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SFA**BILL ANALYSIS**

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Senate Bill 116 (as introduced 2-4-97)
Sponsor: Senator Joel D. Gougeon
Committee: Finance

Date Completed: 5-20-97

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 “qualified written notices of allocation” as prescribed in the Internal Revenue Code. The bill would prescribe a formula that would have to be used in computing the corporation’s adjusted tax base: Specific additions and deductions currently in the Act (as cited by the bill) would have to be multiplied by a fraction, the numerator of which consisted of the corporation’s gross profit of its nonpatronage sourced business, and the denominator of which was its gross profits.

The bill provides that, for purposes of the above provisions, “farmers cooperative corporation” would mean a cooperative association as described in the Federal Agricultural Marketing Act. Under the Federal act, a cooperative association is any association in which farmers act together in processing, preparing for market, handling, and/or marketing their farm products; and any association in which farmers act together in purchasing, testing, grading, processing, distributing, and/or furnishing farm supplies and/or farm business services. The association must be operated for the mutual benefit of the members and conform to one or both of the following: No member is allowed more than one vote, and/or the association does not pay dividends on stock or membership capital in excess of 7% per annum. The association may not deal in farm products, supplies, and business services with or for nonmembers in an amount greater in value than the total amount of business transacted by it with or for members (excluding business transacted for or on behalf of the U.S. government).

“Qualified written notice of allocation” is defined in Section 1388 of the Internal Revenue Code, which prescribes the tax treatment of cooperatives and their patrons. A “written notice of allocation” is any capital stock, revolving fund certificate, retain certificate, certificate of indebtedness, letter of advice, or other written notice that discloses to the recipient the dollar amount allocated to him or her by the organization, and the portion, if any, that constitutes a “patronage dividend”. A “qualified written notice of allocation” must be redeemable in cash at its stated dollar amount, to which the distributee consented in writing, by obtaining or retaining membership in the organization, or by endorsing or cashing a qualified check as part of a payment or patronage dividend. “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 net earnings of the organization from business done with or for its patrons.

Currently, under the SBT Act certain farmers cooperative corporations that are exempt from Federal income taxes pursuant to the conditions specified in the Internal Revenue Code, and that are organized under certain limitations of Public Act 327 of 1931 (which regulates cooperative

corporations), are exempt from paying the SBT. This exemption does not apply to a farmers' cooperative corporation if the total dollar value of the corporation's incidental and emergency purchases (of commodities from nonproducers to facilitate the manufacturing or marketing of commodities purchased from producers) is equal to or greater than 5% of the total dollar value of the corporation's repurchases (from nonproducer customers of commodities the corporation markets to nonproducer customers and the corporation's subsequent manufacturing or marketing of the repurchased commodities). The bill provides that, for tax years after 1990, the exemption would not apply to a farmers' cooperative corporation if the total dollar value of the corporation's incidental and emergency purchases were equal to or greater than 5% of the total dollar value of the corporation's total purchases.

MCL 208.35 et al.

Legislative Analyst: G. Towne

FISCAL IMPACT

Fiscal information is not available at this time.

Fiscal Analyst: J. Wortley

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