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BILL ANALYSIS

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Senate Bill 936 (as introduced 5-21-20)
Sponsor: Senator Jim Runestad
Committee: Finance

Date Completed: 6-3-20

CONTENT

The bill would amend the General Sales Tax Act to allow a qualified taxpayer to defer payment of qualified taxes until December 31, 2020.

The Act requires each taxpayer, unless otherwise provided, on or before the 20th days of each month to file with the Department of Treasury a return for the preceding month showing the entire amount of all sales and gross proceeds of the taxpayer's business, the allowable deductions, and the amount of tax for which the taxpayer is liable.

With the return, the taxpayer also must remit the amount of the tax. A taxpayer that had a total tax liability in the amount of $720,000 after subtracting applicable tax credits is subject to an accelerated payment schedule as specified in the Act. If considered necessary to ensure payment of the tax or to provide a more efficient administration, the Department may require the filing of returns and the payment of tax for other than monthly periods. Under the bill, these provisions would be subject to the deferment described below.

Under the bill, a qualified taxpayer could defer payment of qualified taxes until December 31, 2020. Penalties and interest could not be added to qualified taxes remitted before January 1, 2021, and for the purposes of determining penalties and interest on qualified taxes remitted after December 31, 2020, the due date of the qualified taxes would be December 31, 2020. "Qualified taxpayer" would mean a taxpayer whose business has been negatively impacted as a result of a COVID-19 executive order. A taxpayer's business would be considered negatively impacted by a COVID-19 executive order if one or more of the following applied: a) as a result of a COVID-19 executive order, the taxpayer's place of business was closed or restricted to ingress, egress, use, and occupancy by members of the public; or b) the taxpayer's business involved assemblages of people that were prohibited by a COVID-19 executive order. "Qualified taxes" would mean the taxes due under the General Sales Tax Act from a qualified taxpayer for March, April, May, June, July, and August 2020.

MCL 205.56 et al. Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would reduce State General Fund, School Aid Fund, and Comprehensive Transportation Fund revenue in fiscal year (FY) 2019-20 by an unknown but likely substantial amount and would increase revenue in FY 2020-21 by approximately the same amount. The bill also would reduce local unit revenue in FY 2019-20 and would increase local unit revenue by an equal amount in FY 2020-21. Assuming taxpayers who have already made payments did not seek refunds, and that 100% of remaining payments to which the bill would apply would be affected, the bill would shift approximately $1.9 billion of sales tax revenue from FY 2019-20 to FY 2020-21, based on the May 15, 2020, Consensus Revenue Estimates.

Currently, for taxpayers not required to file returns on an accelerated basis, the Michigan Department of Treasury has deferred all sales tax payments due in March, April, and May until June 20, 2020. Taxpayers required to file accelerated returns are those with sales or use tax liabilities of $720,000 or more, or withholding liability of $480,000 or more, in the preceding calendar year. The requirements to file on an accelerated basis are narrower than the bill's requirements to be a qualified business. As a result, the bill would affect more taxpayers than Treasury's existing deferral rules.

By shifting the due date until December 31, 2020, the bill would move the payments into a new fiscal year. Because accounting rules permit the State to accrue back revenue received only within 60 days of the end of the fiscal year, and because the State's fiscal year ends September 30, 2020, the State would be unable to include the deferred payments in FY 2019-20 revenue.

Because the Department of Treasury deferred March, April, and May payments, but the State still received payments from taxpayers, it is unclear if all taxpayers eligible to defer payments under the bill would defer their payments. To the extent that taxpayers did not elect to defer payments, both the revenue loss in FY 2019-20 and the revenue increase in FY 2020-21 would be less.

The bill also would reduce General Fund revenue from penalties and interest by an unknown amount. Most of the revenue loss from reduced penalties and interest would affect FY 2019-20 revenue.

Constitutionally required revenue sharing payments to local units of government are based on cash collections under the sales tax. Statute creates a delay in the timing of collections and the associated payments. For example, the August 2020 payments will be based on sales tax collections in May and June 2020. By lowering cash collections in June, July, and August, the bill would reduce revenue sharing payments in August and October. The deferred payments due December 31, 2020, would increase revenue sharing payments in February 2021. Depending on the accounting rules used by a local unit of government and the dates of the unit's fiscal year, the bill could shift payments from one fiscal year to another.

The School Aid Fund receives approximately 73.3% of sales tax collections, meaning the bill would shift roughly $1.4 billion of revenue from FY 2019-20 into FY 2020-21. Because the School Aid Fund frequently runs a negative balance and must reimburse other funds for the money it must borrow from those funds to make payments, the bill would increase School Aid Fund borrowing costs in FY 2019-20, and lower borrowing costs in FY 2020-21, by an unknown amount. The current FY 2019-20 appropriation for School Aid Fund borrowing costs totals $66.0 million.

The bill could create secondary revenue effects not included above. For example, if a taxpayer averaged $10,000 of sales tax liability per month, the bill would allow the taxpayer to defer approximately $60,000 of sales taxes until December 31, 2020. However, in December 2020, the taxpayer would be required to pay the State approximately $70,000: the $10,000 payment due in December plus the $60,000 in deferred taxes. It is unclear how the changes in cash flow demands would affect taxpayers, but the changes could reduce economic activity and tax collections from these and other taxes during FY 2020-21 by an unknown amount.

While the bill is not tie-barred to Senate Bills 935 and 937, the bill mirrors the changes those bills make to other taxes. If all three bills were enacted, they would shift more than $5.7

billion of tax payments from FY 2019-20 to FY 2020-21, including approximately $2.3 billion of School Aid Fund revenue and approximately $3.2 billion of General Fund revenue.

Fiscal Analyst: David Zin

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