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BILL



ANALYSIS

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House Bill 4522 (Substitute H-2 as passed by the House)

Sponsor: Representative Mary Whiteford

House Committee: Tax Policy

Senate Committee: Finance

Date Completed: 5-1-18

CONTENT

The bill would amend the Income Tax Act to allow a taxpayer to claim an exemption in the tax year for which the taxpayer had a certificate of stillbirth from the Department of Health and Human Services, for tax years beginning on and after January 1, 2018.

Except as otherwise provided, the Act states that a personal exemption multiplied by the number of personal and dependency exemptions must be subtracted in the calculation that determines taxable income. The Act allows each taxpayer to claim one personal exemption and a dependency exemption for each individual who is a dependent of the taxpayer for the tax year.

Under the bill, for tax years beginning on and after January 1, 2018, a taxpayer could claim an additional exemption in the tax year for which the taxpayer had a certificate of stillbirth from the Department of Health and Human Services (DHHS), as provided under Section 2834 of the Public Health Code.

(Under Section 2834, a fetal death occurring in the State must be reported to the State Registrar within five days after delivery. (The Code defines "fetal death" as the death of a fetus that has completed at least 20 weeks of gestation or weighs at least 400 grams.)

The Department of Health and Human Services is required, with the information reported to it under these provisions, to create a certificate of stillbirth that must conform as nearly as possible to recognized national standardized forms and include at least the following information:

- The name of the fetus, if given a name by the parent or parents.
- The number of weeks of gestation completed.
- The date of delivery and weight at the time of delivery.
- The name of the parent or parents.
- The name of the institution in which the fetus was delivered or the name of the health professional in attendance if the delivery was outside an institution.)

MCL 206.30

BACKGROUND

Public Act 319 of 2006 amended the Income Tax Act to provide for a credit in the tax year for which a taxpayer had a certificate of stillbirth from the Department of Community Health (now part of the DHHS). The credit was equal to 4.5% of the personal exemption amount for the

tax year for a single exemption, rounded up to the nearest \$10 increment. The credit was eliminated under Public Act 38 of 2011, which amended the Income Tax Act to 1) eliminate a number of deductions, exemptions, and credits that individuals were allowed to claim, 2) change future individual income tax rates, and 3) create the Corporate Income Tax.

Under the Income Tax Act, the personal exemption is \$4,050 for the 2018 tax year and will be \$4,400 for the 2019 tax year, \$4,750 for the 2020 tax year, and \$4,900 for the 2021 tax year, subject to an adjustment for inflation beginning in 2022.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

When Michigan offered the stillbirth credit, approximately 300 taxpayers claimed the credit per year. Based on this experience, the bill would reduce individual income tax revenue by approximately \$52,000 per year in tax year 2018, and \$63,000 per year by tax year 2021. The impact on the School Aid Fund and General Fund would depend on whether the bill resulted in lower withholding, estimated payments, and annual payments, or increased refunds. To the extent that the bill resulted in higher refunds, all of the impact would reduce General Fund revenue. However, to the extent that the bill reduced income tax payments, such as annual payments, then 23.8% of the impact would reduce School Aid Fund revenue, with the remaining loss of revenue affecting the General Fund.

Depending on how the Department of Treasury interpreted and enforced the bill, it appears that the bill would result in the revenue loss increasing over time. The bill's language would appear to provide the exemption not just in the year in which a taxpayer received a stillbirth certificate, but for every tax year the taxpayer "has" a certificate. As a result, the revenue reduction under the bill could increase rapidly.

Fiscal Analyst: David Zin

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