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

House Bill 4937 (as reported by the Committee of the Whole)
House Bills 4938, 4946, and 4947 (as passed by the House)
House Bills 4951 through 4958 (as passed by the House)
House Bills 4964, 4966, 4967, and 4968 (as passed by the House)
Sponsor: Representative Jud Gilbert, II (H.B. 4937, 4938, 4946, & 4947)
Representative Lisa Posthumus Lyons (H.B. 4951 & 4952)
Representative Frank Foster (H.B. 4953 & 4954)
Representative John Walsh (H.B. 4955-4958)
Representative Aric Nesbitt (H.B. 4964 & 4968)
Representative Mark Ouimet (H.B. 4966)
Representative Jeff Farrington (H.B. 4967)
House Committee: Tax Policy

CONTENT

House Bills 4952, 4954, 4957, 4958, and 4966 would amend Part 1 of the Income Tax Act to do the following regarding the individual income tax:

-- Revise the definitions of "total household resources" and "income".
-- Refer to a senior citizen with total household resources of $21,000 or less, for purposes of the homestead property tax credit.
-- Change the date on which the single-factor apportionment of business income begins.

House Bills 4937, 4938, 4946, 4951, 4953, 4955, 4956, 4964, 4967, and 4968 would amend Part 2 of the Income Tax Act to do the following regarding the corporate income tax (CIT):

-- Provide for the recapture of credits previously granted under the Single Business Tax Act or the Michigan Business Tax (MBT) Act, in the event of a taxpayer's noncompliance.
-- Add sourcing provisions concerning the benefit of services.
-- Revise provisions concerning a foreign person's tax base and sales factor.
-- Specify the tax year for a person joining or leaving a unitary business group except at the end of the person's Federal tax year.
-- Redefine "gross receipts".
-- Delete the separate definition of "business income" for a mutual or cooperative electric company that is federally tax exempt.
-- Refer to a "person", rather than a "taxpayer", in the definition of "corporation".
-- Refer to a flow-through entity, and delete references to several other types of entities, in the definition of "person".
-- Revise the definitions of "financial institution", "foreign operating entity", "shareholder", and "United States person".

House Bill 4947 would amend the Michigan Business Tax Act to:

-- Require separate returns for short period tax years.
-- Require a fiscal year taxpayer with two short period tax years to use the same method of computing the tax for each short period tax year.

-- Require the MBT return of a unitary business group to include all the people in the group.
-- Require a taxpayer with a certificated credit for a multiphase brownfield project to continue to file a return and pay the MBT until the credit was used up.
-- Disallow a deduction for a business loss for a prior year in which the taxpayer was not subject to the MBT Act.
-- Allow a taxpayer claiming a credit for health care benefits to report the aggregate costs of employer-sponsored benefits.

The bill also would require a U.S. person disregarded for Federal income tax purposes under the Internal Revenue Code to be treated as a disregarded entity for tax purposes under the MBT Act. A person other than a U.S. person that was a disregarded entity for Federal income tax purposes could not be treated as a disregarded entity for tax purposes under the MBT Act. These provisions would be retroactive to January 1, 2008.

Except as provided above, all of the bills would take effect on January 1, 2012.

MCL 206.669 (H.B. 4937)
206.607 (H.B. 4938)
206.611 (H.B. 4946)
208.107 et al. (H.B. 4947)
206.651 (H.B. 4951)
206.510 (H.B. 4952)
206.603 (H.B. 4953)
206.251 (H.B. 4954)
206.625 (H.B. 4955)
206.609 (H.B. 4956)
206.508 (H.B. 4957)
206.115 (H.B. 4958)
206.605 (H.B. 4964)
206.522 (H.B. 4966)
Proposed 206.673 (H.B. 4967)
MCL 206.607 (H.B. 4968)

FISCAL IMPACT

The bills would generally have one of three types of impact on State General Fund revenue:

1) Little or no fiscal impact, largely because the bill represents technical clarifications or corrections.
2) A zero or minimal fiscal impact, generally of an unknown magnitude, but no fiscal impact relative to the estimates made when the statute was amended in May 2011. (In these cases, the language adopted in May 2011 was assumed to be consistent with the revenue estimates, but now it has been realized that certain adjustments need to be made to the language.)
3) A fiscal impact relative to the prior estimates.

The following bills fall under the first category, and are not expected to have a fiscal impact:

-- HB 4947 (primarily clarifies provisions in the MBT Act regarding certificated credits and the transition to the corporate income tax)
-- HB 4951 (corrects reference to Federal agency)
-- HB 4952 (clarifies definition of income)
-- HB 4954 (corrects reference in statute)
-- HB 4955 (clarifies apportionment provisions regarding certain export sales)
-- HB 4956 (clarifies definitions of person and shareholder)

-- HB 4957 (clarifies definition of household resources)
-- HB 4958 (corrects effective date of apportionment changes)
-- HB 4964 (corrects circular reference in definition of corporation)

The following bills fall under the second category. These bills potentially have a fiscal impact relative to the language currently in statute (and adopted in May 2011), although many do not, and when such a fiscal impact may be present it is not an impact relative to the revenue estimates made when the May 2011 changes were adopted:

-- HB 4938 (regarding the definition of gross receipts, which is now used only for determining requirements to file a return)
-- HB 4946 (regarding partial year membership in unitary business groups and inclusion of certain foreign taxpayers)
-- HB 4953 (regarding computing business income for mutual or cooperative electric companies)
-- HB 4966 (regarding computing the homestead property tax credit for seniors with incomes over $21,000)
-- HB 4968 (regarding the definition of members of flow-through entities)

House Bill 4967 (which provides for the recapture of tax credits) is an example of a bill described under the third category, and is expected to increase General Fund revenue by approximately $15.0 million to $20.0 million per year.

The bills would have no impact on local unit revenue or expenditure.

Date Completed: 9-27-11 | Fiscal Analyst: David Zin