Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4218 (Substitute H-1 as reported without amendment)
Sponsor: Representative Dudley Spade
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 11-6-09

RATIONALE

In Michigan, property taxes may be collected in the summer or the winter, or both. The timing of collections depends on the tax that is being collected and the local tax collecting unit. For some taxpayers, paying property taxes in the summer can be a hardship. Individuals who receive a State homestead tax refund can use it to pay their winter property taxes, but the summer taxes are due long before a refund check will arrive. In addition, some farmers rely on the receipts from their fall or winter harvest to pay their property taxes. To address these situations, the General Property Tax Act allows certain categories of taxpayers to defer their summer property taxes until the following February 15. Individuals may defer the summer taxes on their principal residence if the taxpayers meet criteria related to physical condition, age, or military service, and their household income for the prior taxable year does not exceed $40,000. The Act also allows a deferment for agricultural property if the gross receipts from agricultural or horticultural operations in the previous year or the average gross receipts in the previous three years are not less than the owner's household income in the prior year.

Evidently, an increasing number of farmers are finding it advantageous to form a limited liability company. If an LLC is formed, however, the agricultural property no longer qualifies for a summer tax deferment. It has been suggested that the statute should accommodate these arrangements.

CONTENT

The bill would amend the General Property Tax Act to require the deferment of summer property taxes for agricultural property owned by a limited liability company (LLC) whose individual members qualified for a deferment before they formed the LLC.

The Act allows a taxpayer to claim a deferment by filing with the treasurer of the local property tax collecting unit an intent to defer the summer property taxes that are due and payable in that year without penalty or interest. If the taxpayer meets the criteria for deferment of taxes on a principal residence or agricultural real property, the local tax collecting unit must defer the collection of summer property taxes until the following February 15.

The bill also would require deferment of summer property taxes on agricultural real property if the gross receipts of the agricultural or horticultural operations in the previous year, or the average gross receipts of the operations in the previous three years, were not less than the combined household incomes in the previous year of the individual members of a limited liability company that owned the agricultural real property. A limited liability company could claim a deferment only if the individual members qualified for a deferment before they formed the LLC.

MCL 211.51

BACKGROUND

The *2009 Michigan Taxpayer's Guide*, published by the Department of Treasury, contains the following discussion of property tax collections:

"The property tax may be collected in the summer or the winter, or in some combination. Townships traditionally collected property taxes in the winter after the agricultural harvest, but most cities now collect city property taxes in a summer levy. School boards and intermediate school districts can request that a city or township collect half or all of their school taxes in the summer. If they fail to reach an agreement, the county treasurer or the school district treasurer can collect the summer school taxes. Community college levies are billed in December, but may be billed in July if the local tax collecting unit collects a summer tax…

"In addition…, the six-mill State Education Tax is now collected in the summer…As of July 2007, all of the county general property tax is collected in a summer tax levy."

The General Property Tax Act allows an individual to defer the summer property taxes on his or her principal residence if the taxpayer, for the prior taxable year, had a total household income of $40,000 or less, and the taxpayer meets one of the following conditions:

-- Is a totally and permanently disabled person, blind person, paraplegic, quadriplegic, eligible serviceperson, eligible veteran, or eligible widow or widower.
-- Is 62 years of age or older, including the unremarried surviving spouse of a person who was 62 or older at the time of death.

The Act also allows the deferment of summer property taxes on agricultural real property, as described above.

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

A limited liability company is a relatively new type of business structure, which is governed by statute. In Michigan, the Limited Liability Company Act was enacted in 1993. Limited liability companies are popular because they afford their members (those with an interest in the company) protection against personal liability for debts of the business, and offer flexibility in structuring the company's management, as well as the benefit of pass-through income taxation. Like other small businesses, farmers may find it advantageous to form LLCs. When they do so, however, the agricultural property no longer qualifies for a deferment of summer property taxes, because the existing criteria are based on the household income of the owner. Nevertheless, an agricultural LLC, like its previous individual owners, might need the proceeds of the fall or winter harvest to pay property taxes. The bill would accommodate these situations by allowing an LLC to defer the summer property taxes on its agricultural property if its operations met the income requirement and the LLC's members qualified for a deferment before they formed the LLC.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would affect State and local property tax revenue negligibly, by changing the timing of payments from affected taxpayers. For affected governmental units, the change would shift revenue from affected taxpayers into a fiscal year later than it otherwise would have been received.

Fiscal Analyst: David Zin

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