

# Legislative Analysis



## TAX TRIBUNAL JUDGMENT INTEREST RATE

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### House Bill 5340

Sponsor: Rep. Jud Gilbert, II

Committee: Tax Policy

Complete to 4-16-12

## A SUMMARY OF HOUSE BILL 5340 AS INTRODUCED 2-12-12

The bill would amend the Tax Tribunal Act to change how the interest rate is calculated on judgments by the Tribunal when taxes have been unlawfully paid or underpaid. At present, the rate is set each year based on the average auction rate of 91-day discount treasury bills in the immediately preceding state fiscal year, plus 1%. Under House Bill 5340, after December 31, 2011, interest would accrue at 3 percentage points above the adjusted prime rate. (This is likely to increase the interest rate; see **Fiscal Impact**.)

The term "adjusted prime rate" refers to the average predominant prime rate quoted by not fewer than three commercial banks to large businesses, as determined by the Department of Treasury. The adjusted prime rate is to be based on the average prime rate charged by not fewer than three commercial banks during the six-month period ending on March 31 and the six-month period ending on September 30. Three percentage points would be added to the adjusted prime rate and the sum divided by 12 to establish the monthly interest rate. The resulting interest rate based on the six-month period ending March 31 would be effective the following July 1, and the interest rate based on the six-month period ending September 30 would be effective on January 1 of the following year.

MCL 205.737

### FISCAL IMPACT:

A precise fiscal impact cannot be determined due to the uncertainty over future interest rates. However, it can be reasonably expected that the bill will significantly increase the Tax Tribunal's interest rate. Between 1997 and 2011, the average annual prime rate charged by commercial banks has been almost double the average annual 91-day treasury bill rate. In addition, the bill changes the additive factor from 1% to 3%, which further increases the gap.

As an example, in 2011, the average annual 91-day treasury bill rate was 0.12%, and the tax tribunal's interest rate was 1.12% (0.12% + 1.00%). In 2011, the average annual prime rate charged by commercial banks was 3.25%, which would yield a tax tribunal interest rate of 6.25 % (3.25% + 3.00%).

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