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SBT: RETAILER CAD EXCEPTION

House Bill 5795 as introduced
First Analysis (6-4-98)

Sponsor: Rep. Kirk A. Profit
Committee: Tax Policy

THE APPARENT PROBLEM:

Legislation in 1995 altered the way in which the capital acquisition deduction is calculated for multi-state firms under Michigan's single business tax. The CAD, which permits firms to deduct from the SBT tax base the cost of real and personal property acquired in the tax year, was changed so that it only applies to assets located in Michigan for use in a business activity in the state. Prior to that, the CAD applied to acquisitions by a multi-state company anywhere, subject to the same apportionment formula used in determining the SBT tax base. (That formula, which was also changed in 1995, is based on the proportion of a firm's Michigan payroll, property, and sales to its total payroll, property, and sales. The 1995 legislation changed the weighting from 25-25-50 to 80-10-10 for 1997 and 1998 and to 5-5-90 for 1999 and thereafter.) However, one of the exceptions in the 1995 legislation allows a retailer that meets certain criteria to continue using the prior method of computing the CAD. To qualify, a retailer must be headquartered in Michigan and <u>more than 50 percent</u> of its total sales has to be composed of the retail sale of fresh, frozen, or processed food, food products, or consumable necessities; household products; prescriptions; health and beauty care products; cosmetics; pet products; carbonated beverages; and beer, wine, and liquor. (The firm must sell all of the above products. Also, the firm's retail sales of prescriptions must be more than 2 percent and less than 10 percent of its total retail sales.) This was understood to apply to Meijer, Inc. Legislation has been introduced that would allow at least one other retailer to use the alternative method of computing the CAD deduction.

THE CONTENT OF THE BILL:

The bill would amend the Single Business Tax Act so that, for tax years that begin on and after January 1, 1998, the alternative method of calculating the capital acquisitions deduction could be employed by a Michigan-based multi-state retailer deriving more than 20 percent of its total sales from the retail sale of certain products rather than more than 50 percent of total sales, as now.

Those products are fresh, frozen, or processed food, food products, or consumable necessities; household products; prescriptions; health and beauty care products; cosmetics; pet products; carbonated beverages; and beer, wine, and liquor. The retailer must sell all of those products to qualify. Also, the firm's retail sales of prescriptions must be more than 2 percent and less than 10 percent of its total retail sales.

MCL 208.23 and 208.23b

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

This bill has been described, in committee testimony, as extending to the K-Mart Corporation the same method of calculating the capital acquisition deduction as currently applies to Meijer. The bill provides equal treatment for two major Michigan-based multi-state retailers.

Against:

At the time the alternative CAD computation was enacted in 1995, some people opposed it as special treatment for one company. That objection similarly applies to this bill.

POSITIONS:

A representative of K-Mart Corporation testified in support of the bill. (6-3-98)

The Department of Treasury is opposed to the bill. (6-3-98)

Analyst: C. Couch

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