

State Bar of Michigan
Taxation Section

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Tax Highlights

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Mission: Tax Highlights is a summary of selected income, estate and gift legislative and regulatory tax developments of general interest. This is not a comprehensive reporter of all tax developments. YOUR input is welcome. You can submit proposals for topics to include by sending a message to Sean H. Cook at scook@wnj.com.

Current Hot Issues

- **Rev. Rul. 2019-11: Tax benefit rule explained for state income tax refunds received in a subsequent tax period**
- 199A Guidance: Proposed Rulemaking becomes FINAL (see below)
- Meals and Entertainment Guidance: Notice (see below)
- Opportunity Zone Guidance: Rev. Rul. 2018-19; Proposed Rulemaking (see below)
- *Wayfair* Decision Guidance: R.A.B. 2018-16
- Michigan: Illegal Activities: Notice dated September 12, 2018
- Michigan's Adoption of the Tax Cuts and Jobs Act of 2017: Notice dated July 2, 2018 regarding repatriation, Base Erosion Anti-Abuse Tax and Global Intangible Low Tax Income; Michigan Department of Treasury Update 11/01/2018
- Centralized Partnership Audit Regime Notice 2019-6, 2019-3 IRB
- **Michigan Department of Treasury has issued a release that summarized the Michigan income tax treatment of retirement and pension benefits effective for tax year 2018. February 4, 2019.**
- **Michigan Department of Treasury has updated its guidance on the sales and use tax bad debt deduction, for periods after September 30, 2019. This revised guidance incorporates a recent Michigan Supreme Court decision. Michigan Revenue Administrative Bulletin No. 2019-3, 02/15/2019.**
- **Gov. Whitmer proposes Gas Tax**
- **Gov. Whitmer proposes tax on flow-through entities to offset tax reinstate the retirement income exclusion modifying the current age based exclusions**

Proposed and Passed Tax Legislation

Federal	Michigan
H.R. ____ Setting Every Community up for Retirement Enhancement (SECURE) Act of 2019	
S. ____ Retirement Enhancement Savings Act of 2019	
H.R. 7227, the "Taxpayer First Act" House approved H.R. 1957	HB 4364 of 2019: Use tax – amends MCL 205.94 to exempt use tax on higher education books
JCX-1-19 “Tax Technical Clerical Corrections Act Discussion Draft”	HB 4363 of 2019: Sales tax – amends MCL 205.54a to exempt sales tax on higher education books
H.R. 264 “Financial Services and General Government Appropriations Act” which will fund the IRS through September 2019. Passed the House. Read for a second time in the Senate on 1/10/19.	HB 4388 of 2019: Individual income tax – amends MCL 206.1-206.713 to provide for credit for donation to certain charitable organizations and community foundations
S. 215 “Death Tax Repeal Act of 2019”. Read twice and referred to Finance Committee on 1/24/19.	HB 4324 of 2019: Individual income tax – amends MCL 206.272 to increase the earned income tax credit
H.R. 942 “SAFETY Act” would provide research tax credits and excise taxes for certain firearms. Referred to House Ways and Means on 1/31/19.	SB 0186 of 2018: Gaming – creates new act for lawful internet gaming
H.R. 957 “Tax Cuts and Jobs Middle Class Enhancement Act” would increase standard deduction and reduce medical expense deduction floor. Referred to House Ways and Means on 2/4/19.	HB 4311 of 2019: Gaming – creates a new act for lawful internet gaming
S. 422/H.R. 1118 “Small Business Tax Equity Act of 2019” would exempt a business that conducts marijuana sales in compliance with state law from a provision in the Code that prohibits business-related tax credits or deductions for expenditures in connection with trafficking in controlled substances. Referred to Senate Finance Committee (2/7/19) and House Ways and Means (2/8/19).	HB 4298 of 2019: Individual income tax – amends MCL 206.272 to restore the earned income tax credit
S.437/H.R. 1142 “SALT Act” Would repeal the deduction limitation for state and local taxes and restore 39.6% individual tax bracket. Referred to Senate Finance Committee (2/12/19) and House Ways and Means (2/11/19).	HB 4278 of 2019: Individual income tax – amends MCL 206.30 to eliminate 3-tier limitations and restrictions on deductions for retirement plans or pension benefits based on taxpayer’s age

S. 687/H.R. 1300 “Taxpayer Penalty Protection Act of 2019” would provide temporary safe harbor for certain individuals’ failure to pay estimated income tax. Referred to Senate Finance Committee (3/6/19) and House Ways and Means (2/15/19).	SB 0124 of 2019: Use tax - amends MCL 205.94 to exempt sale of feminine hygiene products
S. 617 “Tax Extender and Disaster Relief Act of 2019” would extend certain credits and deductions that will otherwise expire soon. Read a second time in Senate on 3/4/19 and placed on calendar.	SB 0123 of 2019: Sales tax - amends MCL 205.54a to exempt feminine hygiene products
S. 647/H.R.1516 “Wall Street Tax Act of 2019” would impose a tax on certain trading transactions. Referred to Senate Finance Committee (3/5/19) and House Ways and Means (3/5/19).	HB 4262 of 2019: Individual income tax - amends MCL 205.51d to increase and accelerate the collections earmarked to the Michigan transportation fund
S. 750 “New Markets Tax Credit Extension Act of 2019”. Referred to Finance Committee on 3/12/19.	SB 0121 of 2019: Individual income tax – amends MCL 206.30 to provide for a tax incentive for contributions made to first-time home buyers program
S. 765/H.R. 1725 “Digital Goods and Services Tax Fairness Act of 2019” would prohibit discriminatory taxes on digital goods and services. Referred to Senate Finance Committee (3/13/19) and House Judiciary Committee (3/13/19).	SB 0120 of 2018: Individual income tax – Creates new act to create a Michigan first-time home buyer savings program
	HB 4204 of 2019: Use tax – amends MCL 205.92b to modify the definition of exemption for prosthetic devices
	HB 4203 of 2019: Sales tax - amends MCL 205.51a to modify the definition for exemption for prosthetic devices
	HB 4199 of 2019: Taxation – amends MCL 205.422 et seq. and repeals MCL 205.434 to earmark revenue and modify tax on certain electronic smoking devices and certain tobacco products
	HB 4190 of 2019: Economic development – amends MCL 207.808 to prohibit new agreements and certain amendments to tax credit agreements
	HB 4189 of 2019: Michigan business tax – amends and repeals parts of MCL 208.1101-208.1601to provide for an election to file a return under the Michigan business tax rather than corporate income tax under certain

	circumstances
	HB 4188 of 2019: Taxation – amends MCL 205.422 et seq. and repeals MCL 205.434 to modify tax on certain electronic smoking devices and certain tobacco products and earmark revenue
	HB 4191 of 2019: Corporate income tax – amends MCL 206.680 to provide for an election to file a return under the Michigan business tax under certain circumstances
	HB 4169 of 2019: Use tax – amends MCL 205.94k to exempt purchase of certain aviation equipment
	HB 4116 of 2019: Use tax – amends MCL 205.94 to exempt sale of feminine hygiene products
	HB 4168 of 2019: Sales tax – amends MCL 205.54x to exempt purchase of certain aviation equipment
	HB 4165 of 2019: Sales tax – amends MCL 205.54a to exempt feminine hygiene products
	HB 4183 of 2019: Individual income tax – amends MCL 206.1-206.713 to create a child and dependent care credit
	HB 4171 of 2019: Individual income tax – amends MCL 206.30 to clarify limitations and restrictions on retirement income deductions for a surviving spouse
	HB 4182 of 2019: Corporate income tax – amends MCL 206.1-206.713 to create credit as incentive for certain taxpayers that provide child care for their employees
	HB 4180 of 2019: Corporate income tax – amends MCL 206.1-206.713 to create credit for certain taxpayers that provide employment to unemployed individuals
	SB 0107 of 2019: Individual income tax – amends MCL 206.272 to restore earned income tax credit
	HB 4125 of 2019: Individual income tax – amends MCL 206.51 & 206.51d and repeals MCL 206.51g to modify and eliminate earmark for school aid fund and the Michigan transportation fund
	SB 0085 of 2019: Individual income tax – amends MCL 206.1-206.713 to create a child

	and dependent care credit
	SB 0086 of 2019: Individual income tax - amends MCL 206.1-206.713 to create individual income tax credit for payment of certain student loans
	HB 4100 of 2019: Individual income tax – amends MCL 206.1-206.713 by restoring the state historic preservation tax credit program
	HB 4110 of 2019: Individual income tax – amends MCL 206.522 to increase veteran property tax credit for certain qualified veterans.
	Michigan Regulation and Taxation of Marihuana Act (MRTMA) imposes an excise tax “at the rate of 10% of the sales price for marihuana sold or otherwise transferred to anyone other than a marihuana establishment” in addition to any other applicable state tax.
	Michigan Regulation and Taxation of Marihuana Act (MRTMA) imposes a 6% sales tax as marihuana constitutes “tangible personal property” under the General Sales Tax Act.
	SB 0063 of 2019: Individual income tax – amends MCL 206.30 to provide for deductions for the costs, care, and maintenance of a service animal
	HB 4089 of 2019: Income tax – amends MCL 141.502a et seq. to prohibit a city imposing an income tax on nonresidents
	SB 0058 of 2019: Taxation – amends MCL 205.427 to modify the cigarette tax
	SB 0055 of 2019: Individual income tax – amends MCL 206.1-206.713 by restoring tax credit for charitable donations to food banks, shelters, and community foundations
	SB 0054 of 2019: Individual income tax – amends MCL 206.1-206.713 by restoring the state historic preservation tax credit program
	SB 0043 of 2019: Use tax – provides exemption for contact lenses
	SB 0044 of 2019: Sales tax – provides for exemption for contact lenses.
	Senate Joint Resolution D of 2019: Individual income tax - to amend sec. 7, art. IX of the state constitution to allow for a graduated

	income tax.
	SB 0016 of 2019: Business tax – provides for recapture of tax credits for businesses relocating outside of this state.
	SB 0018 of 2019: Individual income tax – provides for student loan forgiveness for disabled veterans under the total and permanent disability discharge program.
	SB 0015/0017 of 2019: Individual income tax – creates child care credit.
	SB 0013 of 2019: Individual income tax – eliminate 3-tier limitations and restrictions on deduction for retirement or pensions benefits based on taxpayer’s age.
	HB 4038 of 2019: Individual income tax – credit for donation of agricultural products to hunger relief charitable organizations.
	PA 0460 of 2018: (<i>SB 0361 (2017)</i>): Corporate Income Tax – clarifies tax base of financial institutions. Approved by the Governor 12/26/18.
	SB 0362 of 2017: Corporate income tax – amends MCL 206.653 and 206.657 to clarify financial institutions and apportionment for unitary business group. Vetoed by Governor 12/28/18; (addenda added 12/31/18 to 2018 SJ 85.)
	PA 0589 of 2018: Individual tax- additional personal exemption for stillborn birth.
	PA 0588 of 2018: Individual tax- compensation for wrongful imprisonment and exempt from taxable income and total household resources under homestead property tax credit.
	PA 0456: HB 5025 and HB 4618 (see below)
	HB 5656 (2018): Excise Taxes – tax on bottled water from non-muni source
	PA 0530 of 2018 (<i>HB 5913 (2018)</i>): Sales tax – tax exempt status for 501(c)(19) organizations. Approved by Governor 12/27/18.
	HB 6550 (2018): Use tax – purchase of certain aviation equipment – exemption. Vetoed by the Governor 12/28/18.
	HB 6549 (2018): Sales tax – purchase of certain aviation equipment – exemption.

	Vetoed by the Governor 12/28/18.
	HB 6433 (2018): Individual tax- credit for donation to certain charitable organizations
	HB 6434 (2018): Individual tax- credit for donation to a community foundation
	HB 6485 (2018): Individual tax- elimination of income and expenses of producing oil and gas Vetoed by the Governor 12/28/18; (addenda added 12/31/18 to 2018 HJ 86).
	PA 438 of 2018 (HB 4412 (2018)): Tax Tribunal Reform. Approved by Governor on 12/20/18.
	PA 0553 of 2018 (HB 5025 (2017)): Individual tax – Withholding tax refunds for unpaid city taxes administered by the state. Approved by Governor on 12/27/18.
	PA 456 of 2018 (HB 4618 (2017)): Individual tax – Modification to city income tax administration by the state. Approved by Governor on 12/20/18.
	HB 4926 (2017) Gaming – allow and regulate. Vetoed by the Governor 12/28/18; (addenda added 12/31/18 to 2018 HJ 86)
	PA 464-466, 625-626 of 2018 (SB 0703-0707 (2018)): Taxation- convention and tourism promotion act. Approved by Governor on 12/12/18; (addenda added 12/31/18 to 2018 SJ 85).
	SB 0304 (2017): Cigarette tax. Vetoed by Governor 12/28/18; (addenda added 12/28/18 to 2018 SJ 85).
	SB 0511 (2017): Individual income tax – First time home buyer savings program act. Vetoed by the Governor 12/21/18.
	SB 0512 (2017): Individual income tax – Tax incentive for contributions made to first time home buyers program. Vetoed by the Governor 12/21/18.
	PA 0673 of 2018 (SB 0906 (2018)): Sales Tax – Exemption of school bus. Approved by the Governor 12/28/18.
	PA 0679 of 2018 (SB 0907 (2018)): Use Tax – Exemption of school bus. Approved by the Governor 12/28/18.
	SB 1097 (2018): Corporate Income Tax Interest Expense Deduction. Vetoed by the

	Governor 12/28/18.
	SB 1170 (2018): Taxation of Flow through entities. Vetoed by the Governor 12/28/18; (addenda added 12/28/18 to 2018 SJ 85).

Final Federal Tax Regulations Issued

TD	Primary Code Section	Description	Date Issued
9855	4963, 6011, 6071	Return and payment of Certain Excise Taxes	
9854	148	Arbitrage Restrictions	4/8/2019
9853	6707A, 6011	Penalty; Failure to Disclose Transaction	3/26/2019
9852	1471-1474	Compliance Requirements under FATCA	3/25/2019
9851	851(a)(1), 1293(a)	Qualification as a RIC	3/19/2019
9850	42	Utility Allowance for LIHTC	3/4/2019
9849	N/A	Remove/Amend Outdated Regs	3/14/2019
9848	42	Compliance/Monitoring for LIHTC	2/26/2019
9847	199A	Qualified Business Income Deduction	2/8/2019
9846	965	Transition Tax	2/5/2019
9845	147	Private Activity Bonds	12/28/2018
9844	6221, et al	Centralized Partnership Audit Regime	12/21/2018
9843	263A	Simplified Method Cost Allocation	11/29/2018

Notices of Proposed Rulemaking - TCJA and other 2018 highlights Vol. 83 (2018)

No.	Date	Description
124627-11	4/1/2019	Withdraws Notice re COI Requirement
143686-07	3/28/2019	Withdraws Notice re Stock Basis
121694-16	3/26/2019	Amount of Distributions to Shareholders
113943-17	3/26/2019	Withdraws Notice re REIT Property
103083-18	3/25/2019	Reportable Policy Sales and Death Benefits
135671-17	3/25/2019	Corporate Partner Gain Recognition
104464-18	3/06/2019	Deduction for FDII and GILTI
134652-18	1/18/2019	Qualified Business Income Deduction
141739-08	12/31/2018	Retirement Standards for Tax Exempt Bonds
104352-18	12/28/2018	Rules re Hybrid Arrangements under 245A
106089-18	12/28/2018	Limit Deduction for Business Interest Expense
113604-18	12/27/2018	Sale of Partnership Interests under 846
104259-18	12/21/2018	Base Erosion and Anti-Abuse Tax
132884-17	12/18/2018	Reducing Burden under FACTA and Chapter 3
105600-18	12/07/2018	Foreign Tax Credit
106089-18	11/28/2018	Business Interest Expense
106706-18	11/23/2018	Estate and Gift Tax Exclusion "Clawback"
103163-18	11/07/2018	Discounting Rules for Insurance Companies
114540-18	11/05/2018	Controlled Foreign Corporation

115420-18	10/29/2018	Qualified Opportunity Fund
104226-18	10/10/2018	Transition Tax under 965
104390-18	10/10/2018	Global Intangible Low Tax Income (GILTI)
130244-17	9/24/2018	Debt-Equity: Removal of Documentation
112176-18	8/27/2018	Contributions: State and Local Tax Credits
136118-15, 119337-17, 118067-17, 120232-17, 120233-17	8/17/2018	Centralized Partnership Audit Regime
107892-18	8/16/2018	Qualified Business Income Deduction
104226-18	8/09/2018	Repatriation Tax
104397-18	8/08/2018	Additional First Year Depreciation
103474-18	7/18/2018	Preparer Due Diligence
106977-18	6/12/2018	Arbitrage Restrictions on Tax Exempt Bonds
132197-17	2/15/2018	Eliminating Unnecessary Regulations

Notices – TCJA

No.	Date	IRC Section/Topic
2019-26		430, 417
2019-25	3/22/2019	6654
2019-24	4/1/2019	911
2019-22	4/1/2019	30D (GM credit threshold)
2019-20	4/1/2019	6722, 6698, 6038/Penalty Relief
2019-18	3/25/2019	401(a)(9)/Retraction of Proposed Regs in 2015-49
2019-17	3/18/2019	6654/Penalty Relief (Farmers/Fishermen)
2019-11	1/16/2019	6654/Penalty Relief (Individual)
2019-10	3/25/2019	4041 4081, 6421, 6427
2019-9	12/31/2018	4960
2019-07	1/18/2019	199A
2019-6	12/19/2018	846
2019-5	12/21/2018	5000A
2019-1	12/14/2018	959/Previously Taxed E&P
2018-100	12/10/2018	6655
2018-99	12/10/2018	274
2018-97	12/07/2018	83(i)(2)(c)
2018-76	10/03/2018	274
2018-67	08/21/2018	512(a)(6)
2018-30	05/21/2018	338, 382, 168(k)

Revenue Rulings and Procedures – TCJA

Citation	IRB/CB	IRC Section
Rev Proc 2019-17	2019-17 IRB	142
Rev Proc 2019-15	2019-14 IRB	911(d)(1), (4)
Rev Proc 2019-14		143(a), 25(c)
Rev Proc 2019-13	2019-9 IRB	168(k)
Rev Proc 2019-12	2019-4 IRB	162, 170
Rev Proc 2019-11	2019-9 IRB	199A(b)(4)
Rev Rul 2019-9	2019-14 IRB	355 (Suspends Rev Rul 57-464, Rev Rul 57-492)
Rev Proc 2019-9	2019-11 IRB	199A
Rev Proc 2019-10	2019-2 IRB	807(f)
Rev Proc 2019-8	2019-3 IRB	179, 168, 163(j)
Rev Proc 2019-6	2019-2 IRB	846
Rev Proc 2018-59	2018-50 IRB	163(j)
Rev. Proc. 2018-29		New revenue recognition rules