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BILL ANALYSIS

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Senate Bill 1038 (Substitute S-2 as reported)
Sponsor: Senator Nancy Cassis
Committee: Finance

CONTENT

The bill would amend the Michigan Business Tax Act to exclude from the definition of "gross receipts" certain proceeds, interest income, royalties, dividends, taxes, fees, and surcharges, and to include hedging transactions.

Under the bill, "gross receipts" would not include amounts that were only deemed received under the Internal Revenue Code (IRC). The bill also would refer to the entire amount received by the taxpayer from "business activity". The bill would exclude from the definition of "gross receipts" interest income and dividends derived from obligations or securities of the United States government and this State in the same amount that was excluded from Federal taxable income; dividends and royalties received from a foreign operating entity or a person other than a U.S. person; any tax, fee, or surcharge required by law, or any deposit required under the bottle deposit law; for a partner, amounts received that are attributable to another entity whose business activities are taxable under the MBT Act or would be subject to the tax if the business activities were in this State.

Under the Act, gross receipts do not include proceeds from a sale, transaction, exchange, involuntary conversion, or other disposition of tangible, intangible, or real property that is a capital asset as defined in the IRC or land that qualifies as property used in the trade or business, less any gain from the disposition to the extent that gain is included in Federal taxable income. Under the bill, gross receipts would include any hedging transaction. The bill would refer to land that was purchased before January 1, 2008, and qualifies as property used in the trade or business as defined in the IRC. The bill also would delete "less any gain from the disposition to the extent that gain is included in federal taxable income".

The bill specifies that it would be retroactive and effective for taxes levied on and after January 1, 2008.

MCL 208.1111 Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill would reduce General Fund revenue by an unknown and potentially significant amount. The changes in the bill would provide additional reductions to gross receipts, in many cases excluding receipts that are often excluded under definitions of business income. The magnitude of most of the changes is unknown. Among the changes, the bill would exclude any taxes, fee, or surcharge legally required to be received by a taxpayer. As a result, sales taxes collected by retail businesses would no longer be included in gross receipts. The impact of not including Michigan sales taxes would reduce General Fund revenue by approximately $50 million, according to the Department of Treasury. However, the bill would exclude from gross receipts all sales tax collections, not just those collected under Michigan statute. Similarly, the bill would exclude from gross receipts any other fees and surcharges levied by other states.

The Department of Treasury estimates the bill would reduce General Fund revenue by between $125 million and $150 million.

The bill would have no fiscal impact on local government.

Date Completed: 2-5-08 Fiscal Analyst: David Zin

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