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## MBT Proposed Draft Rule - Order of Credits

R208.1237-1241; 1400-1459

(1) For purposes of the Michigan Business Tax, the following rules apply to the order of credits.

(a) Insurance Companies taxed under Chapter 2A of the Michigan Business Tax Act shall take Insurance Company Premiums Tax Credits from Chapter 2A of the Michigan Business Tax Act before the credits permitted to insurance companies under Chapter 4 of the Michigan Business Tax Act.

(b) Available Single Business Tax Act carryover credits shall be deducted from liability before any Michigan Business Tax Act credits available under Chapter 4 of the Act.

(c) Unless specified elsewhere in the Michigan Business Tax Act, all credits shall be calculated using tax liability after the deduction of all previous credits.

(d) Unless specified elsewhere in the Michigan Business Tax Act, credits shall be taken according to the statutory language of each credit. In the case of a conflict, the order of enactment shall control. The statutory language of the most recently enacted credit shall control. Where the order of enactment is not determinative, the order of appearance of the credit in statute shall control.

(i) Where the statutory language requires that more than one credit be taken after all other credits, the most recently enacted of such credits shall be taken last.

(ii) Where the statutory language requires that more than one credit be taken before all other credits, the most recently enacted of such credits shall be taken first.

(iii) Where the statutory language requires that more than one credit be taken before or after a specified subset of credits, the most recently enacted credit shall be taken before or after all credits with the same prescribed ordering.

(e) Nonrefundable credits shall be taken before refundable credits.

(f) Where a credit is either nonrefundable or refundable at the election of the taxpayer, and the taxpayer elects a nonrefundable credit, the credit shall be taken before refundable credits.

(g) Where a credit is either nonrefundable or refundable at the election of the taxpayer, and the taxpayer elects a refundable credit, the credit shall be first calculated as nonrefundable and second taken as refundable.

(h) No refundable credit is refundable to the taxpayer until and unless the credit exceeds liability.

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