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SFA BILL ANALYSIS

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Senate Bill 116 (Substitute S-3 as reported)
Sponsor: Senator Joel D. Gougeon
Committee: Finance

CONTENT

The bill would amend the Single Business Tax (SBT) Act to provide that, retroactive and effective for tax years after 1990, a "farmers' cooperative corporation" would have to exclude from its adjusted SBT base revenue and expenses attributable to business transacted with farmer or farmer cooperative corporation patrons, to whom net earnings were allocated in the form of "patronage dividends" as prescribed in the Internal Revenue Code (IRC). The bill would prescribe a formula to be used in computing the corporation's adjusted tax base.

"Farmers cooperative corporation" would mean a cooperative association as described in Section 98 of Public Act 327 of 1931, which provides that a corporation must be governed under the Act if it is organized to conduct a lawful business that limits the dividends, payable upon stock investment in the case of a corporation with capital stock, or membership investment in the case of a membership corporation without capital stock, not to exceed 8% per annum; or that limits the voting rights of stockholders or members to one vote regardless of the number of shares of stock or membership held; and that in any case does not conduct more than 50% of its business or services with nonstockholders or nonmembers. Under the IRC, a "patronage dividend" is an amount paid to a patron of an organization on the basis of quantity or value of business done with or for the patron, under an obligation of the organization to pay an amount, and that is determined by reference to the organization's net earnings from business done with or for its patrons.

Currently, certain farmers' cooperative corporations that are exempt from Federal income taxes, and that are organized under certain limitations of Public Act 327 of 1931, are exempt from the SBT. This exemption does not apply to a farmers' cooperative corporation if the total dollar value of its incidental and emergency purchases is at least 5% of the total dollar value of its repurchases. Under the bill, for tax years ending after 1994, the exemption would not apply if the incidental and emergency purchases were at least 5% of the corporation's total purchases.

MCL 208.35 et al. Legislative Analyst: G. Towne

FISCAL IMPACT

A Department of Treasury audit revealed that farmers' cooperative corporations have been underpaying their SBT liabilities by excluding from the tax base certain income received from transactions involving patrons who receive dividends from the cooperative. This bill proposes to make the SBT Act consistent with the way farmers' cooperative corporations have actually been filing the single business tax. As a result, under this bill, the SBT liabilities of farmers' cooperative corporations would decline by an estimated $2 million in FY 1997-98 compared with what their liabilities will be under current law. This bill has an effective date for tax years ending after December 31, 1990, but the Department of Treasury estimates that very little or no refunds would have to be paid because most farmers' cooperative corporations have not been paying the SBT consistent with current law.

Date Completed: 6-3-97 Fiscal Analyst: J. Wortley

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