

MEMO# 21805.DOC

October 9, 2007

Michigan Enacts Tax on Investment Advice Services; Conference Call Scheduled for Friday, October 12, 2007

[21805]

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TO: ADVISER DISTRIBUTOR TAX ISSUES TASK FORCE No. 16-07
TAX ADVISORY COMMITTEE RE: MICHIGAN ENACTS TAX ON INVESTMENT ADVICE SERVICES; CONFERENCE CALL SCHEDULED FOR FRIDAY, OCTOBER 12, 2007

Michigan has enacted HB 5198 (now 2007 Public Act 93, attached), which imposes Michigan's six percent sales and use tax on the consumption of certain services, including investment advice services. A conference call has been scheduled for Friday, October 12, 2007 at 2:00 p.m. (eastern). If you would like to participate in the call, please complete the attached response form and return it to Ezella Wynn (by e-mail to ewynn@ici.org or by fax to 202-326-5841) by close of business on Thursday, October 11, 2007. To access the call, dial 877-546-1570 and enter passcode 13117.

The Act taxes "investment advice services, as described in [the 2002] NAICS industry code 52393." The NAICS industry code (<http://www.census.gov/epcd/naics02/index.html>) is the North American Industry Classification System used by Federal statistics agencies to classify business establishments. NAICS code 52393 defines investment advice:

This industry comprises establishments primarily engaged in providing customized investment advice to clients on a fee basis, but do not have the authority to execute trades. Primary activities performed by establishments in this industry are providing financial planning advice and investment counseling to meet the goals and needs of specific clients.

NAICS code 52393 does not cover establishments that provide investment advice in

addition to a different, primary activity. For example, establishments providing investment advice in conjunction with their primary activity, such as portfolio management, or the sale of stocks, bonds, annuities, and real estate, are classified according to their primary activity.

The Services taxed under the Act are sourced using the rules applicable to products, as provided in section 20 of the Michigan Use Tax Act. Sourcing rules are discussed on page two of the bill analysis (attached). The Act generally requires persons subject to the tax to register with the Department of Treasury and provide the name and address of each agent operating in the state, the location of all distribution or sales offices or other places of business in the state, and any other information required by the Department of Treasury. The Act becomes effective on and after December 1, 2007.

Lisa Robinson
Associate Counsel

[Attachment](#)

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