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PROHIBIT E-FILE REQUIREMENT FOR TAX PREPARERS

House Bill 5434 as introduced
Sponsor: Shelley Taub

House Bill 5440 as introduced
Sponsor: Judy Emmons

Committee: Tax Policy
First Analysis (2-12-04)

THE APPARENT PROBLEM:

In June 2003, the Department of Treasury instituted a requirement that, effective January 1, 2004, all professional tax preparers who prepare and file more than 200 state income tax returns annually must file all of those returns electronically. The requirement was set in place, in part, to help the department reduce costs. In a September 2003 press release, the department stated that it will conduct "an extensive public awareness campaign to educate Michigan citizens about the benefits and cost savings related to e-filing" and will work "with accountants and tax preparers to help [them] better understand the Department of Treasury's policy on e-filing."

Notwithstanding the department's expressed willingness to work with and educate tax professionals and taxpayers, many tax preparers have objected to this new requirement, on the grounds that there has been little advance warning and given the fact that many older taxpayers still prefer to file paper returns. Legislation has been introduced that would prohibit the department from requiring tax preparers to electronically file a return prepared on behalf of another individual.

THE CONTENT OF THE BILL:

Both bills would prohibit the Department of Treasury from requiring any person who prepares a tax return on behalf of another person for compensation to file electronically. House Bill 5434 would amend the Income Tax Act (MCL 206.471), and House Bill 5440 would amend the Single Business Tax Act (MCL 208.80). Further, House Bill 5434 would specify that, for purposes of the income tax, the taxpayer would determine whether his or her tax return will be filed electronically.

BACKGROUND INFORMATION:

According to the Department of Treasury, more than 1.7 million 2002 income tax returns were filed electronically. Taxpayers cannot e-file if they are filing an amended or a corrected previous return, a return for a previous year, a return for a fiscal year, or file form 3581 (Historic Preservation Tax Credit).

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that the bills should have no fiscal impact on the state or local units of government. (2-10-04)

ARGUMENTS:

For:

It should be noted that the bills do not prevent people from filing their taxes electronically. They merely prohibit the department from requiring many professional tax preparers to file returns electronically. One of the principal reasons for this is lead time. Many tax preparers work out of their own home and were notified of the requirement within the past few months. This presents a serious problem given that tax season is already upon us. Also, to file taxes electronically, a tax preparer must submit an application with the IRS to participate in its e-file program. This application takes 45 days. If a tax preparer did not receive the notice of the e-file requirement in a timely manner (and it was alleged during committee testimony that many did not) this 45-day application approval process seriously cuts into their ability to provide service to their clients.

Against:

Electronically filing tax returns is an easy, convenient, fast, and secure way to file. In many instances, taxpayers will receive refund payments within seven days of filing. Paper filing, particularly

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this tax season, takes significantly longer. Apparently, this year the department has not hired nearly as many seasonal employees to process tax forms as it has in previous years. Electronic filing also reduces more than two-thirds of all errors, which improves processing time and may very well result in additional money for taxpayers. In addition, taxpayers receive quick confirmation that their returns have been received. Also, electronically filed tax returns are much more secure than paper forms, as there are fewer people handling forms and other sensitive data. In addition to the numerous benefits for taxpayers and tax preparers, electronic filing helps improve efficiency and reduce administration costs for the Department of Treasury.

POSITIONS:

The Department of Treasury indicated that it opposes the bill. (2-11-04)

The Michigan Chamber of Commerce indicated that it supports the bill, but also supports a phased-in mandatory requirement. (2-11-04)

The Michigan Association of Certified Public Accountants indicated in written testimony that it does not oppose the bills. (2-10-04)

Analyst: M. Wolf

■ 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.