Effective October 1, 2012, the income tax withholding rate will change to 4.25% and the personal exemption amount will change to $3,950. The pension and/or retirement benefit withholding rate will also change to 4.25%, however, there is no adjustment to the monthly pension deduction amount. Withholding Tables have been updated.

2012 Michigan Income Tax Withholding Guide Supplement

Withholding Rate: 4.35% **Personal Exemption Amount: $3,700**

WITHHOLDING GUIDE SUPPLEMENT HIGHLIGHTS:

Withholding Rate Reduction Repealed: The Withholding Rate reduction scheduled to take place on October 1, 2011, was repealed by Public Act 38 of 2011. The income tax rate will remain 4.35 percent throughout 2012. Continue using the Withholding Tables printed in the 2011 Withholding Guide or refer to Treasury's Web site for a copy of the tables.

Income Tax Withholding: Beginning January 1, 2012, companies that pay pension and retirement benefits will be required to withhold Michigan income taxes on any payments to retirees. See more detailed information below.

Flow-Through Withholding: Effective January 1, 2012, payment for flow-through withholding tax collected should be reported with applicable payments on Form 4917 and annually reconciled on Form 4918. See more detailed information below.

New Information

INCOME TAX WITHHOLDING UPDATES FOR EMPLOYERS AND RETIREES

Every Michigan employer required to withhold federal income tax under the Internal Revenue Code, must be registered for and withhold Michigan income tax. Nonprofit organizations that are exempt from income tax, such as charitable, religious and governmental organizations, must withhold tax from compensation paid to their employees. Employers located outside Michigan that have employees who work in Michigan must register and withhold Michigan income tax from all employees working in Michigan.

Beginning January 1, 2012, companies that pay pension and retirement benefits will be required to withhold Michigan income taxes on any payments to retirees. In general, payers must withhold 4.35 percent on all distributions that will be subject to Michigan income tax unless the payer receives a withholding certificate from a retiree. Pension and retirement benefits include payments made from a pension, individual retirement account, annuity, profit-sharing, stock bonus or other deferred compensation plan. Also included are annuity payments or endowment or life insurance contract payments issued by a life insurance company.

For additional withholding information, including the current personal exemption amount and withholding tax rates, see the *2012 Pension Withholding Guide* (Form 4927) and the *2011 Michigan Income Tax Withholding Guide* (Form 446) available at **www.michigan.gov/taxes**.

FLOW-THROUGH INCOME TAX WITHHOLDING

Effective January 1, 2012, payment for flow-through withholding tax collected should be reported with applicable payments on *Michigan Flow-Through Withholding Quarterly Return* (Form 4917) and annually reconciled on the *Michigan Annual Withholding Reconciliation Return* (Form 4918).

After January 1, 2012, flow-through withholding should no longer be included with the taxes reported on the *Combined Return for Michigan Taxes* (Form 160) or on the *Annual Return for Sales, Use and Withholding Taxes* (Form 165).

Flow-through entities (S-corporations, partnerships, limited partnerships, limited liability companies, and limited liability partnerships) are required to withhold Michigan income tax at the individual income tax rate on the distributive share of taxable income of nonresident members that are individuals. A flow-through entity with more than $200,000 of business income is also required to withhold Michigan income tax at the corporate income tax rate (six percent) on the distributive share of the business income of any member that is a corporation or another flow-through entity.

Additional information, form access, and updates on the tax changes for 2012 are available at Treasury's Web site **www.michigan.gov/taxes**.

Important Information

Who Must Withhold?

Every employer in this State who is required to withhold federal income tax under the Internal Revenue Code (IRC) must withhold Michigan income tax. Payers of pension and retirement benefits that will be subject to income tax must withhold on the taxable amount.

Who Is an Employer?

An employer is defined in the *Federal Employer's Tax Guide, Circular E*, as any person or organization for whom an individual performs any service as an employee. This includes any person or organization paying compensation to a former employee after termination of his or her employment.

Nonprofit organizations that are exempt from income tax, such as charitable, religious, and government organizations, must withhold tax from compensation paid to their employees.

Employers located outside Michigan who have employees working in Michigan must register with Treasury and withhold Michigan income tax from all employees working in Michigan. This applies to both Michigan residents and nonresidents (see page 3, **"Reciprocal Agreements"**).

Employers located in Michigan assigning a Michigan resident employee to work temporarily in another state must withhold Michigan income tax from compensation paid to the employee for work done in another state.

Who Is an Employee?

An employee is an individual who performs services for an employer who controls what will be done and how it will be done. It does not matter that the employer permits the employee considerable discretion and freedom of action, as long as the employer has the legal right to control both the method and the result of the services.

For further clarification of the term "employee," see the *Federal Employer's Tax Guide, Circular E*.

Withholding on Nonresident Gambling Winnings

Michigan withholding is required on all reportable winnings by nonresidents at Michigan casinos, racetracks, or off-track betting facilities. Reportable winnings are those winnings required to be reported to the Internal Revenue Service (IRS) under the IRC. To calculate Michigan withholding, multiply the amount of reportable winnings by 4.35 percent. Include the amount withheld on the recipient's Form W-2G.

Registration and Account Identification

Every person or organization becoming an employer must register with Treasury by completing *Michigan Business Taxes Registration* (Form 518).

If you already have a Federal Employer Identification Number (FEIN), you may electronically submit your registration information. To register online, go to the joint Unemployment Insurance Agency (UIA)/Treasury e-Registration site which can be found at **www.michigan.gov/business**. If you are unable to complete your registration online, you will need to complete and mail Form 518 which you can obtain at **www.michigan.gov/treasuryforms.**

If you do not have an FEIN, you must either apply for one on the IRS Web site **www.irs.gov** or by contacting the IRS at 1-800-829-4933. The Michigan employer identification number is usually the same as the FEIN assigned by the IRS. When acquiring a business you must register with Michigan and obtain a new FEIN. Do not use the FEIN assigned to the previous business owner.

W-2 Reporting on Magnetic Media

Employers with 250 or more Michigan employees are required to file MI-W-2 information on magnetic media.

Do not enclose your annual return with your W-2 report. Mail your annual return to the address on that form. Do not duplicate on paper forms any information filed on magnetic media.

For W-2G and 1099 reporting specifications, see *Transmittal for Magnetic Media Reporting* (Form 447) at **www.michigan.gov/treasuryforms**.

For W-2 reporting, the State of Michigan accepts the federal EFW2 format for magnetic media. You must be sure that the Code RS State Record (optional for federal reporting) is filled in. For more information, contact the Magnetic Media Unit at (517) 636-6925.

ELECTRONIC FUNDS TRANSFER (EFT)

Choosing EFT to submit your Sales, Use, and Withholding tax payments eliminates the requirement to file monthly or quarterly paper returns. You must still file an *Annual Return for Sales, Use and Withholding Taxes* (Form 165). To find out more about the EFT process, visit **www.michigan.gov/biztaxpayments**.

Contact Treasury

Contact Treasury at Michigan Department of Treasury, P.O. Box 30427, Lansing, MI 48909; (517) 636-6925. Assistance is available using TTY through the Michigan Relay Service by calling 1-800-649-3777 or 711. Printed material in an alternate format may be obtained by calling (517) 636-6925.

Employee Exemptions

MI-W4 Withholding Exemption Certificate

Every employer must obtain a *Withholding Exemption Certificate* (Form MI-W4) from each employee. The federal W-4 cannot be used in place of the MI-W4.

The 2012 exemption amount is $3,700 per year times the number of personal and dependency exemptions allowed under the IRC. An employee may not claim more exemptions on the MI-W4 than can be claimed on the employee's federal income tax return.

Michigan has additional special exemptions that are claimed on a taxpayer's Michigan income tax return, not on an MI-W4. The exemptions on the MI-W4 are limited to the number of federal exemptions.

The MI-W4 enables employees to claim exemption from Michigan income tax withholding. Employees may claim exemption from withholding only if they do not anticipate a Michigan income tax liability for the current year because their employment is less than full-time and the personal and dependency exemptions exceed their annual compensation.

Any changes made to an MI-W4 makes the form invalid. Any writing on the certificate other than entries required is considered a change.

If you receive an invalid certificate, do not consider it to compute withholding. You must inform the employee who submitted the certificate that it is invalid and require the employee to submit a corrected MI-W4. If the employee does not comply, withhold from the employee's total compensation based on zero exemptions. If a prior valid certificate is in effect, continue to withhold in accordance with the prior valid certificate.

Sending Certain MI-W4 Certificates

Under Public Act 169 of 1982, employers must submit to Treasury a copy of any MI-W4 received from employees who:

- Claim ten or more exemptions, or
- Claim exempt from withholding tax.

Employers must also submit MI-W4s for employees who change their withholding status to exempt.

Employers should not send copies of exemption certificates filed by:

- Part-time or student employees whose expected earnings will be less than their exemption allowance.
- Employees who claim exempt because they live in a reciprocal state, or
- Employees who claim exempt for a stated time (e.g., two pay periods).

Use the official MI-W4 only; do not send copies of the federal W-4. **Mail MI-W4s only to:**

New Hire Operations Center
P.O. Box 85010
Lansing, MI 48908-5010

If you report your New Hire information magnetically or electronically, also send a paper copy of the MI-W4 for these employees to the New Hire Operations Center. Do not attach MI-W4 forms to the Sales, Use, and Withholding tax return. Include copies of any written statement or explanation from the employee supporting the claim made on the MI-W4.

Compensation

The term "compensation," as used in this guide, covers all types of employee compensation including salaries, wages, vacation allowances, bonuses, and commissions (as defined in the *Federal Employer's Tax Guide, Circular E*, "Taxable Wages").

Fringe Benefits

Reporting and withholding on fringe benefits follows federal guidelines as provided in the *Federal Employer's Tax Guide, Circular E*. Examples of fringe benefits include 401(k) deferred compensation, profit sharing, and cafeteria benefit plans.

Supplemental Unemployment Benefits

Any employer required to withhold federal income tax from supplemental unemployment compensation benefits must also withhold Michigan income tax. Michigan follows the federal procedure regarding employee withholding exemption certificates.

How Much to Withhold

Determine the amount of tax withheld using a direct percentage computation, the withholding tables provided in the *2011 Withholding Guide* or on Treasury's Web site at **www.michigan.gov/taxes.** The withholding rate is 4.35 percent of compensation after deducting the personal and dependency exemption allowance.

Reciprocal Agreements

Employers located in Michigan must withhold Michigan income tax from all compensation paid to nonresident employees for work done in Michigan, unless covered by a reciprocal agreement.

Michigan has entered into reciprocal agreements with the states of Illinois, Indiana, Kentucky, Minnesota, Ohio, and Wisconsin. This means that a Michigan employer will not withhold Michigan income tax from residents of these states who work in Michigan. Employers in Illinois, Indiana, Kentucky, Minnesota, Ohio, and Wisconsin will not withhold their state income tax from Michigan residents who work in their state. However, such employers may voluntarily register with Treasury to withhold Michigan income tax from Michigan residents who work in their states.

Certificate of Nonresidency

Treasury does not furnish nonresidency certificates. The employer may develop a form or obtain a letter from the employee. The form or letter should contain the employee's name, legal address, Social Security number, and a statement signed and dated by the employee that this is his or her legal address. The employer keeps the form as its authority not to withhold Michigan income tax.

Reporting and Paying Amounts Withheld

Treasury mails personalized returns with instructions to all registered taxpayers. The return is a combined Sales, Use, and Withholding Taxes return. Do not use returns personalized for another taxpayer to report and pay your tax.

Employers not liable for Sales or Use Tax should complete only the Withholding Tax section on the return. Follow the filing instructions enclosed with the personalized returns.

Employers averaging more than $40,000 a month in Income Tax withholding will be notified of a requirement to pay on an accelerated schedule. Taxpayers meeting this threshold must make their payments using EFT.

If you need tax forms, contact Treasury at (517) 636-6925 or go to **www.michigan.gov/taxes**.

Bonuses and Other Payments

Bonuses and other payments of taxable employee compensation made separately from regular payroll payments are subject to Michigan income tax withholding. The withholding amount equals the payment amount multiplied by 4.35 percent (0.0435). Do not make any adjustment for exemptions.

Statement of Wages and Taxes Withheld (W-2)

Every employer must furnish to each employee before January 31 of the succeeding tax year an annual W-2, Wage and Tax Statement giving name, address, Social Security number, gross earnings, and Michigan income tax withheld. Employers may use one of the IRS-approved combined W-2 forms available commercially.

Annual Return

You must reconcile your income tax withheld every year by filing Form 165. Employers not liable for sales or use tax should complete only the withholding tax section of the return. A copy of the combined W-2 and third-party sick pay W-2 furnished to each employee and MI-1099 (for miscellaneous services performed in Michigan) must accompany the annual return. Do not send other 1099 forms unless they include Michigan withholding tax information.

If, after reasonable effort, you are unable to deliver a W-2 to an employee, follow the instructions in the *Federal Employer's Tax Guide, Circular E.*

Employer Discontinuance

If you go out of business or permanently stop being an employer, you must do all of the following:

- File a final monthly or quarterly return and pay all money due within 15 days after you discontinue business.
- Complete and file Form 165 with Treasury by February 28. Also include the State of Michigan copy of the combined W-2 as furnished to each employee.
- Give a combined W-2 to the employee no later than 30 days after the last payment of compensation.
- Complete Form 163 and submit to Treasury.

Successor Liability

If you sell your business, your successor must hold enough of the purchase money to satisfy the amount of sales, use, and withholding tax that may be due until you produce a receipt for payment of the tax from Treasury or a certificate from Treasury stating no tax is due. If the successor fails to withhold sufficient funds, he or she may be held liable for unpaid taxes.

Officer Liability

Officers, members, managers, or partners of a corporation, limited liability company, limited liability partnership, partnership, or limited partnership who have responsibility for filing returns or making payments are personally liable for failure to file or for unpaid taxes, penalty, and interest under Public Act 169 of 1982.

Withholding on Pension, Annuity, and Third-Party Payments

Effective January 1, 2012, Michigan's tax treatment of pension and retirement benefits will change and these benefits may be subject to income tax for many recipients. The instructions for withholding on these benefits are covered in the *2012 Pension Withholding Guide* (Form 4927). Payers of pension and retirement benefits should receive an MI W-4P from their benefit recipients and the payer should follow the instructions provided on the MI W-4P.

For recipients who were born between 1946 and 1952 and receive monthly payments, the payer should use the withholding tables provided as part of Form 4927. For recipients born after 1952 who receive monthly payments, withholding should be calculated using the monthly withholding table provided in the *2011 Withholding Guide*.

Correcting W-2 Errors

If a withholding error is discovered in the same calendar year as the error was made, adjust a later paycheck and make the same adjustment in the next payment due to Treasury.

If the error was for more withholding than was on the original W-2, issue a corrected W-2 and send a copy to Treasury. The corrected form should be clearly marked "Corrected by Employer."

If the error was for less withholding than was on the original W-2, do not issue a corrected W-2. This type of correction must be handled in one of the following ways (1979 AC, R 206.22):

1) The employer may repay the amount withheld in error to the employee anytime within the same calendar year. The employer shall obtain a receipt from the employee and keep in his records. The employer may adjust his records and deduct the amount refunded from the tax owing on his next return, or ask for a cash refund.

2) If the employer does not repay the employee as noted above, the employee may claim a credit for the amount withheld on their individual income tax return (Form MI-1040).

If an issued W-2 is lost or destroyed, give the employee a substitute copy clearly marked "Reissued by Employer."

Records You Must Keep

You must keep all records pertinent to this tax available for inspection by Treasury. The records are similar to those necessary for federal income tax withholding as shown in the *Federal Employer's Tax Guide, Circular E.*

Records must show the amounts and dates of all compensation payments subject to this tax. Include employee name, address, Social Security number, MI-W4, occupation, and period of employment. Include records that show periods an employee was paid by the employer while absent from work due to sickness or personal injury. Show the amount and weekly rate of such payments. Keep duplicates of all returns filed.

These records must be kept at least six years after the date the tax to which they relate becomes due or the date the tax is paid, whichever is later.

Reporting Newly Hired Employees

Treasury encourages employers to take advantage of the online Internet reporting and information available at **www.mi-newhire.com.** Employers using online reporting will have access to a secure Web site, receive e-mail confirmations for new hire submissions, be able to view reporting history online, and have access to the *New Hire Reporting Form* (Form 3281). For additional New Hire reporting information, call 1-800-524-9846.