



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 65 (Substitute S-1 as reported)
Sponsor: Senator Jack Brandenburg
Committee: Finance

CONTENT

The bill would amend Part 3 of the Income Tax Act, which prescribes withholding requirements for flow-through entities and others, to revise provisions under which a flow-through entity that receives an exemption certificate from a corporation may not withhold a tax on the distributive share of business income of that corporation. The bill would refer to a "member", rather than a "corporation", in these provisions.

The Act requires a flow-through entity (e.g., a partnership, S corporation, or limited liability company) to withhold a tax from each member's distributive share of business income. If a flow-through entity receives an exemption certificate from a corporation, however, the entity may not withhold a tax on the distributive share of the business income of that corporation, if certain conditions are met.

Under the bill, this would apply to a flow-through entity that received an exemption certificate from a member other than a nonresident individual, rather than from a corporation. The entity could not withhold a tax on the distributive share of the business income of that member, if the required conditions were met.

Currently, the exemption certificate must certify that the corporation will pay the tax required under Part 2 of the Act (which governs the Corporate Income Tax) on the distributive share of the business income received from any flow-through entity in which the corporation is a member or in which it has an ownership or beneficial interest. The bill, instead, would require certification that the member would pay or withhold the tax required under the Act on the distributive share of the business income received from any flow-through entity in which the member had an ownership or beneficial interest.

Currently, the corporation must file the exemption certificate with the Department of Treasury and provide a copy to the flow-through entity. Under the bill, instead, the Department could require the member to file the certificate and provide a copy to the entity.

The bill would be retroactive to January 1, 2013.

MCL 206.703

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 2-1-13

Fiscal Analyst: David Zin