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SFA**BILL ANALYSIS**

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Senate Bill 1278 (as introduced 5-7-02)
Sponsor: Senator Bill Bullard, Jr.
Committee: Finance

Date Completed: 5-21-02

CONTENT

The bill would amend Section 19 of the Single Business Tax (SBT) Act to provide for the calculation of business income by a foreign 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.

Section 19 of 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 for a 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, "business income" would mean an amount calculated to approximate reasonably the Federal taxable income the person would have had, had the person been 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 the sum of business income and the adjustments that were related to United States business activity, a 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. For a person who did not have a permanent establishment in the United States or who was not subject to taxation under the IRC, an amount properly calculated for Canadian income tax purpose would have to be conclusively presumed to approximate reasonably the same type of amount that would have been calculated under the IRC had the person been subject to taxation under the IRC.

MCL 208.19

Legislative Analyst: George Towne

FISCAL IMPACT

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

Fiscal Analyst: Jay Wortley

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