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Senate Bill 999 (Substitute S-1 as reported)

Sponsor: Senator Roger Kahn, M.D.

Committee: Finance

CONTENT

The bill would amend the Income Tax Act to allow a taxpayer, for the 2007 tax year, to claim a credit against the income tax equal to the expenses incurred by the taxpayer during the tax year from October 2 through December 4 to comply with former Section 3d of the Use Tax Act. (Section 3d extended the use tax to certain services. Section 3d was enacted by Public Act 93 of 2007 and repealed by Public Act 145 of 2007.)

A taxpayer who claimed the credit would have to verify that the actual expenses incurred as a result of the enactment of Section 3d were the same number as used to calculate the credit. The taxpayer would have to attach the verification to its annual income tax return for the tax year in which the credit was claimed. If the amount of the credit exceeded the tax liability of the taxpayer for the tax year, the portion that exceeded the tax liability would not be refunded.

MCL 206.253 Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill would reduce General Fund revenue in FY 2007-08 by an unknown and potentially significant amount. The amount of the revenue reduction would depend upon the expenses incurred by taxpayers and covered by the bill. Testimony regarding the bill suggested that the expenses across all businesses could range from \$75 million to more than \$900 million. Firms filing a return under both the individual income tax and the single business tax/Michigan business tax account for approximately 35.2% of business tax liability. There are more than 50,000 additional firms that are not required to file a single business tax/Michigan business tax return because their apportioned gross receipts are below \$350,000.

Also, the bill essentially would affect only those taxpayers with a 2008 tax year beginning before December 4, 2007. Most individual income taxpayers do face fiscal years that correspond to the calendar year. Under the bill, those taxpayers with a 2008 tax year beginning before December 4, 2007, would not be eligible for the credit. The fiscal impact assumes that a negligible portion of individual income tax liability was paid such by fiscal year filers.

The proposed credit would not be refundable, which would reduce its cost to an unknown amount less than the total of the expenses. The amount of this reduction is unknown but could be minimal because many taxpayers under the individual income tax also have non-business income that could create a liability that the credit would be able to offset. Given the estimates above, and assuming that taxpayers with apportioned gross receipts of \$350,000 incurred an average expense of \$100, a 10% reduction would suggest the bill could reduce General Fund revenue by somewhere between \$28.3 million and \$289.6 million. If the average expense for the taxpayers with less than \$350,000 in apportioned gross receipts were \$250, the revenue loss would increase to between \$35.0 million and \$296.4 million.

Apparently, the bill also would allow non-business taxpayers under the individual income tax to claim the credit. The bill does not define what expenses would be eligible for inclusion under the credit, or how a taxpayer should determine whether an expense was incurred to comply with the former Section 3d of the Use Tax Act. As a result, taxpayers that were not charged with collecting the tax, but may have had expenses determining whether their purchases would be subject to tax or how to account for such taxes in the course of their activities, also would be able to claim the credit. The additional revenue loss under the bill from these taxpayers is also unknown and likely significant.

Furthermore, Senate Bill 967 (S-1) also proposes a similar credit under the Michigan Business Tax Act for the same expenses. Approximately, 63.5% of firms filing under the single business tax (and likely to file under the Michigan business tax) are organized in such a way that a portion of their business income also is reported on an individual income tax return. For these firms, because neither bill would prevent a taxpayer from claiming a credit on both returns, taxpayers would be eligible to claim a credit twice for the same expenses if both bills were enacted.

As noted above, firms filing a return under both the individual income tax and the single business tax/Michigan business tax account for approximately 35.2% of business tax liability. Under the assumption that such firms also would account for 35.2% of the credits, if Senate Bills 967 (S-1) and 999 (S-1) both were enacted, the bills would allow between \$25 million and \$300 million in credits to be double-claimed. As a result, if affected expenses totaled \$75 million, the cost of the two bills combined would be close to \$100 million.

The bill would have no fiscal impact on local government.

Date Completed: 12-13-07 Fiscal Analyst: David Zin

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