

Legislative Analysis



MBT: GOODWILL DEDUCTION FOR FINANCIAL INSTITUTIONS

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House Bill 5118 without amendment
Sponsor: Rep. Steve Bieda
Committee: Tax Policy

Complete to 9-13-07

A SUMMARY OF HOUSE BILL 5118 AS REPORTED FROM COMMITTEE

Under the new Michigan Business Tax Act, which takes effect January 1, 2008, financial institutions will pay a franchise tax of 0.235% on the average value of their net capital over the previous five years. This is in lieu of the business income and gross receipts taxes imposed on other firms.

The act says that "net capital means equity capital as computed in accordance with generally accepted accounting principles less goodwill arising from purchase accounting adjustments for transactions that occurred after July 1, 2007, and the book value of United States obligations and Michigan obligations." House Bill 5118 would amend this provision to refer to "transactions that occurred on or after July 1, 2007. (The new language is underlined.) House Bill 5118 would take effect January 1, 2008.

MCL 208.1265

BACKGROUND INFORMATION:

The aim of this bill is to address an unintended consequence of a provision found in the recently enacted Michigan Business Tax, the tax that replaces the Single Business Tax as of January 1, 2008. Under the MBT, financial institutions pay a franchise tax based on net capital. The act allows a "goodwill deduction;" that is, the value attributed to a firm's goodwill is subtracted from the tax base. (A definition of goodwill is found later.) This deduction, however, only applies to goodwill resulting from transactions occurring "after" July 1, 2007. At least one bank, Huntington Bancshares, acquired goodwill through an acquisition (of Sky Financial Group) that occurred "on" July 1, 2007 rather than "after" that date. The aim of the provision, say knowledgeable observers, was to provide a prospective date for the goodwill deduction that protected acquisitions in process and in the future. It was not the intent of drafters of the new tax law, they say, to deprive firms of the deduction because they missed what was an arbitrary deadline by one day.

The term "goodwill" is described in Barron's Dictionary of Finance and Investment Terms as a form of "going-concern value." Barron's says:

*In acquisition accounting, going-concern value in excess of asset value is treated as an intangible asset, termed **goodwill**. Goodwill is generally understood to represent the value of a well-respected business name, good customer relations, high employee morale, and other such factors expected to translate into greater than normal earning power.*

FISCAL IMPACT:

The bill would have an indeterminate state fiscal impact.

POSITIONS:

The Department of Treasury supports the bill. (9-12-07)

The Michigan Bankers Association indicated support for the bill. (9-12-07)

Representatives from Huntington (a regional bank holding company headquartered in Columbus, Ohio) testified in support of the bill. (9-12-07)

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