

# Legislative Analysis

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## **PROHIBIT E-FILE REQUIREMENT FOR TAX PREPARERS**

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**House Bill 5434 as enrolled**  
**Vetoed by the governor**  
**Sponsor: Rep. Shelley Taub**

**House Bill 5440 as enrolled**  
**Vetoed by the governor**  
**Sponsor: Rep. Judy Emmons**

**House Committee: Tax Policy**  
**Senate Committee: Finance**  
**Second Analysis (4-5-04)**

***BRIEF SUMMARY:*** The bills would amend the Income Tax Act and Single Business Tax Act to prohibit the Department of Treasury from requiring certain tax preparers to submit tax returns electronically for tax years that begin in 2003.

***FISCAL IMPACT:*** The bills should have no fiscal impact on the state or local units of government.

### ***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 objected to this new requirement on the grounds that there was little advance warning and that many of their older clients 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 BILLS:***

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). The prohibition would apply to tax years that begin in 2003. 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).

## ***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 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 a few months of tax season. This presented 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:***

In her veto message to the House of Representatives dated March 29, 2004, Governor Granholm stated, "[t]hese bills would amend Michigan tax law to reverse course in our joint effort to expand electronic filing of tax returns by professional tax preparers. Individuals filing their own returns are not required to file electronically. In place since the 1990's, electronic filing is less costly, quicker, and more accurate than traditional filing. While no one relishes paying taxes, electronic filing makes it easier. Michigan state government must be a leader, and should not step backwards, in making the innovative technological changes necessary to successfully operate in today's competitive business environment. House Bills 5434 and 5440 would interfere with the Department of Treasury's use of new technology to process tax returns more efficiently. It is noteworthy that the Legislature was a full partner in this effort when it eliminated \$2.7 million in funding for [the] Department of Treasury to pay for the distribution and

processing of paper tax returns. Changing direction now, in the middle of tax filing season would send an unfortunate, mixed message to the business community and increase the operating costs of state government at a time when Michigan taxpayers cannot afford it. Further confusion also would be generated because these bills were not given immediate effect.”

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■ 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.