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BILL



ANALYSIS

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Senate Bill 65 (as enacted)
Sponsor: Senator Jack Brandenburg
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 15 of 2013

Date Completed: 4-17-13

CONTENT

The bill amended 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 may not withhold a tax on the distributive share of business income. Under the bill, this applies to a flow-through entity that receives an exemption certificate from a member, rather than from a corporation.

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. Previously, however, if a flow-through entity received an exemption certificate from a corporation, the entity could not withhold a tax on the distributive share of the business income of that corporation, if certain conditions were met.

Under the bill, instead, if a flow-through entity receives an exemption certificate from a member other than a nonresident individual, the entity may not withhold a tax on the distributive share of the business income of that member, if the required conditions are met.

Previously, under one of these conditions, the exemption certificate had to certify that the corporation would 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 was a member or in which it had an ownership or beneficial interest.

The bill, instead, requires certification that the member will 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 has an ownership or beneficial interest.

Previously, a flow-through entity that received an exemption certificate had to attach a copy of the certificate to its annual reconciliation return. A flow-through entity that was entirely exempt from the withholding requirements had to furnish a copy of the certificate in a manner prescribed by the Department of Treasury.

Under the bill, instead, the Department may require a flow-through entity to attach a copy of the exemption certificate to its annual reconciliation return. An entity that is entirely exempt from the withholding requirements may be required to furnish a copy in another manner prescribed by the Department.

The bill is retroactive to January 1, 2013.

MCL 206.703

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

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

Fiscal Analyst: David Zin

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