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# State Tax Return

## Michigan Repeals Services Tax In The Nick Of Time

**Rachel A. Wilson**  
**Dallas**  
**(214) 969-5050**

Unlike in Maryland, the Michigan Legislature apparently was affected by the holiday spirit as they repealed the use tax on services in the Nick of time! The unpopular HB 5198 imposed the state's 6% use tax on the use or consumption of a variety of new services, effective December 1, 2007. Working through the night, the legislature finally reached a compromise allowing the tax to be repealed. HB 5408, signed by Michigan Governor Granholm on December 1, 2007, retroactively repealed the services tax under HB 5198 a mere 17 hours after the tax took effect. As with most good tax news, HB 5408 is not without its lump of coal – a 21.99% surcharge on the Michigan Business Tax and a reduction in certain tax credits.

### Why Tax Services In The First Place?

Michigan had a serious budget shortfall. The new Michigan Business Tax ("MBT") was kept "revenue neutral" to ensure its passage in July 2007, which forced the legislature to enact additional legislation to address the revenue crisis. As part of a last-minute compromise to resolve the budget shortfall and avoid a government shut-down, HB 5198 was signed into law on October 1, 2007. HB 5198 imposed the state's 6% use tax on the use or consumption of a variety of new services, including:

- Business service center services, as described in NAICS industry code 56143.
- Consulting services, as described in NAICS subsector code 5416.
- Investment advice services, as described in NAICS industry code 52393.
- Office administration services, as described in NAICS subsector code 5611.
- Warehousing and storage services, as described in NAICS subsector code 4931.
- Packaging and labeling services, as described in NAICS industry code 56191.
- Specialized design services, as described in NAICS industry group code 5414.
- Transit and ground passenger transport services, as described in NAICS industry group code 4853.
- Courier and messenger services, as described in NAICS subsector code 492.
- Security system services, as described in NAICS industry code 56162.
- Document preparation services, as described in NAICS industry code 56141.

### Why Repeal The Services Tax?

The expanded service tax, to take effect December 1, 2007, was expected to raise in excess of \$600 million per year, making the tax very unpopular among the service

industry. Almost as soon as HP 5198 passed, the legislature began drafting bills to repeal the services tax. The House and Senate passed various bills that would repeal the tax, but only the House initially provided a replacement for lost revenue. Both houses finally passed HB 5408, which was signed into law on December 1, 2007. Effective immediately, HB 5408 retroactively repealed the tax on the use of services under HB 5198.

### **Surcharge On Michigan Business Tax.**

The MBT is no longer revenue neutral. To replace the revenue lost by repealing the services tax, HB 5408 imposes a 21.99% surcharge on the MBT after allocation or apportionment of income to Michigan (but before the application of tax credits).<sup>1</sup> The surcharge is capped at \$6 million for each taxpayer in a single tax year. The surcharge will expire in 2017 if certain fiscal conditions are met.■



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<sup>1</sup> For financial institutions subject to the MBT on net capital the rate is 27.7% for 2008 and 23.4% thereafter. Insurance companies are exempt from the surcharge.