

Legislative Analysis



ALLOW FARMS OWNED BY LLCs TO DEFER SUMMER PROPERTY TAXES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5778

Sponsor: Rep. Dudley Spade

Committee: Agriculture

Complete to 9-24-08

A SUMMARY OF HOUSE BILL 5778 AS INTRODUCED 2-21-08

House Bill 5778 would specifically allow agricultural property owned by a limited liability corporation to qualify for a summer property tax bill deferral. (It does not address agricultural property owned by partnerships or other types of corporations that are not LLCs.)

Under Section 51(2) of the General Property Tax Act, a local tax collecting unit that collects a summer property tax must allow two groups of taxpayers to defer payment of their summer property tax bill until the following February 15.

- First, persons who meet specified age, disability, military service, or widowhood criteria and whose total household income is less than \$40,000 can file to defer payment of summer taxes on their principal residence.
- Second, the owners of property classified or used as agricultural real property are eligible to file for summer tax deferrals, if they meet a gross receipts test, specifically, that the gross receipts of the agricultural or horticultural operation for the previous year (or the average of the past three years) are at least as great as the total household income of the owner in the previous year.

The Department of Treasury's Frequently Asked Questions about summer tax deferral indicates that agricultural property owned by partnerships, limited liability corporations (LLCs), other corporations does not qualify for the summer tax deferral under either of these categories:

Can a corporation, LLC, or partnership defer summer taxes?

No. A corporation, LLC, or partnership does not satisfy the deferment requirements of the General Property Tax Act (MCL 211.51) with respect to homestead property (i.e., an owner must also be a totally and permanently disabled, blind, paraplegic, quadriplegic, an eligible serviceperson, eligible veteran, or eligible widow or widower, or who is at least 62 years of age), nor the household gross income requirement of \$40,000 or less. A corporation also would not meet the following requirement for agricultural property for deferment, as this is based on the household income of the owner and not the income or profits of a corporation: " . . . if the gross receipts of the agricultural or

horticultural operations in the previous year or the average gross receipts of the operations in the previous 3 years are not less than the household income of the owner in the previous year."

As mentioned earlier, House Bill 5778 would address this issue by specifically allowing agricultural property owned by a limited liability corporation to qualify for a summer property tax bill deferral. (It does not address agricultural property owned by partnerships or other types of corporations that are not LLCs.)

[Note: It is unclear how the gross receipts/"household income of the owner" test would be applied in the case of an LLC which, as a corporation, has a principal place of business but is not a "household" with "household income" in any traditional sense.]

MCL 211.51

FISCAL IMPACT:

Because the bill only delays the collection of property taxes for the affected properties, there would be no state or local revenue reduction. For local units, this could impact their cash flows.

It would also delay the receipt of the 6-mill State Education Tax levy to the next state fiscal year, which would create a one-time reduction to the School Aid Fund.

The number of entities that would qualify for the provision is not known, but if it is sufficiently small then the overall impact would likely be minimal.

Legislative Analyst: Shannan Kane
Fiscal Analyst: Jim Stansell

■ 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.