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

BILL ANALYSIS

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

Senate Bill 937 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Senator Curtis VanderWall
Committee: Finance

CONTENT

The bill would amend Part 3 of the Income Tax Act to allow a qualified person required to withhold income taxes and who filed a monthly return to defer those payments until November 20, 2020, by remitting them in installments as specified in the bill. (Part 3 of the Act prescribes withholding requirements for flow-through entities (e.g., partnerships, S corporations, or limited liability companies), employers, and others.) A qualified person required under Part 3 to withhold taxes on income and who filed a quarterly return could defer payment of qualified taxes by remitting them in installments as specified under the bill. If a qualified taxpayer intended to defer payment of qualified taxes otherwise due under the Act for August 2020, the taxpayer would have to submit an estimate of the taxes to be deferred for that month to the Department of Treasury by July 31, 2020, on a form prescribed by the Department. Penalties and interest could not be added to qualified taxes remitted as specified in the bill.

"Qualified person" would mean a person whose business has been negatively impacted as a result of a COVID-19 executive order. A person'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 taxes otherwise due under the Act from a qualified person for March, April, May, June, July, and August.

MCL 206.703 & 206.705 Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would shift the timing of revenue received by the State General Fund and School Aid Fund revenue in fiscal year (FY) 2019-20 by an unknown but likely substantial amount by shifting collections that otherwise would have been due in March through June of 2020 to June through November of 2020. Assuming taxpayers who already have made payments affected by the bill did not seek refunds, and that 100% of remaining payments to which the bill would apply would be affected, the bill would shift approximately $3.4 billion of individual income tax collections into different months, 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 withholding 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.

Because the final due date under the bill would be November 20, 2020, the shift would not move affected payments into a new fiscal year. Accounting rules permit the State to accrue revenue received within 60 days of the end of the fiscal year and the State's fiscal year ends September 30, 2020.

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, any shifts in revenue 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.

The School Aid Fund receives approximately 23.8% of gross individual income tax collections, meaning the bill would shift roughly $808.0 million of collections into different months. 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 by an unknown amount. The current FY 2019-20 appropriation for School Aid Fund borrowing costs totals $66.0 million.

While the bill is not tie-barred to Senate Bills 935 and 936, the bill mirrors the changes those bills make to other taxes. If all three bills were adopted, the impact on cash flow to both the General Fund and the School Aid Fund could be significant as the combined impact would potentially shift more than $5.7 billion of tax payments into different months, including approximately $2.3 billion of School Aid Fund revenue and approximately $3.2 billion of General Fund revenue.

Date Completed: 6-18-20 Fiscal Analyst: David Zin