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

BILL ANALYSIS

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

Senate Bill 361 (as introduced 3-11-09)
Sponsor: Senator Jud Gilbert, II
Committee: Finance

Date Completed: 4-1-09

## CONTENT

**The bill would amend the Michigan Business Tax (MBT) Act to exclude from gross receipts 100% of the excise taxes paid by a person on or for cigarettes or tobacco products.** Currently, the exclusion is phased in as described below.

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

Section 203 of the MBT Act imposes a modified gross receipts tax on every taxpayer with nexus as determined under the Act. The tax is imposed on the modified gross receipts tax base, after allocation or apportionment to the State at a rate of 0.80%.

The Act defines "gross receipts" as the entire amount received by the taxpayer as determined by using the taxpayer's method of accounting used for Federal income tax purposes, less an amount deducted as bad debt for Federal income tax purposes as provided in the Act, from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others, subject to certain exclusions.

In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, to the extent not deducted as purchases from other firms under Section 203, "gross receipts" excludes an amount equal to the Federal and State excise taxes paid by any person on or for the cigarettes or tobacco products under Subtitle E of the Internal Revenue Code (IRC) or other applicable State law.

The amount excluded is phased in over a three-year period starting with 60% of that amount in the 2008 tax year, 75% in the 2009 tax year, and 100% in the 2010 tax year and each subsequent tax year. The bill would delete the phase-in.

(Subtitle E of the IRC imposes an excise tax at various rates on cigars, cigarettes, cigarette papers, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco.)

MCL 208.1111 Legislative Analyst: Craig Laurie

## FISCAL IMPACT

The bill would reduce Michigan Business Tax revenue an estimated $5.0 million in FY 2008-09 and $0.5 million in FY 2009-10. This loss in revenue would reduce the General Fund. The bill would have no direct fiscal impact on local governments.

Fiscal Analyst: Jay Wortley

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