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SFA**BILL ANALYSIS**

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Senate Bill 1278 (Substitute S-1 as reported)
Sponsor: Senator Bill Bullard, Jr.
Committee: Finance

CONTENT

The bill would amend the Single Business Tax (SBT) Act to provide for the calculation of business income by a foreign person and, specifically, a Canadian person, that did not have a permanent establishment in the United States or was not subject to Federal taxation. The bill would be retroactive and effective for tax years beginning after December 31, 1999.

The Act provides that the tax base (upon which the SBT is levied) of a foreign person includes the sum of business income and the adjustments under the Act that are related to United States business activity, whether or not the foreign person is subject to taxation under the Internal Revenue Code (IRC). A "foreign person" is either an individual who is not a U.S. resident, or a person formed under the laws of a foreign country or a political subdivision of a foreign country, whether or not the individual or person is subject to taxation under the IRC.

The bill provides that to calculate business income and adjustments that were related to United States business activity, a foreign person that did not have a permanent establishment in the United States during the tax year, or who was not subject to taxation under the IRC for the tax year, could use amounts that reasonably approximated the Federal taxable income and the permitted deductions the person would have if the person were subject to taxation under the IRC, provided that the person did not in the ordinary course of business maintain tax or financial accounting records in accordance with the tax accounting requirements of the IRC.

To calculate business income and adjustments that were related to United States business activity, a Canadian person that was subject to Canadian federal income tax could use amounts, properly calculated under Canada's Income Tax Act, that reasonably approximated business income and the adjustments required under the SBT Act that were related to United States business activity. Amounts calculated in this manner would be presumed to approximate business income and the adjustments that were related to United States business activity.

The tax base of a foreign or Canadian person could 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.

"Canadian person" would mean a foreign person that did not have a permanent establishment in the U.S. during the tax year or that was not subject to taxation under the IRC for the tax year and was either an entity formed under the laws of Canada or a province of Canada; or an individual who was physically present in Canada, in the aggregate, exceeding 182 days in the tax year.

MCL 208.19

Legislative Analyst: George Towne

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 5-22-02

Fiscal Analyst: Jay Wortley