

Legislative Analysis



MBT: APPORTIONMENT BY SPUN-OFF FIRM

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

Senate Bill 671

Sponsor: Sen. Nancy Cassis

House Committee: Tax Policy

Senate Committee: Finance

Complete to 10-27-09

A SUMMARY OF SENATE BILL 671 AS PASSED BY THE SENATE 9-24-09

Generally speaking, the bill would permit a taxpayer under the Michigan Business Tax Act that had restructured as a financial institution in 2008 or thereafter, and that had been using an apportionment method designed for "spun-off" companies, to continue to use the same method of apportioning its tax base as it used prior to the restructuring.

(Based on information from the Senate Fiscal Agency, this provision applies to GMAC, which has restructured as a bank holding company and is now a financial institution for purposes of the MBT Act. The bill would allow the firm to continue to use its old apportionment method rather than the method applied in the MBT to financial institutions.)

Under the MBT, a multi-state firm must apportion its tax base to Michigan in order to calculate the tax by using certain specified apportionment methods. Typically, apportionment is based on a sales factor, which is a fraction where the numerator is total sales in Michigan and the denominator is total sales everywhere. Certain "spun-off" corporations were allowed to use alternative methods when calculating the sales factor. These apportionment methods are in Section 307 of the MBT Act. (This applied to auto-related corporations that had been "spun off" from General Motors and Ford.)

Under Section 307, one of the methods allows a spun-off firm that ceased to be wholly owned on November 30, 2006, to apportion its tax base to Michigan using the same receipts factor reported on the combined tax return filed by its former parent company for the same taxable year. This description is said to apply to GMAC.

Senate Bill 671 amends the Michigan Business Tax Act (MCL 208.1267) and applies to a firm that was able to use this alternative "parent company" apportionment method for a "spun-off" company and that later restructured as a financial institution. Under the MBT, financial institutions are subject to a separate tax based on net capital. A multi-state financial institution apportions its business activities to Michigan using a gross business factor (the numerator is total gross business in Michigan and the denominator is total gross business everywhere). A firm to which this bill applies would not use the financial institutions apportionment method.

FISCAL IMPACT:

This bill would reduce MBT revenue by an unknown amount, all of which would affect General Fund/General Purpose revenue. This bill would have no direct affect on local units of government.

Legislative Analyst: Chris Couch
Fiscal Analyst: Rebecca Ross

■ 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.