Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4572 (Substitute S-5 as passed by the Senate)
Sponsor: Representative Wayne A. Schmidt
House Committee: Transportation and Infrastructure
Senate Committee: Transportation

Date Completed: 12-1-14

CONTENT

The bill would amend the General Sales Tax Act to do the following:

- **Allow a person engaged in the business of making retail sales of jet fuel for aircraft operated by or for a single qualifying airline, to claim a refund of tax paid under the Act for jet fuel, beginning in 2014.**
- **Prescribe a method of calculating the refund in 2016 for taxes paid during 2014 and 2015.**
- **Prescribe a method of calculating the refund in 2017, and each subsequent year, for the sales tax paid on jet fuel during the prior year.**
- **Specify that a person would not be entitled to a refund unless the person filed all of the returns required for that calendar year.**

The bill is tie-barred to House Bill 5477. (House Bill 5477 (S-13), as passed by the Senate, would amend the Motor Fuel Tax Act to provide for excise taxes on gasoline fuel and diesel fuel that would be adjusted annually based on 1) a percentage of the respective fuel's average wholesale market price, and 2) criteria establishing limits on rates and rate changes.)

Refund for Tax Paid in 2014 & 2015

The bill specifies that, notwithstanding any other provisions of the Act to the contrary, for the calendar year beginning January 1, 2016, a person engaged in the business of making sales at retail of jet fuel exclusively for use in aircraft operated by or for a single qualifying airline could claim a refund of the tax due and remitted to the Department of Treasury under the Act for sale at retail of jet fuel exclusively for use in aircraft operated by or for a single qualifying airline that occurred during calendar year 2014 and calendar year 2015.

(The bill would define "qualifying airline" as an entity engaged primarily in the commercial transport for hire of passengers as a business activity that meet all of the following criteria: a) is authorized by the Federal Aviation Administration or other appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate, b) provides regularly scheduled flights for the transportation of passengers, and c) had at least 100,000 total departures of aircraft from airports in this State during the calendar year for which a refund is claim. "Departures of aircraft" would include departures of aircraft operated by any other air carrier, including a regional carrier or contracted connection carrier, if the departure were on behalf of that air carrier. "Jet fuel" would mean "that fuel that is designed for use in the operation of jet or turbo-prop aircraft and that is sold or used for that purpose".)

The amount of the refund allowed for calendar year 2014 would have to be calculated as follows: a) multiply the amount of tax due and remitted to the Department in excess of $25.0 million but less than $36.0 million by 1.0; b) multiply the amount of tax due and remitted to the Department in excess of $36.0 million by 0.3333 and add the result of that calculation to the product of the calculation in a); and c) multiply the result of the calculation in b) by 0.25.

The amount of the refund allowed for calendar year 2015 would have to be calculated as follows: a) multiply the amount of tax due and remitted to the Department in excess of $25.0 million but less than $36.0 million by 1.0; b) multiply the amount of tax due and remitted to the Department in excess of $36.0 million by 0.3333 and add the result of that calculation to the product of the calculation in a).

Refund for Tax Paid in 2016 & Subsequent Years

For the 2017 calendar year and for each calendar year thereafter, a person engaged in the business of making sales at retail of jet fuel exclusively for use in aircraft operated by or for a single qualifying airline could claim a refund of the tax due and remitted to the Department under the Act for sale at retail of jet fuel exclusively for use in aircraft operated by or for a single qualifying airline for the immediately preceding calendar year. The amount of the refund allowable would have to be calculated in the same manner as for calendar year 2015.

Other Provisions

A refund claim would have to be made on a form prescribed by the Department and would have to be substantiated by any information the Department required. A person would not be entitled to a refund for a calendar year unless the person filed with the Department all of the returns required to be filed under the Act for that calendar year.

Proposed MCL 205.54ee Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would reduce both General Fund and School Aid Fund revenue by approximately $27.9 million in FY 2015-16 and approximately $14.3 million per year in later fiscal years.

The bill would allow a refund for a portion of sales taxes paid on jet fuel purchased by a qualifying airline. The only airline that would currently qualify under the terms of the bill is Delta Airlines. While Delta Airlines does not have at least 100,000 airline departures in Michigan, the airline would qualify under the bill because the definition of "qualifying airline" includes departures of aircraft operated by other carriers if those departures are made on behalf of that carrier. However, the bill is unclear whether the refunds would be only for sales of jet fuel to Delta, or whether sales to the carriers for flights operated on behalf of Delta also would be affected by the bill.

Sales tax revenue from the sale of aviation fuel is distributed to several funds. The State Constitution requires 60% of the revenue collected at a rate of 4%, and 100% of the revenue collected at a rate of 2%, to be deposited into the School Aid Fund (SAF). The State Constitution also requires that 15% of collections at a rate of 4% be distributed to cities, villages and townships on a per-person basis. The remainder of sales tax revenue is directed to the General Fund, although an earmark of 21.3% of the collections at a rate of 4% is part of the Glenn Steil State Revenue Sharing Act. While that earmark is to fund statutory revenue sharing distributions, such distributions are subject to appropriation.

The bill would allow refunds to be claimed during FY 2015-16 for a portion of sales taxes paid during calendar years 2014 and 2015. Beginning in FY 2016-17, only taxes paid during the preceding calendar year would be included in the formula to compute the refund. As a result, House Bill 4572 (S-5) would reduce SAF revenue by approximately $20.5 million in FY 2015-16 and $10.5 million per year in later fiscal years. Similarly, the bill would reduce constitutional revenue sharing (and thus local unit revenue) by approximately $2.8 million in FY 2015-16 and $1.4 million per year in later fiscal years; and reduce General Fund revenue by approximately $4.7 million in FY 2015-16 and $2.4 million per year in future years.

Fiscal Analyst: David Zin

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