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BILL ANALYSIS

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Senate Bill 1440 (Substitute S-1 as reported)
Sponsor: Senator Nancy Cassis
Committee: Finance

CONTENT

The bill would amend the Michigan Business Tax (MBT) Act to eliminate from the definition of "federal taxable income" a depreciation deduction for certain property. The bill would be retroactive and effective January 1, 2008.

The MBT tax is imposed on the business income tax base, after allocation or apportionment to this State. "Business income" means that part of Federal taxable income derived from business activity. "Federal taxable income" means taxable income as defined in Section 63 of the Internal Revenue Code (IRC), which defines taxable income as gross income minus Federal deductions allowed under the Code.

Under the bill, "federal taxable income" would mean taxable income as defined in Section 63 of the IRC except that depreciation deductions and the adjusted basis of property would be determined as provided under the IRC without considering the additional allowance under Section 168k of the Code. (Section 168k allows an additional depreciation deduction for the taxable year in which qualified property, including certain computer software, water utility property, and transportation property, is placed in service, equal to 30% of the adjusted basis of the property.)

The bill is tie-barred to Senate Bill 1038, which would amend the MBT Act to exclude from the definition of "gross receipts" certain proceeds, interest income, royalties, dividends, taxes, fees, and surcharges.

MCL 208.1109 Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill would have no effect on State or local revenue if Senate Bill 1038 is not enacted. If Senate Bill 1038 is enacted, Senate Bill 1440 (S-1) would have no effect on local revenue or expenditures but would increase State General Fund revenue in fiscal year (FY) 2008-09, and would reduce revenue in future fiscal years. The bill would "decouple" the computation of taxable income from changes enacted at the Federal level that allow business to take accelerated depreciation for certain capital expenditures made during calendar year 2008. At the May 2008 Consensus Revenue Estimating Conference, the acceleration in depreciation was estimated to reduce Michigan business tax revenue by approximately $28.0 million in FY 2007-08 and $92.0 million in FY 2008-09.

The bill would have no effect on FY 2007-08 MBT revenue, but would affect tax year 2008 liabilities. As a result, the bill would increase FY 2008-09 revenue by as much as $120.0 million, but would reduce revenue in later fiscal years.

Date Completed: 12-8-08 Fiscal Analyst: David Zin