Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5010 (Substitute H-1 as reported without amendment)
Sponsor: Representative Kevin Cotter
House Committee: Tax Policy
Senate Committee: Finance

CONTENT

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

-- Exempt from the tax imposed under Part 2 a person that qualified as a domestic international sales corporation (DISC) as defined in Section 992 of the Internal Revenue Code (IRC), for the portion of the tax year it had elected to be treated as a DISC.
-- Revise provisions eliminating sales between a taxpayer and flow-through entities unitary with the taxpayer, from the sales factor for the purpose of apportionment.

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

Part 2 requires a multistate taxpayer to apportion its tax base to this State by multiplying the tax base by the sales factor (total sales in Michigan divided by total sales everywhere). Sales between a taxpayer and flow-through entities unitary with that taxpayer, or between flow-through entities unitary with a taxpayer, must be eliminated from the calculation.

Under the bill, instead, sales between a taxpayer and a flow-through entity unitary with that taxpayer, to the extent of the taxpayer's interest in the flow-through entity, would have to be eliminated in calculating the sales factor. Sales between a flow-through entity unitary with a taxpayer and another flow-through entity unitary with the same taxpayer, to the extent of the taxpayer's interest in the selling flow-through entity, also would have to be eliminated from the calculation.

(Under Section 992 of the IRC, at least 95% of the gross receipts of a DISC must consist of qualified export receipts; the adjusted basis of its qualified export assets must equal or exceed 95% of the sum of the adjusted basis of all of its assets at the close of the taxable year; and the corporation must not have more than one class of stock and the par or stated value of its outstanding stock must be at least $2,500 on each day of the taxable year.)

MCL 206.625 & 206.663

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce General Fund revenue by an indeterminate amount. No estimates are available regarding the number of taxpayers affected or the magnitude of the 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