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SFA BILL ANALYSIS

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House Bill 4745 (Substitute H-3 as passed by the House)
Sponsor: Representative Nancy Cassis
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 6-8-99

CONTENT

The bill would amend the Single Business Tax (SBT) Act to reduce the tax rate by .1% per year under certain conditions; repeal the tax if the tax rate were reduced to 0.0%; replace the capital acquisition deduction (CAD) with an investment tax credit; prescribe the tax base of a foreign person; and allow a corporation that restructured after 1998, and no longer was a member of an affiliated group, to calculate its apportionment sales factor for five years under certain circumstances. The bill is tie-barred to House Bill 4744 and Senate Bill 544. (House Bill 4744 (H-4) would amend the Use Tax Act to provide for the apportionment of exemptions to the Act, and to expand the industrial processing exemption. Senate Bill 544 (H-6) as passed by the House would amend the General Sales Tax Act to place in the Act provisions similar to the amendments proposed by House Bill 4744 (H-4) to the Use Tax Act.)

SBT Reduction

Currently, the SBT rate is 2.3% of the adjusted tax base of every person with business activity in the State. The bill provides that beginning January 1, 1999, the tax rate would be reduced by .1% each January 1 if the Comprehensive Annual Financial Report for a State fiscal year (published pursuant to the Management and Budget Act) reported an ending balance of more than $250 million in the Countercyclical Budget and Economic Stabilization Fund for that fiscal year.

Investment Tax Credit

Currently, the CAD generally allows a taxpayer, after allocation or apportionment, to deduct the amount paid or accrued in a taxable year for tangible assets that are (or under the Internal Revenue Code will become) eligible for depreciation for Federal income tax purposes, provided that the assets are located in Michigan for use in a business activity in this State. This treatment of the CAD has applied to tax years after 1996; prior to that a multistate taxpayer could deduct the cost of tangible assets located and acquired anywhere, after apportioning the assets. Under the bill, these provisions would apply to tax years beginning before January 1, 1999; for tax years after 1998, a taxpayer could claim an investment tax credit for a percentage of the costs paid or accrued in a taxable year for tangible assets physically located in Michigan. The bill contains language that would prescribe the calculation of the credit; essentially the credit would equal .85% of the amount a firm invested in tangible assets in Michigan.

Restructuring

The bill would allow a corporation that, as a result of a restructuring transaction that occurred after January 1, 1999, was no longer a member of an affiliated group, to elect to calculate its sales factor for a period of five years under conditions specified in the bill, including the corporation's commitment to the State that it would make a capital investment in the State of at least $500 million within five years. A two-year extension could be obtained for an additional commitment of $200 million in the following two years. (Essentially, this would allow a parent corporation, and another corporation from which it split, to be held harmless for sales between the entities.)

Foreign Entities

The bill specifies that for tax years beginning after June 1, 1999, the tax base of a foreign person (except an insurer) would include the sum of business income and the adjustments allowed under the Act, whether or not the foreign person was subject to taxation under the Internal Revenue Code. "Foreign person" would mean either an individual who was not a United State resident, whether or not the individual was subject to taxation under the Internal Revenue Code; or a person formed under the laws of a foreign country or a political subdivision of a foreign country, whether or not the person was subject to taxation under the Internal Revenue Code.

MCL 208.3 et al. Legislative Analyst: G. Towne

FISCAL IMPACT

This bill would reduce single business tax revenue by an estimated $87 million in FY 1998-99, $211 million in FY 1999-2000, and $345 million in FY 2000-01. The loss in revenue would continue to grow until 2021 when the single business tax would be completely eliminated. All of the loss in revenue from phasing out the single business tax would directly affect the General Purpose portion of the General Fund budget. The loss in revenue would result from the reduction in the tax rate. The proposed provision to replace the capital acquisition deduction (CAD) with an investment tax credit (ITC) would be revenue neutral, although there would be winners and losers among individual businesses. In general, Michigan businesses with most of their sales in Michigan would realize a smaller tax break from the ITC compared with the current CAD, while the reverse would be true of businesses located in Michigan but with a small share of their sales in Michigan. Over time, however, as the tax rate continued to fall, all businesses would realize a tax reduction under this bill. This bill is included in a package of business tax changes and the estimated fiscal impact of this total package is summarized in the following table.

Estimated Fiscal Impact of Business Tax Package: FY 1998-99 and FY 1999-2000
(dollars in millions)

Tax/Major Proposed Changes:	FY 1998-99 GF/GP	FY 1998-99 SAF	FY 1998-99 Total	FY 1999-2000 GF/GP	FY 1999-2000 SAF	FY 1999-2000 Total
HB 4745 - Single Business Tax						
o Reduce tax rate 0.1%/year.	$(86.80)	$0.00	$(86.80)	$(210.90)	$0.00	$(210.90)
o Replace CAD with ITC.	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal HB 4745	(86.8)	0.0	(86.8)	(210.9)	0.0	(210.9)
HB 4744 - Use Tax						
o Expand industrial processing exemption.	0.0	0.0	0.0	(12.3)	(6.1)	(18.4)
o Michigan Bell fix. *	125.3	62.7	188.0	32.0	16.0	48.0
Subtotal HB 4744	125.3	62.7	188.0	19.7	9.9	29.6
HB 4586 - Use Tax						
o Extend and expand rolling stock exemption.	(0.1)	0.0	(0.1)	(0.2)	(0.1)	(0.3)
SB 544 - Sales Tax						
o Expand industrial processing exemption.	0.0	0.0	0.0	(1.2)	(3.4)	(4.6)
o Michigan Bell fix. *	12.6	34.5	47.1	3.2	8.8	12.0
o Extend and expand rolling stock exemption.	(0.9)	(3.1)	(4.0)	(2.3)	(7.8)	(10.1)
Subtotal SB 544	11.7	31.4	43.1	(0.3)	(2.4)	(2.7)
Total Business Tax Package	$50.1	$94.1	$144.2	$(191.7)	$7.4	$(184.3)

*Consensus revenue estimates for FY 99 and FY 2000 include estimates of the tax loss that will result from the Michigan Bell court case. These proposed legislative changes would fix the court-identified problem and therefore, these revenue gains would offset the revenue losses contained in the consensus estimates.

Fiscal Analyst: J. Wortley

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