



**House
Legislative
Analysis
Section**

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**SBT CALCULATIONS FOR
CANADIAN/FOREIGN FIRMS**

**Senate Bill 1278 as passed by the Senate
First Analysis (5-30-02)**

**Sponsor: Sen. Bill Bullard, Jr.
House Committee: Tax Policy
Senate Committee: Finance**

THE APPARENT PROBLEM:

Generally speaking, firms calculating their liability under the state's single business tax begin with numbers taken from their federal corporate income tax filings. However, some foreign firms, and notably Canadian firms, are required to pay the SBT but are not required to file with the United States federal government. This means, say tax specialists, that to comply with state tax law these foreign firms need to calculate U.S. federal taxes as if they were subject to them, in essence maintaining a separate set of books. An alternative approach has been recommended.

THE CONTENT OF THE BILL:

The bill would amend the Single Business Tax Act to allow a Canadian firm subject to Canadian federal income tax to use amounts properly calculated under the Canadian act to reasonably approximate business income and adjustments for SBT purposes. Those amounts would be presumed to reasonably approximate business income and adjustments related to U.S. business activity. (This would apply to Canadian firms without a permanent establishment in the U.S. during the tax year or who are not subject to taxation under the federal Internal Revenue Code during the tax year and who are either an entity formed under the laws of Canada or a province of Canada or an individual physically present in Canada in the aggregate exceeding 182 days in the tax year.)

The bill would allow other foreign firms without a permanent establishment in the United States or who are not subject to taxation under the federal Internal Revenue Code to use amounts that reasonably approximate federal taxable income and permitted deductions as if they were subject to the federal code when calculating business income and adjustments related to U.S. business activity. This would only apply if the foreign firm did not in the ordinary course of business maintain tax or financial accounting records in accordance with the tax

accounting requirements of the federal Internal Revenue Code.

The bill would be retroactive and effective for tax years beginning after December 31, 1999.

The bill also would specify that the tax base of a foreign individual or entity (including a Canadian individual or entity) would not include gross income from sales shipped or delivered to any purchaser within the United States and for which title transferred outside the United States.

MCL 208.19

FISCAL IMPLICATIONS:

A representative of the Department of Treasury testified that the SBT revenues involved are "negligible". (Testimony before the committee on 5-29-02)

ARGUMENTS:

For:

The bill would remove a burden currently imposed on foreign firms, and particularly Canadian firms, that are subject to Michigan's single business tax but who do not typically file federal corporate income taxes. Rather than having to calculate a pro forma U.S. tax return to derive numbers to plug into the SBT calculations, Canadian companies could use numbers from their Canadian income tax filings. Other foreign firms could "reasonably approximate" their U.S. federal taxable income and adjustments in calculating SBT liability. This would simplify record keeping for these companies and the revenue involved is said to be negligible. This would be of particular benefit to firms from Ontario, a major trading partner with Michigan. The state and province are said to have a fully integrated auto industry, for example. The bill would also allow

Senate Bill 1278 (5-30-02)

other foreign firms to "reasonably approximate" federal taxable income and permitted deductions had they been subject to the U.S. federal tax law.

POSITIONS:

The Department of Treasury supports the bill. (5-29-02)

A representative from the Canadian Automotive Parts Manufacturing Association testified in support of the bill. (5-29-02)

The Michigan Chamber of Commerce has indicated support for the bill. (5-29-02)

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.