Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 872 (Substitute S-1 as reported)
Sponsor: Senator Joanne G. Emmons
Committee: Finance

CONTENT

The bill would amend the revenue Act to allow the Revenue Commissioner, on behalf of the Department of Treasury, to enter into a voluntary disclosure agreement with a person to bring nonfilers into compliance for taxes due or claimed by the State. (A "nonfiler" for a particular tax would be a person who had never filed a return for the particular tax being disclosed.) All taxes and fees administered under the Act would be eligible for inclusion in a voluntary disclosure agreement. A person would have to meet specific eligibility requirements, including agreeing to pay all taxes for and after a "lookback period". (As a rule, a "lookback period" would cover up to 48-months.) Also, the person could not have had any prior contact with the Department regarding a tax covered by the agreement (although a nonfiler who had received a letter of inquiry from the Department could qualify for an agreement by sending a request to the Department within 90 days after the bill's enactment). The Department could not assess any tax, penalty, or interest covered under an agreement for any period before the lookback period.

The bill is tie-barred to Senate Bill 890.

MCL 208.28 et al. Legislative Analyst: S. Lowe

FISCAL IMPACT

Recent rulings by the Michigan Court of Appeals have effectively revoked the standards and rules currently in place to determine nexus under the single business tax. These rulings will force State government to refund, in FY 1997-98, $27 million of single business tax payments made in prior years. To remedy this nexus problem, the Department of Treasury is establishing new nexus standards and guidelines, which are being issued through Revenue Administrative Bulletin 98-1. To help businesses comply with the new nexus standards on a retroactive basis, voluntary disclosure procedures are being proposed in Senate Bill 872 (S-1). Also, to make current law consistent with the new nexus standards, the current "throwback" rule would be eliminated, and this is proposed in Senate Bill 890. The current throwback rule provides that out-of-state sales by Michigan businesses, not taxed by the state where the sale occurs, have to be counted as sales in Michigan when the single business tax base is apportioned.

According to the Department of Treasury, the new nexus standards, along with the voluntary disclosure procedures proposed in Senate Bill 872 (S-1), would increase single business tax revenue by an estimated $20 million, and eliminating the throwback rule, as proposed in Senate Bill 890, would decrease single business tax revenue by an estimated $20 million. Therefore, it is estimated that together, the bills, which are tie-barred, would not generate any net change in single business tax revenue.

Date Completed: 2-23-98 Fiscal Analyst: J. Wortley
E. Limbs

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