

Legislative Analysis



FLOW-THROUGH ENTITIES: INCOME TAX WITHHOLDING

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<http://www.house.mi.gov/hfa>

House Bill 5131 as introduced
Sponsor: Rep. Jeff Farrington
Committee: Tax Policy
Complete to 1-7-16

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 158 of 2016)

REVISED SUMMARY:

House Bill 5131 would amend the Income Tax Act of 1967 to remove the requirement that flow-through entities withhold income taxes in certain cases and remit those taxes to the state. The requirement would cease to apply as of July 1, 2016.

Section 12 of the Income Tax of 1967 defines a flow-through entity as an S corporation, partnership, limited partnership, limited liability partnership, or limited liability company. Under current law, these entities are required to withhold income at the prescribed tax rate:

- For individual nonresident members at the distributive share of taxable income; and
- For corporations or other flow-through entity members, if after allocation or apportionment the business income is expected to be greater than \$200,000 in the tax year, at the distributive share of business income.

In addition, if the member of the flow-through entity is itself a flow-through entity, then under current law it must also withhold a tax on the distributive share of business income, if after allocation or apportionment the business income is expected to be greater than \$200,000 in the tax year, of each of its members that are corporations or other flow-through entities.

For tax years that begin on or after July 1, 2016, House Bill 5131 would remove the statutory requirement that flow-through entities withhold the distributive share of taxable income of their *individual nonresident members* or the distributive share of business income of *members that are corporations or other flow-through entities*. Instead, those members would be expected to pay their estimated taxes directly to the state.

FISCAL IMPACT:

The bill may have a negligible impact on state revenue by potentially changing the timing when certain income tax payments are made by affected taxpayers.

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