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BILL ANALYSIS

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Senate Bill 1097 (as introduced 9-5-18)
Sponsor: Senator Jack Brandenburg
Committee: Finance

Date Completed: 9-5-18

CONTENT

The bill would amend the Income Tax Act to specify that Federal taxable income would have to be calculated as if Section 163(j) of the Internal Revenue Code was not in effect.

Under the Income Tax Act, "Federal taxable income" means taxable income as defined in Section 63 of the Internal Revenue Code, except that Federal taxable income must be calculated as if Sections 168(k) and 199 of the Code were not in effect. The bill also would include Section 163(j) in this list (see **BACKGROUND** for information on Section 163(j) of the Internal Revenue Code).

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

MCL 206.607

BACKGROUND

The United States Corporation Income Tax Return (Form 1120) allows a corporation to deduct certain business interest from its tax liability. The Federal Tax Cuts and Jobs Act, enacted in 2017, limited the deduction for business interest. Michigan's Corporate Income Tax Annual Return (Form 4891) requires a taxpayer to include its Federal taxable income from Federal Form 1120 in order to calculate its tax liability to the State. Any changes made to the computation of Federal taxable income directly affects a Michigan taxpayer's taxable income for its tax liability to the State.

Section 163(j) of the Internal Revenue Code concerns limitations on deductions for interest on certain indebtedness. If Section 163(j) applies to any corporation for any taxable year, no deduction may be allowed under the Code for disqualified interest (as defined under the Code) paid or accrued by the corporation during the taxable year. The amount disallowed may not exceed the corporation's excess interest expense (as defined under the Code) for the taxable year. These provisions apply to any corporation for any taxable year if the corporation has excess interest expense for the taxable year, and meets a debt-to-equity ratio outlined under the Code.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would reduce General Fund revenue by approximately $14.0 million in fiscal year (FY) 2017-18, $115.0 million in FY 2019-20, and by approximately $97.0 million in FY 2019-20, with the amount likely increasing in subsequent years as economic growth continues and the economy experiences higher interest rates.

Fiscal Analyst: David Zin

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