

Legislative Analysis



MBT QUARTERLY PAYMENTS

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Senate Bill 98 (Substitute S-1)

Sponsor: Sen. John Pappageorge

Senate Committee: Finance

House Committee: Tax Policy

Complete to 3-31-09

A SUMMARY OF SENATE BILL 98 (S-1) AS PASSED BY THE SENATE 2-5-09

The bill would amend the Michigan Business Tax to waive penalties imposed on a taxpayer for underpaying the estimated quarterly payments for a taxpayer's first tax year beginning after December 31, 2007, if the taxpayer pays at least 80 percent of the tax due in the tax year.

The act requires firms that reasonably expect a tax liability for a tax year exceeding \$800 to file an estimated return and make estimated quarterly payments for the tax year. Generally, the estimated quarterly payment is to be based on the estimated business income and modified gross receipts (the MBT tax base) in the quarter or on one-quarter of the estimated annual liability. (Subsequent quarterly payments in the year are adjusted to correct any underestimate or overestimate, based on revised estimates of the annual tax liability.) Estimated payments serve as a credit against the payment required when filing an annual return.

Senate Bill 98 provides that a taxpayer may use the same methodology to determine MBT estimated quarterly payments as the taxpayer uses to calculate estimated quarterly payments for federal income tax purposes under Section 6655(e) of the Internal Revenue Code, 26 USC 6655(e). (Section 6655 generally provides that a taxpayer may make estimated quarterly payments based on the "annual income installment" or "adjusted seasonal installment" if those installments are less than the required annual payment.)

Currently under the MBT, if the estimated quarterly payments total at least 85 percent of the liability and each quarterly payment "reasonably approximates" the quarterly tax liability, interest is not assessed on the amount by which the tax due was underpaid. [Beginning with the 2009 tax year, no interest is due for an underpayment if the tax liability in the prior year was less than \$20,000 and if the taxpayer made four equal installments totaling the prior year tax liability.]

Generally under Sections 23 and 24 of the Revenue Act (MCL 205.23 and MCL 205.24), the Department of Treasury may impose penalties for certain tax deficiencies. Generally, the failure to pay a tax is subject to a penalty of 5 percent of the deficiency for the first two months, and five percent for each additional month, up to 25 percent. An additional penalty is imposed if the deficiency is due to negligence, intentional disregard, or fraud. Penalties are waived if the deficiency is due to "reasonable cause". For a description of

the penalty provisions in the Revenue Act, see the Department of Treasury's Revenue Administrative Bulletin 2005-3, [http://www.mi.gov/documents/2005-3PenaltyProvisions_131272_7.pdf].

FISCAL IMPACT:

Waiving the penalties assessed for the underpayment of quarterly Michigan Business Tax payments for first year taxpayers would result in an indeterminate, though likely minimal, reduction in General Fund revenue. The bill would have no fiscal impact on local units of government.

BACKGROUND INFORMATION:

Senate Bill 98 (S-1) is similar to House Bill 4496, introduced by Representative Sarah Roberts, which the House of Representatives passed on March 19, 2009 by a vote of 109-0. The House adopted an H-3 floor substitute, offered by Rep. Roberts, that permits taxpayers to utilize the same methodology for to make quarterly payments under Section 6655(e) of the Internal Revenue Code (as SB 98 also does), and waives penalties for underpayment of the estimated quarterly MBT payment for tax years before December 1, 2009, if the taxpayer paid 75 percent of the tax due under the act.

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