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BILL



ANALYSIS

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Senate Bill 90 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Nancy Cassis  
Committee: Finance

Date Completed: 6-24-09

### **RATIONALE**

Under the Michigan Business Tax (MBT) Act, a business that owns and rehabilitates a historic resource may claim a credit against the tax, if a certificate of completed rehabilitation has been issued and various other criteria are met. If the credit for a tax year exceeds the taxpayer's MBT liability for a tax year, the excess portion of the credit is not refunded but may be carried forward to offset MBT liability for up to 10 subsequent tax years. As a rule, if the historic resource is sold or disposed of, or if the certificate of completed rehabilitation is revoked, within five years after the rehabilitation has been completed, a percentage of the amount previously claimed must be added back to the taxpayer's MBT liability. In some situations, a taxpayer that is subject to this add-back requirement also is carrying forward an unused portion of the credit. It has been suggested that, in these cases, the Act should allow the carryforward amount to be reduced by the amount that would be added back.

### **CONTENT**

The bill would amend the Michigan Business Tax Act to provide that if a qualified taxpayer had an unused carryforward of a credit for rehabilitating a historic resource, the amount otherwise added to the taxpayer's tax liability because of sale of the historic resource or revocation of the certificate of completed rehabilitation could be used to reduce the taxpayer's carryforward.

The bill would be retroactive and effective for tax years beginning after December 31, 2007.

(The percentage to be added back ranges from 20% if the sale or revocation is at least four but less than five years after the historic resource is placed in service (as defined in the Internal Revenue Code and Federal regulations), to 100% if the revocation is less than one year after the historic resource is placed in service. (A building generally is considered placed in service when the appropriate work that would allow occupancy has been completed.) A certification of completed rehabilitation may be revoked if the rehabilitation was not undertaken as represented in the taxpayer's rehabilitation plan, or if unapproved alterations to the completed rehabilitation are made within five years after the tax year in which credit was claimed.)

MCL 208.1435

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The bill simply would clarify the treatment of added-back MBT liability when a taxpayer sells a historic resource, or the taxpayer's certificate of completed rehabilitation is revoked, within five years after rehabilitation has been completed, and the taxpayer has a carryforward of the historic preservation credit from a previous tax year.

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

The change proposed in this bill is a technical clarification of the tax ramifications when rehabilitated property for which a historic rehabilitation credit was claimed is sold within five years after the credit was claimed, and therefore the bill would have no fiscal impact on State or local governments.

Fiscal Analyst: Jay Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.