



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 234 (Substitute S-1 as reported)
Sponsor: Senator Darwin L. Booher
Committee: Finance

CONTENT

The bill would amend Chapter 13 of the Income Tax Act, which imposes a franchise tax on financial institutions, to do the following:

- Provide that a financial institution's tax base would be the total equity capital of the financial institution or top-tiered parent entity, in the case of a unitary business group of financial institutions, subject to several deductions.
- Define "total equity capital" as the same amount reported by the financial institution or top-tiered parent entity, in the case of a unitary business group of financial institutions, as reported for the tax year on any of the Federal forms listed in the bill.
- Define "top-tiered parent entity" as the highest-level entity within the unitary business group that is required to file with a regulatory agency under the standards prescribed by the Federal Financial Institutions Examination Council.
- Require the tax base to be determined as of the close of the tax year, rather than based on a five-year average.
- Specify that, if a United States person included in a unitary business group of financial institutions or a financial institution combined return were subject to the Corporate Income Tax or the tax on insurance companies, any business income or equity capital attributable to that person would have to be eliminated from the total equity capital of the unitary business group, and any sales or gross business attributable to that person would have to be eliminated from the apportionment formula under Chapter 13.

Under Chapter 13, for a financial institution whose business activities are subject to tax both within and outside of this State, the tax base must be apportioned to Michigan by multiplying the tax base by the gross business factor. The gross business factor is a fraction whose numerator is the total gross business of the financial institution in this State during the tax year and whose denominator is the total gross business of the financial institution everywhere during the tax year.

Under the bill, the denominator could not include any gross business attributable to the foreign business of a controlled foreign corporation.

Also, for a unitary business group of financial institutions, the bill would require the gross business factor to include the gross business of all members of the unitary business group during the tax year. For members that were acquired or disposed of during the tax year, the gross business factor would have to include the gross business of the part-year member for that portion of the tax year during which the member met the control and relationship parameters of the Act or for which the member filed as part of an affiliated group.

The bill would be effective for tax years beginning after December 31, 2015.

MCL 206.651 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an unknown impact on General Fund revenue that would depend on the specific characteristics of affected taxpayers and the specific fiscal years being considered. For example, the bill would change the tax base from reflecting a five-year average to reflecting only a single year. Without regard to any of the bill's other provisions, compared to current law, General Fund revenue would be higher in years when the single-year tax base was greater than the average tax base over the last five years; and would be lower in any year in which the single-year tax base was less than the five-year average. The bill also would affect the calculation of both the tax base and how that tax base is apportioned to Michigan. It is expected that the bill's changes to how the tax base is computed in a year generally would reduce revenue relative to current law. However, the apportionment calculation is computed as a percentage and the proposed changes would affect both the numerator and the denominator of that calculation. As a result, while it is expected that both effects would combine to reduce revenue, in certain years the changes also could result in the taxpayer's apportioning a larger share of a smaller tax base to Michigan and facing a greater liability than under current law.

Date Completed: 10-12-15

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.