

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

Compact (MTC) election applies to both the modified gross receipts and net income tax bases in *International Business Machines v. Michigan Department of Treasury*.

Jul. 22, 2014



On July 14, Michigan's State Supreme Court ruled that the Multistate Tax Compact (MTC) election applies to both modified gross receipts and net income tax bases. The case was International Business Machines (IBM) v. the Michigan Department of Treasury.

The international tax firm [Ryan](#) says the major issue was whether taxpayers could

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

Compact's election provision, we proceed under the assumption that the Legislature intended for both to remain in effect. After reading the statutes in pari materia, we conclude that a reasonable construction exists other than a repeal by implication.

Another significant development was that it was concluded that the modified gross receipts tax (MGRT) component of the MBT qualified as an “income tax” as defined in the MTC. The determination was as follows:

We hold that the MGRT fits within the broad definition of “income tax” under the Compact by taxing a variation of net income—the entire amount received by the taxpayer as determined from any gainful activity minus inventory and certain other deductions that are expenses not specifically and directly related to a particular transaction.

This issue benefits out-of-state companies that have Michigan sales that are higher in proportion to their physical presence in Michigan in terms of property and payroll. There are also benefits to companies not based in Michigan that sell services because the MTC provisions source sales based on the state where the services are performed.

The decision applies to MBT years 2008 through 2010. The statute of limitations for 2008 has expired, so refund claims are not allowed unless the taxpayer is under audit for that year. Refund claims can still be filed for MBT years 2009 and 2010, as these periods are within the four-year statute of limitations. The decision did not take up the issue of whether taxpayers can make the MTC election on an amended return, as opposed to the original return filing.

The decision of the Michigan Supreme Court is final unless it is appealed to the U.S. Supreme Court, and if appealed, the U.S. Supreme Court is not required to review the

case. Since the Michigan decision was based on statutory grounds, it is unlikely that

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

decision in this case is expected in late 2014 or early 2015. This decision would impact this issue in Michigan.

Michigan adopted the MTC in 1970. As stated in MCL § 205.581, the purpose of the MTC is as follows:

- (1) Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
- (2) Promote uniformity or compatibility in significant components of tax systems.
- (3) Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
- (4) Avoid duplicative taxation.

Income Tax • Small Business

CPA Practice Advisor is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors.

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us