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SALES/USE TAX: LLC'S

House Bill 6018 and 6019 as introduced First Analysis (12-3-98)

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

THE APPARENT PROBLEM:

Recent legislation, beginning with Public Act 23 of 1993, has authorized the formation of limited liability companies and partnerships, a new form of business entity. (For information on this kind of entity, see the House Legislative Analysis Section's analysis of House Bill 4606 of this session [dated 5-13-97] and a recent House Fiscal Agency publication [10-10-97] entitled "Recent Legislative Changes to Michigan's Limited Liability Company Act.") This new kind of entity, it has been pointed out, is not specifically mentioned in various tax acts, as many other entities are. A number of bills have been introduced to address that.

THE CONTENT OF THE BILLS:

House Bill 6018 would amend the Use Tax Act (MCL 205.95) and House Bill 6019 would amend the General Sales Tax Act (MCL 205.65) so that certain provisions currently applying to corporations and similar entities would also apply to limited liability companies.

The use tax provisions are those requiring the registration of companies with the Department of Treasury and the payment of outstanding taxes before dissolution of a company. The sales tax provisions relate to the dissolution of companies and the personal liability of officers for a company's failure to pay taxes.

BACKGROUND INFORMATION:

Other bills this session that have addressed the subject of limited liability companies include House Bill 5106, which would put such companies under the definition of "person" in the General Sales Tax Act; House Bill 5892, which would amend the Single Business Tax Act to address how limited liability companies are treated under the SBT; and House Bill 5909, which would amend the revenue act regarding the personal liability for taxes of a limited liability company's officers. Those three bills have passed the House.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bills would have an indeterminate effect on state revenues. (HFA fiscal notes dated 11-5-98)

ARGUMENTS:

For:

The bills would ensure that limited liability companies, a relatively new form of business organization, would be referred to in the sales and use tax acts as other similar entities are.

POSITIONS:

The Department of Treasury had indicated support for the bills. (12-2-98)

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.