

Legislative Analysis



UNITARY FILING NOT REQUIRED WHEN SEEKING MEGA/BATTERY CREDIT

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

House Bill 5332

Sponsor: Rep. Joe Haveman

Committee: Commerce

Complete to 2-6-12

A SUMMARY OF HOUSE BILL 5332 AS INTRODUCED 1-31-12

The Income Tax Act was recently amended to create a new corporate income tax (CIT) to replace the Michigan Business Tax (MBT). The CIT requires a unitary business group to file a combined return that includes all firms in the unitary business group (i.e., corporations under common control).

The recent legislation also allows taxpayers that want to continue to claim certain credits available under the MBT (known as "certificated credits") to continue to file under the MBT. The MBT will not be repealed until the last credit or carryforward based on a credit is claimed.

Public Act 292 of 2011 (Senate Bill 855) amended the Michigan Business Tax Act to allow a firm to file a separate return (even though part of a unitary business group) to claim Michigan Economic Growth Authority (MEGA) battery credits in an amount up to \$75 million over three years if certain job-creation requirements are met. Enacting Section 2 of Senate Bill 855 specifies that is the intent of the Legislature in enacting such an exception to save \$75 million (through reduced credits) and that these savings be used to replace any revenue lost due to any (future) personal property tax reform.

House Bill 5332 would make a complementary amendment to the Income Tax Act. It would specify that a member of a unitary business group that has a certificated credit available under Sections 431 and 434(2) and (5) of the Michigan Business Tax Act is not required to file a combined return as a unitary business group and can elect to file a separate return and pay the tax under the MBT.

MCL 206.680 & 691

FISCAL IMPACT:

According to the Department of Treasury, this bill is a companion/clean-up bill for a provision added to the Michigan Business Tax Act last year in MCL 208.1500(7) by Senate Bill 855, PA 292 of 2011. That act allows a firm to file separate MBT returns to claim MEGA/battery credits totaling up to \$75 million, instead of filing as a unitary business group (UBG). As noted above, Enacting Section 2 of PA 292 says that this change reduces credits by \$75 million. That means the firm would have been eligible to

claim \$150 million in credits if it filed as a unitary business group. The change in PA 292 and House Bill 5332 remove the firm's requirement to file as a UBG and reduce the firm's MEGA/battery credits by \$75 million.

Legislative Analyst: Chris Couch
Fiscal Analyst: Rebecca Ross

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