

Legislative Analysis



FLOW-THROUGH ENTITY INCOME TAX WITHHOLDING

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

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

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

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.

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* at the prescribed rates. Without these requirements, 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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