



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 98 (as introduced 1-28-09)
Sponsor: Senator John Pappageorge
Committee: Finance

Date Completed: 1-29-09

CONTENT

The bill would amend the Michigan Business Tax (MBT) Act to revise requirements for quarterly MBT payments.

Under the Act, a taxpayer that reasonably expects liability for the tax year to exceed \$800 must file an estimated return and pay an estimated tax for each quarter of the tax year. The estimated payment made with each quarterly return must be for the estimated business income tax base and modified gross receipts tax base for the quarter or 25% of the estimated annual liability. Under the bill, a taxpayer would have to pay the estimated payment for the quarter or 25% of the required annual payment. The required annual payment would be the lesser of 100% of the tax shown on the return for that tax year, including the surcharge imposed under the Act, or 100% of the tax shown on the taxpayer's return for the immediately preceding year under the Act, including the surcharge, or, for the 2008 tax year only, 200% of the tax shown on the taxpayer's return under the former Single Business Tax (SBT) Act.

A penalty for underpayment of an estimated tax under the MBT Act could not be assessed for a taxpayer's first tax year beginning after December 31, 2007, if that taxpayer paid 80% of the tax due under the MBT Act for the tax year and 100% of the tax that would have been due under the SBT Act.

In addition, a taxpayer that calculates and pays estimated payments for Federal income tax purposes pursuant to Section 6655(E) of the Internal Revenue Code, could calculate the estimated payments required each quarter under the Act by using the same methodology as used to calculate the annualized income installment or the adjusted seasonal installment, whichever was used as the basis for the Federal estimated payment. (Section 6655(E) allows a corporation to use a lower required installment when the annualized income installment or adjusted seasonal installment is less than 25% of the required annual payment.)

The Act requires that the second, third, and fourth estimated payments in each tax year include adjustments, if necessary to correct underpayments or overpayments from previous quarterly payments in the tax year to a revised estimate of the annual tax liability. The bill would delete "to a revised estimate of the annual tax liability".

MCL 208.1501

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The fiscal impact of this bill is not clear because the proposed changes appear to create some inconsistencies in the Michigan Business Tax Act. First, a business that made quarterly payments in conformity with the proposed changes in Sections (3), which would allow businesses to pay quarterly payments based on 100% of their prior-year liability, would still be subject to interest charges under Section 4 if the quarterly payments totaled less than 85% of their final liability for the tax year. This situation would arise if a business's tax liability increased by more than 17.6% from one year to the next. Second, Sections (3) under the bill also would wave any penalty, but not interest charges, for the underpayment of estimated taxes by first-year taxpayers if they paid 80% of their final liability through their quarterly payments and also paid 100% of the tax they would have had to pay if the Single Business Tax were still in effect. Therefore, under this proposed change, first-year MBT payers would have to calculate what their liability would have been under the Single Business Tax, in addition to calculating their MBT liability. The Department also would have to calculate the taxpayer's Single Business Tax liability in order to enforce this proposed provision. The bill not only would make the MBT much more complex for first-year taxpayers, it also would make it much more difficult for the Treasury Department to enforce the MBT.

Fiscal Analyst: Jay Wortley

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