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SINGLE FAMILY RENTALS

House Bill 5581 (Substitute H-1)
Sponsor: Rep. Kirk A. Profit

House Bill 5945 (Substitute H-1)
Sponsor: Rep. Allen Lowe

First Analysis (7-1-98)
Committee: Tax Policy

THE APPARENT PROBLEM:

Under the Use Tax Act, "rooms or lodgings furnished by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public on the basis of a commercial and business enterprise" are taxed. (The act says the use or consumption of these services are to be taxed as tangible personal property is taxed under the act. These accommodations and certain telephone services are services subject to the tax.) Representatives of owners of vacation property who sometimes rent out their homes or condominiums complain that the use tax is being applied to them when they engage in occasional short-term rentals and they doubt that this is the intention of the provision. Legislation to address this issue has been introduced.

THE CONTENT OF THE BILLS:

House Bill 5945 would amend the Use Tax Act (MCL 205.93a) to exempt from the tax the rental of residences in the form of single-family houses or single-family condominium units that are "privately owned" by not more than two individuals. House Bill 5581 would amend the same act (MCL 205.92) to define "privately owned" to mean that accommodations are provided to the public in the house or condominium for not more than eight weeks in a calendar year and the owner does not claim a deduction for business expenses related to the rental of the house or condominium unit under the federal Internal Revenue Code.

(The act applies the six percent tax to "a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns,

motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, nudist camps, apartment hotels, resort lodges and cabins, camps operated by other than nonprofit organizations . . . and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by hospitals or nursing homes."

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The bill would exempt certain vacation accommodations from the use tax; namely, privately owned homes and condominiums that are provided to the public for no more than eight weeks during the year in those cases where the property owner does not claim a deduction for business expenses related to the rental under federal tax law. The bill aims at distinguishing between property used for occasional rental from standard commercial rental properties.

Response:

This is an issue that needs further study to make sure that any exemption is crafted properly. Department of Treasury officials have said that while it may not be appropriate to tax occasional rentals, some people can rent their vacation property (or their residences in vacation areas) for \$1,000 or \$2,000 per week in the summer months. (It should be noted that such homes compete for business with other kinds of accommodations.)

POSITIONS:

The Department of Treasury has not yet taken a position on the bills. (6-30-98)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.