- ▶ Tax Restructuring signed by Governor Snyder on May 25, 2011.
- ▶ Changed treatment of pension and retirement benefits.
- ▶ Statutory requirement to withhold.
- ▶ Elimination of certain credits and exemptions.
- ▶ Replaced MBT with a Corporate Income Tax.

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## 2012 Tax Changes

### "Household Resources"

MCL 206.506(4) "Total household resources" means all income received by all persons of a household in a tax year while members of a household, plus any net business loss after netting all business income and loss, plus any net rental or royalty loss, plus any deduction from federal adjusted gross income for a carryback or carryforward of a net operating loss as defined in section 172(b)(2) of the internal revenue code."

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## **CHANGES TO RETIREMENT BENEFIT TREATMENT FOR MICHIGAN INDIVIDUAL INCOME TAX**



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### **BORN PRIOR TO 1946**

- ▶ *No Change In The Current Law*
  - *Social Security Exempt*
  - *Deduction for Investment Income Unchanged*
  - *Public Pensions Exempt*
  - *Private Pensions Subtract \$45,842 for Single and \$91,684 for Joint Filers*

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### **Born Between 1946 And 1952**

- ▶ *Before reaching 67*
  - *Social Security, Railroad, Military Exempt*
  - *Not eligible for deduction for investment income*
  - *Pension subtraction limited to \$20k for single / \$40k for joint filers*
  - *Not eligible for \$20k/\$40k pension subtraction if total household resources exceed \$75k single / \$150k joint*

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## **Born Between 1946 And 1952 (cont'd)**

- ▶ *After Reaching 67*
  - *Social Security is exempt*
  - *Not eligible for deduction for investment income*
  - *Subtraction against all income of \$20k for single / \$40k for joint filers*
  - *Not eligible for subtraction if total household resources exceed \$75K single / \$150K joint*

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## **Born After 1952**

- ▶ *Before Reaching 67*
  - *Social Security, Railroad, Military Exempt*
  - *Not eligible for deduction for investment income*
  - *Not eligible for public or private pension subtraction*
- ▶ *After Reaching 67*
  - *Most taxpayers will be eligible for an exemption of \$20K single / \$40K joint*

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## **Obligation to Withhold**

- ▶ *Pension Administrators, under Michigan Jurisdiction, are required by State to withhold on all taxable income.*
- ▶ *Administrators have been advised to do the following:*
  - *Follow directions on the submitted MI W-4P*
  - *In absence of MI W-4P:*
    - ▶ *Do not withhold on those born before 1946, unless benefits exceed limits.*
    - ▶ *Withhold on all taxable benefits on those born after 1946.*

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## **2012 ESTIMATED TAXES**

### *Items To Consider:*

- ▶ *Phase out or elimination of exemption allowance - phase out begins at \$75,000 (single) / \$150,000 (joint) of household resources. Senior special exemption allowance eliminated.*
- ▶ *Changes to taxation of retirement benefits.*

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## **2012 ESTIMATED TAXES**

### *Items To Consider:*

- ▶ *Changes to eligibility for homestead property tax credit.*
- ▶ *Elimination / adjustments to most other credits.*
- ▶ *Changes to business income apportionment method.*

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## **Additional Resources**

- ▶ [www.michigan.gov/taxes](http://www.michigan.gov/taxes)
  - *The 2012 Pension Withholding Guide*
  - *Frequently Asked Questions*
  - *Webinars (2)*
  - *All Necessary Forms*

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# Michigan Business Tax



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## MBT: What's New?

- ▶ **New Credit**
  - *Tobacco Seller's Credit - MCL 208.1471*
    - ▶ *Available to a taxpayer:*
      - *That is a wholesale dealer, retail dealer, distributor, manufacturer, or seller of tobacco products and*
      - *Paid Federal or State excise taxes on the tobacco products during the 2008 and 2009 tax years.*
    - ▶ *The credit must be claimed in the taxpayer's first tax year after December 31, 2010*

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## MBT: What's New?

- ▶ **New amount included in "purchases from other firms" - MCL 208.1113(6)(h)**
  - **Available to:**
    - ▶ *A person classified under 2002 NAICS number 484*
      - ▶ *NAICS 484 is "truck transportation"*
    - ▶ *That does not qualify for the Small Business Alternative Credit*

and...

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## **MBT: What's New?**

- ▶ *New amount included in "purchases from other firms" – MCL 208.1113(6)(h)*
  - *Included within purchases from other firms are:*
    - ▶ *Payments to subcontractors to transport freight by motor vehicle under a contract specific to that freight*
  - *In order to qualify, the payments must be made on or after July 12, 2011*

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## **MBT E-FILE**

*Michigan  
Department  
of Treasury*



*[www.Mlfastfile.org](http://www.Mlfastfile.org)*

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## **MBT E-File Mandate**

- ▶ *As of tax year 2010, Michigan has an enforced MBT e-file mandate.*
- ▶ *All eligible MBT returns prepared using tax preparation software or computer-generated forms must be e-filed.*
- ▶ *All eligible returns covered by the mandate, regardless of the expected annual filing volume, must be e-filed.*

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## ***MBT E-File Enforcement***

- ▶ *Computer-generated paper returns eligible for e-file will not be processed.*
- ▶ *Notification will be sent to the taxpayer advising to resubmit in the proper form and content.*
- ▶ *Payment received with paper returns will be processed and credited to the taxpayer's account, even if the paper return was not processed.*



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## ***MBT E-File Exceptions***

- ▶ *Treasury-Recognized Exceptions*
  - *When to file form 4833, Michigan Business Tax e-file exceptions.*
- ▶ *Whenever possible, the preferred method for filing an MBT UBG return is e-file. However, MBT UBG returns are not subject to the e-file mandate.*

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## ***MBT E-File Exceptions***

- ▶ Treasury-recognized exceptions at the time of this presentation include, but are not limited to:
  - Taxpayer is filing one or more of the following forms:
    - ▶ *Qualified Affordable Housing Seller's Deduction (Form 4579)*
    - ▶ *Tribal Agreement Ownership Schedule (Form 4597)*
    - ▶ *Tribal Agreement Apportionment (Form 4598)*
  - Return was prepared by a preparer who has been suspended or denied acceptance to participate in the IRS e-file program or does not have an Electronic Filing Identification Number (EFIN).

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## ***MBT E-File Exceptions***

- ▶ Treasury-recognized exceptions at the time of this presentation include, but are not limited to:
  - Return was rejected by Michigan or IRS and there is no way to correct and resubmit the return electronically and software does not support State Stand Alone.
  - Taxpayer Federal return contains a form that is not eligible for e-file and the software does not support State Stand Alone e-file.

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## ***MBT E-FILE***

- ▶ *MBT modernized e-file (MeF) will be supported for tax year 2011, 2010 and 2009 returns.*
- ▶ *Amended, fiscal year and short period filings are eligible for MBT e-file.*

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## ***www.MIfastfile.org***

- ▶ *MBT e-file mandate FAQs*
- ▶ *How to participate in MBT e-file*
- ▶ *Choosing tax preparation software*
- ▶ *Tax preparer resources*
- ▶ *Electronic filing tax preparer handbook*
- ▶ *Other helpful information*

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## ***Michigan's Corporate Income Tax***

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### ***Corporate Income Tax***

- ▶ This will be the main business tax for tax years that begin after December 31, 2011.
- ▶ Taxpayers will be required to file quarterly estimated returns as well as an annual return.
- ▶ For the 2012 tax year, fiscal year taxpayers will be granted an automatic extension to file the annual return to April 30, 2013.
  - Remember: an extension to file is not an extension to pay.
  - Annual payments will still be due on the prescribed due date of the annual return.

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### ***Flow-Through Withholding***

- ▶ Beginning in 2012, flow-through entities with more than \$200,000 in business income will be required to withhold a tax on the distributive share of each C-corporation owner.
- ▶ The flow-through entities will be required to file four quarterly returns and an annual return.
- ▶ There will be no automatic extensions for fiscal year filers for the 2012 tax year.

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***For More Information***

- ▶ For more information on the Corporate Income Tax and Flow-Through Withholding, please see Treasury's website.

[www.michigan.gov/treasury](http://www.michigan.gov/treasury)

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***Questions??***

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