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BILL



ANALYSIS

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House Bill 5041 (Substitute H-1 as reported without amendment)  
Sponsor: Representative Jeff Farrington  
House Committee: Tax Policy  
Senate Committee: Finance

### **CONTENT**

The bill would amend the Michigan Business Tax (MBT) Act to provide that, if a flow-through entity elected to file under the Act, each member of the entity that did not file as a member of a unitary business group with the flow-through entity would have to disregard all items attributable to that member's ownership interest in the flow-through entity for all purposes of the Corporate Income Tax. In such a case, the flow-through entity would not be subject to the tax withholding provisions of Section 703(4) of the Income Tax Act with respect to its members that are corporations.

(Under that section, every flow-through entity with business activity in the State that has more than \$200,000 of business income reasonably expected to accrue in the tax year after allocation or apportionment, must withhold a tax computed by applying the Corporate Income Tax rate to the distributive share of the business income of each member that is a corporation or a flow-through entity.)

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

(The MBT Act allows taxpayers to elect to continuing filing under that Act in order to claim "certificated credits", rather than filing under Part 2 (Corporate Income Tax) of the Income Tax Act. As a rule, if a taxpayer that elects to file an MBT return in order to claim a certificated credit is a unitary business group, the return filed by the group must include all people included in the group regardless of whether they are incorporated.)

MCL 208.1500

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would reduce State General Fund revenue by an unknown amount that would depend on the specific characteristics of the affected taxpayers. In some cases, the reduction could be significant. Flow-through entities, including those that are members of a unitary group that is taxed as a corporation, are not taxed under the Corporate Income Tax. Affected taxpayers would be taxpayers claiming certificated credits and thus still required to file a Michigan Business Tax return. However, because of the nature of the unitary business operations and the tax structure under current law, income from the flow-through entities is included in the tax base under both the MBT (for the flow-through entity) and the Corporate Income Tax (for the corporate unitary "parent").

Date Completed: 12-10-13

Fiscal Analyst: David Zin

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