

Legislative Analysis



CORPORATE INCOME TAX INTEREST EXPENSE DEDUCTION

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Senate Bill 1097 as enrolled
Sponsor: Sen. Jack Brandenburg
House Committee: Tax Policy
Senate Committee: Finance
Complete to 2-1-19

(Vetoed by the Governor 12-28-18)

SUMMARY:

Senate Bill 1097 would modify the Income Tax Act to specify that Federal taxable income would be calculated as if Section 163(j) of the Internal Revenue Code were not in effect. Section 163(j) of the Internal Revenue Code limits the business interest expense deduction. (See **BACKGROUND INFORMATION**, below.)

Under the Income Tax Act, *federal taxable income* is defined as taxable income as defined in Section 63 of the Internal Revenue Code, except that federal taxable income shall be calculated as if Section 168(k) and Section 199 of the Internal Revenue Code were not in effect.

The bill would modify the definition to include Section 163(j) as part of the list of excludable sections.

The bill would be retroactive and effective January 1, 2018, and would apply to all business activity occurring after December 31, 2017.

MCL 206.607

BACKGROUND INFORMATION:

Prior to the Federal Tax Cut and Jobs Act (TCJA), business interest expense was generally deductible in the year in which the interest was paid or accrued. In an effort to offset some of the lost revenue due to lower federal tax rates for corporations, the TCJA created a new limitation on business interest deductibility. Specifically, deductible business interest expense is limited to 30% of adjusted taxable income before depreciation, amortization, and depletion (before January 1, 2022) plus business interest income and floor plan financing. After January 1, 2022, the adjustment for depreciation, amortization, and depletion is eliminated. Business interest not allowed as a deduction for any taxable year is allowed to be carried forward indefinitely.

In calculating the Michigan's Corporate Income Tax (CIT), the Income Tax Act defines taxable income as that term is defined under federal law. Therefore, the application of the business interest limitation also had the effect of expanding the state's corporate tax base.

Generally speaking, Michigan businesses realized an increase in their tax liability as a result of the business interest limitation.

FISCAL IMPACT:

As written, the bill would reduce CIT revenue by an estimated \$15.0 million in FY 2017-18, about \$115.0 million in FY 2018-19, and roughly \$100.0 million per year going forward. All CIT revenue accrues to the general fund.

Vetoed 12-28-18:

In his veto message, Governor Snyder said that SB 1097 would have addressed the increase in tax liability for Michigan businesses resulting from the TCJA limitation on business interest deductibility “in a manner inconsistent with the sound budgetary practices my administration has followed during the last eight years.”

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