Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5008 (Substitute H-1 as reported without amendment)
Sponsor: Representative Aric Nesbitt
House Committee: Tax Policy
Senate Committee: Finance

CONTENT

The bill would amend Part 2 (Corporate Income Tax) of the Income Tax Act to:

-- Allow a taxpayer that acquired the assets of another corporation in a transaction described in Section 381(a)(1) or (2) of the Internal Revenue Code (IRC) to deduct a business loss attributable to that distributor or transferor corporation.
-- For the purpose of apportionment, specify that property stored in transit for 60 days or more, or a dock sale not picked up for at least 60 days, would be considered to have come to rest at that ultimate destination.
-- For purposes of the small business alternative credit, in the definition of "officer", refer to persons performing similar duties and responsibilities to those of the chairperson of the board, or the president, vice president, secretary, or treasurer of the corporation or board, including, at a minimum, major decision making.

(Section 381 of the IRC pertains to the carryover of tax attributes, including net operating losses, in situations in which the assets of one corporation are acquired by another. Subsection (a) contains a general carryover rule applicable to (1) distributions involving liquidations of subsidiaries and (2) transfers subject to the nonrecognition of gain or loss, if the transfers are in connection with eligible reorganizations.

Criteria for the small business alternative credit place limits on a firm's gross receipts and adjusted business income, and on the amount of compensation and directors' fees paid to individual shareholders and officers.)

The bill would be retroactive and effective for tax years beginning after December 31, 2011.

MCL 206.623 et al. Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would likely reduce General Fund revenue by an indeterminate amount. The provisions in the bill affecting business losses would reduce General Fund revenue, as would the provisions affecting the small business credit. The provisions regarding property stored in transit could either increase or reduce revenue depending on the particular circumstances affecting each taxpayer. No estimates are available regarding the magnitude of any of these changes. Because the bill would be retroactive, any fiscal impact would be larger in FY 2013-14 than in later years, as taxpayers filed amended returns to reflect the changes in the bill.

Date Completed: 1-21-14 Fiscal Analyst: David Zin