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BILL ANALYSIS

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Senate Bill 807 (as introduced 11-9-11)
Sponsor: Senator Dave Hildenbrand
Committee: Finance

Date Completed: 11-10-11

CONTENT

The bill would amend Part 2 (Corporate Income Tax) of the Income Tax Act to revise the tax base apportionment for a taxpayer that has an ownership or beneficial interest in a flow-through entity that is unitary with the taxpayer.

Currently, for a taxpayer that has an ownership interest or beneficial interest in a flow-through entity that has business activity in this State, the taxpayer's business income that is directly attributable to the business activity of the flow-through entity must be apportioned to Michigan using an apportionment factor determined under Section 663 based on the business activity of the flow-through entity.

Under the bill, this would not apply if the flow-through entity were unitary with the taxpayer for apportionment purposes as provided under Section 663.

(For a taxpayer whose business activities are taxed both within and outside of Michigan, its tax base must be apportioned to this State by multiplying the tax base by the sales factor calculated under Section 663, i.e., by a fraction derived by dividing total sales of the taxpayer in this State by total sales of the taxpayer everywhere during the tax year.

Section 663 also provides that, for a taxpayer that is a unitary business group, sales include sales in this State of every person included in the unitary business group without regard to whether the person has nexus in this State. Sales between people included in a unitary business group must be eliminated in calculating the sales factor.)

The bill would take effect on January 1, 2012.

MCL 206.661 Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate effect of unknown magnitude on General Fund revenue, and the effect on specific taxpayers would vary based on the particular characteristics of each taxpayer. For some taxpayers, particularly where a flow-through entity may be located in another state and have little or no sales, the bill could result in a tax increase—given certain assumptions on the relative magnitudes of sales and income between the flow-through entity and other members of the group. Conversely, for a Michigan-only flow-through entity, the bill could result in a tax decrease given similar assumptions on the relationship between the entity and other members of the group.

Fiscal Analyst: David Zin

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