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TECHNICAL AMENDMENTS TO INCOME TAX ACT

Senate Bill 506 with committee amendments
First Analysis (11-2-87)

Sponsor: Sen. Norman D. Shinkle
Senate Committee: Finance
House Committee: Taxation

THE APPARENT PROBLEM:

The Department of Treasury has recommended changes in the Income Tax Act to eliminate provisions that conflict with or duplicate provisions in the revenue act since the passage of Public Act 58 of 1986 (House Bill 4706), which revised the revenue act. The treasury department has also requested that other amendments be made to both acts to make their administration easier and, in some cases, to make statutory provisions conform with current policies of the department and conform with changes made in federal tax law.

THE CONTENT OF THE BILL:

The bill would amend the Income Tax Act in a number of ways, including the following.

Net Operating Losses

The bill would require that a taxpayer include as income, in determining adjusted gross income, net operating losses the taxpayer deducted in calculating federal adjusted gross income. A taxpayer would then be allowed to deduct net operating losses for a taxable year, carried forward from losses incurred in a previous year (a loss "carryforward"), but only to the extent that the loss was attributable to Michigan business activity. Currently, the act requires a taxpayer to apportion to Michigan business income and losses incurred in Michigan, but does not require apportionment of a loss carryforward. This means that loss carryforwards from entire business operations are now deductible, whether or not incurred in Michigan.

Canadian Provincial Tax

The act allows a taxpayer to claim a credit for taxes paid to a Canadian province that are not claimed as a credit in determining federal income tax. The federal internal revenue code allows the provincial taxes to be carried forward to reduce federal taxes in future years. The bill provides that provincial taxes carried forward could not be claimed as credits against the state's income tax.

Quarterly Estimated Payments

The bill would increase from $100 to $500 the threshold at which a taxpayer must file quarterly estimated payments. Currently, a taxpayer who has a tax liability exceeding $100, after withholding and credits are subtracted, must make quarterly estimated payments.

Extensions

A taxpayer can apply for an extension of the filing deadline for annual returns under the act. The bill would require a taxpayer, before the original filing deadline, to pay the estimated tax due when applying for an extension. Currently, when a taxpayer gets an extension to file a federal return, the extension period automatically applies to the Michigan tax return, plus 60 days. The bill provides that an extension for a Michigan return would apply only to the time period allowed for the federal extension. The bill also provides that interest and penalties on taxes unpaid during an extension would be the same as interest and penalties that the revenue act imposes on all other unpaid taxes.

Amended Returns

Under the bill, taxpayers would be required to file an amended Michigan return within 120 days showing any final alteration in or modification of a federal return that resulted in a federal assessment of $500 or more. Currently, a taxpayer only has to notify the Department of Treasury within 60 days of filing an amended federal return.

Statute of Limitations

The bill would eliminate a statute of limitations that prohibits the imposition of a tax deficiency, interest, or penalty after four years from the date for filing a return. (Those provisions are now in Section 27a of the Revenue Act.) As is currently the case, the statute of limitations would not apply to a year in which a tax return was not filed.

Purchaser Liability

The act requires the purchaser of a business to withhold an amount of the purchase money to pay any taxes that may be due or unpaid by the former owner, until the former owner produces a receipt from the Department of Treasury. The bill would eliminate this provision. (This provision has been placed in Section 27a of the Revenue Act.)

Property Tax Credits

The bill provides that a widower of an eligible veteran would be eligible for special property tax credits, as is currently allowed by the act for widows.

The bill specifies that a net operating loss or capitol loss carried forward or carried back to another tax year would have to be included as household income in calculating a taxpayer's homestead property tax credit in the current year. (This would prevent a taxpayer from using a loss more than once to reduce household income in the calculation.)

The bill provides that property tax administration fees and special assessments that are assessed in an entire city, village, or township and are based on state equalized value could be included as property taxes paid in calculating a taxpayer's property tax credit.

The bill would allow a totally and permanently disabled person to file for a property tax credit based on a service charge, instead of property taxes, as provided for in the State Housing Development Authority Act.

The bill specifies that, for purposes of calculating the property tax credit, the credit on property sold during the year would be prorated based on the number of days the property was actually the taxpayer's homestead, rather than the number of days the taxpayer owned the property as the act now provides.

Currently, the act provides penalties for a taxpayer who claims excessive property tax or home heating tax credits. The bill would repeal this provision. (The provision is now in Section 23 of the Revenue Act.)

MCL 206.30 et al.

HOUSE COMMITTEE ACTION:

The House Taxation Committee adopted seven amendments, most of them technical in nature. The principal substantive change would require a taxpayer to file an amended state return only after receiving "final" notice of any change that resulted in a federal assessment of $500 or more. As passed by the Senate, a taxpayer would have to notify the state of any change in a federal return that affected Michigan taxable income. Furthermore, as passed by the Senate, the bill would allow any special assessment based on state equalized value to be included among property taxes when calculating a taxpayer's homestead property tax credit. The taxation committee amended the bill so that a special assessment would have to be assessed across the whole municipality in order to qualify.

FISCAL IMPLICATIONS:

The Michigan Department of Treasury reports that the provision of Senate Bill 506 requiring the apportionment of loss carry-forward would increase state revenue by $6 million per year. In effect, because of a recent tax tribunal ruling, without Senate Bill 506 state revenue would be $6 million lower than last year. The department also reports that Senate Bill 506 and Senate Bill 507 together would reduce penalty payments by approximately $6.1 million per year. (Senate Bill 507 is still in committee.) Finally, including special assessments based on state equalized value would increase allowable property tax credits by $6 million per year.

ARGUMENTS:

For:

The bill would help to eliminate conflicts and duplication between the income tax and revenue acts and make statutory provisions conform to current departmental policies. In general, the bill will make it easier for the treasury department to administer the income tax act.

POSITIONS:

The Department of Treasury testified in favor of the bill before the House Taxation Committee. (10-28-87)