

507 S. Grand Ave.

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The new Michigan Six Percent Services Tax

This was a portion of the budget deal which occurred October 1, 2007 avoiding a state services shutdown.

Many Michigan bankers reported compliance, collection and remittance issues with the six percent services tax. Added to this was the potential for an adversarial Treasury audit process. This new tax would clearly be a problem for all Michigan banks. Treasury, in reviewing the actual language passed on that late night in September, discovered a new tax bonanza.

Our bankers large and small reported not only a compliance headache, but a black hole of new tax liabilities to the State of Michigan. Many bankers reported a tax liability exceeding the FIT. The MBA Tax Committee, reaffirmed by the MBA Board of Directors in a special meeting, recommended the earliest possible repeal of the six percent services tax and a modest adjustment in the Michigan Business Tax (MBT) and the Financial Institutions Tax (FIT) to accomplish this goal.

To this directive the Michigan House of Representatives passed MBA supported legislation (HB 5408) that would repeal the six percent services tax and replace it with a surcharge on the MBT and FIT. The Senate has passed repeal of the six

percent services tax legislation with no replacement tax revenues. It is possible this new use tax on services will never actually take effect on December 1, 2007. However there are major issues yet to resolve.

- How many state revenue dollars to replace?
The six percent sales tax was never a clear revenue picture when passed.
- Who will pay these additional tax dollars?
New revenue could be directly paid by consumers.
- How will this new tax be distributed within the business community?
There were winners and losers in MBT.
- How will these additional tax dollars be remitted to the State?
Another new tax may be debated.

The MBA remains deeply engaged in every detail of this issue and actively negotiated and supported the House package. The package is far preferable to all Michigan banks than the six percent services tax. If enacted HB 5408 would:

- Eliminate this new Six Percent Services or “use” tax.
- Make new credits against the FIT available to banks. This compensation credit will mean a substantial decrease in the FIT for every bank, however, it should be noted the compensation credit may not be used to reduce your FIT by more than 65 percent
- Eliminate all goodwill prior to July 1, 2007 from the FIT base.
- Offsetting the state’s projected revenue loss; this bill would increase the FIT rate 6.5 basis points (b.p.) in 2008 to a total of 30 b.p., and then drop to 29 b.p. for 2009.
- Certain economic factors will be used to reduce the FIT as the Michigan economy is restored and tax dollars from traditional sales and income taxes rise. Admittedly the upward movement in Michigan’s economy is over the horizon at this time.

Advocacy Report/ Grassroots News

Good news: Both houses have passed six percent services tax repeal legislation and the Governor publicly supports repeal of the use tax that was signed into law just five weeks ago.

Cautionary information: Until the repeal legislation is actually enacted (same language passed by both Houses and signed by Governor), the service tax is still set to take effect December 1, leaving all businesses in doubt regarding preparations for collection and remittance of the new tax. The discussion, repeal, replacement and vote may be debated right down to the December 1, 2007 deadline. This legislature has a tendency to stretch every decision to the last possible moment for political theater or legislative policy positioning.

Thank you to all MBA member employees that have used the CapWiz system to demand elimination of the six percent services tax.

Don't miss the special tax panel scheduled for the MBA Bank Management and Directors Conference on Thursday, December 6 at 4:45 p.m. If the six percent services tax is effective, important compliance guidance will be provided to all Michigan banks. Click [here](#) to register for the conference.

MBA Keeps Banks Exempt from New Rules

Along with the intense negotiations on the tax issues, the MBA has been working with legislators on mortgage, gift card and human resources issues. Because of the MBA diligence and proactive efforts, banks are currently exempt from several new measures currently under consideration in the legislature.

- Gift Cards: Legislation would allow gift cards to expire after five years. Banks are exempt from this provision because bank gift cards are not restricted to a single retailer.
- Mortgage: Two bills, one in the House and one in the Senate are addressing the mortgage crisis and the MBA continues to meet with House and Senate members on the legislation. Senate Bill 828 regulates and registers mortgage brokerage loan originators. The bill falls short of holding mortgage lenders to the same regulatory practices as banks but is a first step in greater accountability for that group. Bank employees are excluded from this legislation.

The House Bill 5295 establishes restrictions on refinancing home loans. The MBA retail lending committee remains very active in providing input to the legislature on this subject. Committee member Deb Campbell of Independent Bank Corporation is participating in a legislative workgroup along with the MBA to voice industry opposition to the bill as written and work for a more effective solution.

- The MBA Human Resources Committee weighed in on House Bill 4887 which eliminates the ability to use a credit history check for hiring purposes. Again the MBA secured an amendment to the bill allowing an exemption to banks and their affiliates since a credit history check is an essential tool used in the hiring process in the interest of protecting depositors.

Federal Home Loan Bank of Indianapolis Announces New Directors

MBA endorsed directors for the Federal Home Loan Bank of Indianapolis (FHLBI) for terms beginning January 1, 2008, and ending December 31, 2010, include: Timothy P. Gaylord, President & CEO, Mason State Bank, Mason, an incumbent, was re-elected to one of the open seats in the State of Michigan. Also elected to fill director seats in Michigan were John L. Skibski, EVP & CFO, Monroe Bank & Trust, Monroe; James D. MacPhee, CEO, Kalamazoo County State Bank, Schoolcraft; and Mark A. Hoppe, CEO, LaSalle Bank Midwest N.A., Troy.

Credit Union Facts: Credit Union Regulation

The National Credit Union Administration (NCUA) plays three roles in credit union regulation:

- It is the primary regulator of all federal credit unions.
- It is the insurer of deposits of all federal CUs and nearly all state CUs. (Note: a few states, including Ohio, allow private deposit insurance. Michigan does not.)
- It is the central liquidity facility for credit unions.

For most state CUs, and all federal CUs, deposits of CU members are insured by the NCUA in a manner that parallels FDIC insurance. Several states allow for private deposit insurance although Michigan does not. All CUs, with deposits insured by the NCUA are required to keep on deposit at the NCUA one percent of the CUs assets. The NCUA does not pay the CU interest on the deposit. (Note: when a CU converts to a mutual thrift, the NCUA must pay back the money to the CU. For a \$1 billion CU, that's \$10 million.

Like bank and thrift exams, CUs are examined for safety, soundness and compliance. Federal CUs are examined annually. Michigan state CUs are examined "not less frequently than once every 18 months" – this means at least once in every 18 month cycle.

Legislators and Lenders Day Scheduled for March 19-20, 2008

Bankers throughout Michigan are invited to participate in the MBA Legislators and Lenders Day March 19-20 in Lansing. Attendees will be briefed on legislative issues affecting the industry prior to attending group dinners with key legislators. Several guest speakers are being invited, including the OFIS Commissioner and State Treasurer. The Michigan Credit Union League had more than 130 industry members attend their recent Capitol day. It is important our industry has strong representation in Lansing as well. Please contact Jordan Kingdon at jkingdon@mibankers.com for information on attending.

U.S. House passes subprime mortgage legislation

In Congress the House passed subprime mortgage legislation raising ABA concerns about an increased regulatory burden for federally insured depository institutions. If the bill is considered by the Senate, the ABA will work to prevent any negative impact on the bank's ability to provide products and services to customers.

Bankers Needed to Participate in Upcoming Grassroots Events

Contact Jordan Kingdon at jkingdon@mibankers.com for information on any of the following events:

- Congressman John Dingell: November 19, 4:00 p.m. — grassroots meeting at United Bank and Trust, Ann Arbor.
- State Representative Andy Meisner: December 3, 3:00 p.m. — grassroots meeting at OLHSA hosted by Huntington Bank in Ferndale.
- Senate Majority Leader Mike Bishop: December 5, 6:00 p.m. — guest speaker at the MBA Bank Management and Directors Conference in Grand Rapids.
- Senator Cameron Brown: December 6, 7:00 p.m. — guest speaker at the MBA Bank Management Conference.
- Representative Andy Coulouris: December 7, 8:00 a.m. — participant in MBA legislative panel discussion at the MBA Bank Management Conference.
- House Banking Committee Chairman Andy Coulouris: December 10, 5:15-6:30 p.m. — fundraiser at Jake's Steakhouse in Saginaw. All MBA members are invited and encouraged to participate. Tickets are \$100 per person.
- Congresswoman Candice Miller: host bank needed for meeting in January. Thumb region preferred.
- Congressman Vernon Ehlers: host bank needed for meeting in January. Grand Rapids region preferred.

Send a Letter Opposing FCS Expansion in 2007 Senate Farm Bill

After eight days of legislative gridlock, Senate leaders agreed on November 14 to debate Farm Bill amendments. The MBA and ABA/ACB are working to defeat the Senator Saxby Chambliss (R-GA) amendment aimed at expanding Farm Credit System lending powers. Click [here](#) to send the ABA CapWiz letter opposing this amendment.

Senate Banking Committee Chairman Chris Dodd (D-Conn.) to Introduce ILC Loophole Bill

Sen. Chris Dodd (D-Conn.) indicated this week he would soon circulate draft legislation to close the industrial loan company loophole with the goal of enacting a bill by the FDIC moratorium expiration date of January 31. Sen. Robert Bennett (R-Utah), a key supporter of ILCs, has signaled his willingness to compromise on legislation. The MBA will need member bankers to send letters and make phone calls to Senators Stabenow and Levin urging their support of this legislation once introduced. Please stay tuned for the MBA Action Alert for this issue in the upcoming weeks.

Credit Union Regulatory Improvements Act (CURIA) Update

Has your member co-sponsored CURIA in 2007? This bill, promoted by the credit union industry, aims to expand CU commercial lending authority while reducing their regulatory capital requirements. If your member has not co-sponsored this legislation, click [here](#) to send the CapWiz opposition letter.

[Non Co-Sponsors of CURIA \(Thank You!\)](#)

Rep. Candice Miller, Rep. Mike Rogers, Rep. Joe Knollenberg, Rep. John Dingell and Rep. Vernon Ehlers