

Legislative Analysis



MBT FARMLAND PRESERVATION CREDIT

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House Bill 5720 as introduced
Sponsor: Rep. Al Pscholka
Committee: Tax Policy
Complete to 9-2-16

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

SUMMARY:

House Bill 5720 would amend the Michigan Business Tax Act to allow a taxpayer to elect to pay the Michigan Business Tax and claim a "certificated" tax credit in certain specified circumstances (as explained below).

In 2011, the Michigan Business Tax was replaced by a new Corporate Income Tax, as part of a major overhaul of state taxes. However, businesses that had been approved for, received, or assigned certain "certificated credits" under the MBT prior to January 1, 2012, (the start of the CIT) were allowed to elect to continue to file and pay the MBT rather than the CIT in order to continue claiming those certificated tax credits. These businesses can file under the MBT until such time that the certificated credits (and any carryforwards) are fully exhausted. Once the last credit, or carryforward based on a credit, has been claimed, the MBT will be fully repealed.

House Bill 5720 applies to the following circumstances:

- The taxpayer has a certificated credit granted under Section 36109 of the Natural Resources and Environmental Protection Act. The credit under Section 36019 is based on entering into a farmland development rights agreement.¹
- That credit had been claimed in a previous year under Part 1 of the Income Tax Act. (That part of the Income Tax Act applies to individuals.)
- The credit is no longer eligible to be claimed under the Income Tax Act due to the death (after December 31, 2011) of the individual considered to be the owner of the farmland property and the transfer of the farmland to an estate or trust.

Under these circumstances the bill allows the taxpayer to elect to pay the MBT and claim the credit; the taxpayer then must continue to file a return and pay the tax each year until the certificated credit is complete or used up or the taxpayer no longer owns the property, whichever occurs first. At that point, the taxpayer is longer eligible to pay the MBT and may no longer claim any other remaining certificated credits.

¹ See [http://www.legislature.mi.gov/\(S\(0nctdirko00vdqnma4fpjllh0\)\)/mileg.aspx?page=getobject&objectname=mcl-324-36109&query=on](http://www.legislature.mi.gov/(S(0nctdirko00vdqnma4fpjllh0))/mileg.aspx?page=getobject&objectname=mcl-324-36109&query=on)

The bill states that it is retroactive and effective for tax years beginning after December 31, 2011.

MCL 208.1500

FISCAL IMPACT:

A fiscal impact cannot be determined because the necessary taxpayer information is unavailable due to confidentiality constraints. However, to the extent that the bill allows credits to be claimed that would have otherwise been foregone in the event that farmland is transferred into a trust or estate, there will be a revenue loss to the state.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.