

# Tax Newsletter

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TAXATION SECTION

TAX NEWSLETTER

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Taxation Section  
State Bar of Michigan  
306 Townsend Street, Lansing, Mich. 48904

1975-76 OFFICERS AND COUNCIL MEMBERS

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Robert B. Pierce, Vice-Chairman	Detroit
Ernest Getz, Secretary-Treasurer	Detroit
John L. King	Detroit
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John W. McNeil	Grand Rapids
Joel Resnick	Detroit
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John N. Seaman	Lansing
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Robert W. Siegel	Southfield
Lawrence J. Murphy	Southfield
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SINGLE BUSINESS TAX QUESTIONS AND ANSWERS  
VOLUME III

1. What reimbursed expenses are to be included in compensation?
  - A. Excessive and unreasonable expenses must be included in the compensation. We will use the federal guidelines to determine excessive reimbursement.
  
2. Is a letter requesting permission to file consolidated returns necessary?
  - A. Yes, approval must be granted by the Commissioner in accordance with the statute.
  
3. How will a corporation net operating loss sustained on a consolidated return be treated on separate returns required to be filed under SBT? Example: A net operating loss sustained on a consolidated return being used by Michigan member of an affiliated group filing separately for SBT.
  - A. The net operating loss used by the separate member must be based on the member's net operating loss.
  
4. Define substantial intercorporate transactions in accordance with Section 77(b).
  - A. We will look to Section 7 defining sales and gross receipts for those intercorporate transactions within the business activity.
  
5. If a foreign corporation has liquidated all assets in Michigan and their only activity in Michigan is gross receipts from the sale of real and personal property on an installment basis, are they a taxpayer for SBT?

- A. It would be our conclusion that the foreign corporation would have some interest in the property in Michigan; therefore, we would consider them a taxpayer for SBT. However, the contract for the installment sale would have to be reviewed to determine the facts of the matter.
6. If an individual is in two or more businesses, such as partnership and sub chapter S corporation, and one business elects to use the 50% of gross limitations method of computing the SBT, what effect does the use of the 50% gross limitations method have on the credit flow through for the other businesses on his individual income tax return?
- A. The business income and tax paid for the business using the 50% of gross limitations would be excluded from his total activity. Therefore, only the businesses using other methods of computing the SBT would be combined to arrive at the credit on the individual income tax return.
7. What method of accounting is used in adding compensation to the tax base for SBT?
- A. Wages, salaries, fees, bonuses, commissions or any other payments made on behalf of or for the benefit of employees, officers or directors and subject to or specifically exempt from federal income tax withholding must be reported on a cash basis. The amount subject to withholding can be obtained from the US 941 form.

Payroll taxes and all other fringe benefits are reported on a cash or accrual basis consistent with the taxpayer's method of accounting for federal income tax purposes.

8. Is sales tax included in gross receipts?
- A. Yes. Only those taxes collected in an agency capacity may be excluded from gross receipts.
9. Under the SBT are sales to foreign countries included in the denominator for purposes of apportionment.
- A. Since the definition of sales in Section 52(b) does not include "foreign countries" in the definition of "state", sales to foreign countries will not be included in the numerator but will be included in the denominator.
10. Under UDITPA the property factor consists of "property owned and used..."; however, in the SBT Act the words "and used" were omitted. Does this mean that all property owned be included in the property factor regardless of whether or not it is used in the business as defined under UDITPA regulations?
- A. Yes. All property owned or rented must be included in the property factor.
11. Is depletion treated in the same manner as depreciation in arriving at the tax base?
- A. Depletion is not treated in the same manner as depreciation since depreciation is added back and becomes part of the SBT tax base, while there is no provision that requires the addition of depletion in arriving at the SBT tax base.
12. When will forms be available?
- A. Quarterly return - Approximately the last week in January.  
Annual return - Approximately March 1.

TAXATION SECTION

COUNCIL MEETING AGENDA

January 29, 1976

1. Ratification of formal actions taken at the October 30, 1975 meeting.
2. Spending program.
3. Tax Tribunal Committee--Jack Herrinton.
4. Report on Single Business Tax Committee--Ernie Getz, Jack Herrinton, and Jack Mitchell.
5. Michigan Tax Procedures Manual project--Larry Murphy.
6. Report on Specialization project--John McNeil.
7. Annual Meeting.
8. Report on proposed bylaw amendments--Jack Mitchell.
9. Report on merit of Liaison with Administrative Law Section--Bob Pierce.
10. Report on Tax Section/MACPA seminar--Jack Mitchell.
11. Report on tax workshops and ICLE annual tax seminar--Joel Resnick.
12. Report on Speakers Bureau project--Jack Mitchell.
13. Final location of April 29, 1976 meeting.
14. Report on Michigan income tax regulations--John Riecker.

Minutes of Regular Meeting of Council of  
Taxation Section of State Bar of Michigan

Pursuant to Chairman Louis W. Kasischke's December 9, 1975 notice and January 8, 1976 reminder with agenda (copy attached), a meeting of the council was held at the Detroit Bar Association conference room, second floor of the Detroit Law Center Building, 600 Woodward Avenue, Detroit, Michigan, on January 29, 1976 beginning at 3:15 p.m. Present:

Louis W. Kasischke	Jack E. Mitchell
Robert B. Pierce	Joel Resnick (at 4:30 p.m.)
Ernest Getz	John E. Riecker
John P. Herrinton	John N. Seaman
John L. King	Robert W. Siegel
John W. McNeil	

Pursuant to the October 30, 1975 resolutions of the council, present by invitation of the chairman were three representatives of the Michigan Association of Certified Public Accountants: Gerald M. Finch, Ernst & Ernst, Lansing - Vice Chairman Legislative Advisory Committee; Gerald L. Langwerowski, Alexander Grant & Company, Detroit - Vice Chairman State and Local Taxation Committee; Leonard G. Velick, Velick and Haas, Southfield - Vice Chairman Federal Taxation Committee.

The chairman expressed the council's desire to have close liaison between the MACPA and the State Bar of Michigan Taxation Section in areas of common interest; such as legislative review and regulations, exchange of publications, invitations to tax programs, attendance at tax committee meetings, and speakers' bureau.

The chairman reported that he had received 76 responses to his December 15, 1975 questionnaire mailed to each of the 2200 members of the Taxation Section.



Ratification. The following resolution was unanimously adopted:

RESOLVED: that the resolutions adopted at the October 30, 1975 council meeting attended by six members of the council are ratified, approved and adopted.

FURTHER RESOLVED: that the minutes of the October 30, 1975 council meeting are approved as submitted.

Spending Program. The chairman led a discussion on ways and means of spending for the benefit of the members of the Taxation Section the \$23,000 balance in the Section's account at December 31, 1975. The following resolutions were unanimously adopted:

RESOLVED: that the Institute of Continuing Legal Education be requested to mail to each member of the Taxation Section a copy of the 75-page November 1975 ICLE course handbook on the Michigan single business tax act at a cost to the Section of \$1 per copy.

RESOLVED: that arrangements be made with the Institute of Continuing Legal Education for the supervision of contributing authors, editing and publishing of a manual on Michigan taxation procedure.

FURTHER RESOLVED: that not to exceed \$4,000 is authorized to be expended for the printing and mailing to each member of the Taxation Section of one copy of the manual.

RESOLVED: that J. Lee Murphy of Grand Rapids as the Taxation Section Newsletter Chairman is authorized to increase the number of issues and the number of pages of the newsletter as need arises.

The following resolution was adopted with John Herrinton and Robert Pierce opposed:

RESOLVED: that the minutes or a summary thereof of all council meetings beginning with the January 29, 1976 meeting be published in the Taxation Section Newsletter.

The chairman led a discussion on a proposal to finance the purchase by the Detroit Bar Association Library of additional texts and periodicals dealing with taxation. The Detroit Bar Association Library will make books available by mail to outstate members of the Taxation Section. This service will give all Taxation Section members access to perhaps the most complete tax library in the state. Some members of the council stated that this service would be of benefit only to Detroit area lawyers and would not be attractive to outstate members.

John Riecker and John Seaman were appointed to study and report to the council the matter of increasing the number of taxation books and periodicals at the Detroit Bar Association Library, or the Michigan State Law Library, or both, to be financed either entirely by the libraries or with the financial help of the Taxation Section.

The consensus was that after the Michigan taxation procedure manual has been completed that arrangements be made with the ICLE for the supervision of contributing authors, editing and publishing of a handbook on Michigan taxation.

Tax Tribunal. John Herrinton led a discussion on the current status of the Michigan Tax Tribunal and its enabling act. The following resolution was unanimously adopted:

RESOLVED: that the council approves the formation of a committee consisting of Taxation Section members and representatives of other interested groups to study the Michigan Tax Tribunal act with a view, among other things, to obtaining amendatory legislation so that nonproperty taxes clearly are included within the jurisdiction of the Tax Tribunal with possible additional members.

Single Business Tax Committee. Jack Mitchell reported that the organizational meeting was held on January 9, 1976 at the Detroit Club. Problem areas were identified and amendatory legislation will be drafted with a view to aiding the Michigan legislature to prepare a technical amendments act.

Specialization. John McNeil reported that the State Bar of Michigan is studying the matter of specialization as discussed in the October 1975 Michigan State Bar Journal. The chairman reported that only a few persons expressed a view on taxation as a legal specialty in the responses to his December 15, 1975 questionnaire.

The recommendation was made that the Taxation Section Newsletter report the council's present neutral position and request members' views on taxation as a legal speciality and on mandatory continuing legal education.

Annual Meeting. The annual meeting of the Taxation Section is scheduled for Wednesday, September 15, 1976. John Seaman is the program chairman with the Michigan single business tax act and the Michigan Tax Tribunal act the probable subjects to be presented.

By-Laws. Jack Mitchell recommended that the Taxation Section By-Laws be studied with a view to improvement. He and Lawrence J. Murphy were appointed as a committee to perform this function.

Liaison with Administrative Law Section. Robert Pierce reported on his attendance at a meeting of the Administrative Law Section in Lansing. John Seaman of Lansing was appointed as the Taxation Section's liaison with the Administrative Law Section.

Tax Section/MACPA Seminar. Jack Mitchell reported that a seminar on the management of a professional practice is scheduled for Tuesday, June 8, 1976 at a place to be determined.

Tax Workshops and ICLE Annual Tax Seminar. Joel Resnick reported that a seminar on basic partnership taxation is scheduled for Friday, March 26, 1976 at the Michigan Inn in Southfield.

Speakers' Bureau. Jack Mitchell led a discussion on the use of two-speaker presentations on taxation matters consisting of a lawyer and a certified public accountant. The concept was favorably received by the three CPA guests. Jack Mitchell, Lawrence Murphy and Robert Pierce were appointed as a committee to begin implementation of this program.

April 29, 1976 Council Meeting. The meeting is scheduled for 4:00 p.m. on Thursday, April 29, 1976 in Lansing to be followed by dinner. John Seaman will make the arrangements.

Michigan Income Tax Regulations. John Riecker submitted a written report on his January 27, 1976 meeting with Kurt Gemalsky, the Michigan Department of Treasury Revenue Division administrator of the individual income tax. During 1973 certain proposed regulations were approved by the attorney general.

and are awaiting the required public hearing. The Revenue Division does not have sufficient personnel to do the job alone and could use technical help from lawyers and certified public accountants.

The meeting was adjourned at 6:00 p.m.

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