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House Bill 5937 (as reported without amendment)
Sponsor: Representative Andrew Kandrevas
House Committee: Tax Policy
Senate Committee: Finance

CONTENT

The bill would amend the revenue Act to give direction to the Department of Treasury regarding the treatment of a taxpayer that filed a Single Business Tax return that included an entity disregarded for Federal income tax purposes, and the treatment of the disregarded entity.

Specifically, for a taxpayer that filed a tax return under the former Single Business Tax (SBT) Act that included an entity disregarded for Federal income tax purposes under the Internal Revenue Code, both of the following would apply:

- The Department of Treasury could not assess the taxpayer an additional tax or reduce an overpayment because the taxpayer included the disregarded entity on its SBT return.
- The Department could not require the disregarded entity to file a separate tax return.

In addition, if a taxpayer filed an SBT return that included an entity disregarded for Federal income tax purposes, the taxpayer could not claim a refund based on the disregarded entity's filing a separate return as a distinct taxpayer.

The bill states the following: "This amendatory act is curative, shall be retroactively applied, and is intended to correct any misinterpretation concerning the treatment of an entity disregarded for federal income tax purposes... that may have been caused by the decision of the Michigan court of appeals in Kmart Michigan Property Services v Michigan Department of Treasury.... However, this amendatory act is not intended to affect a refund resulting from a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted prior to February 12, 2010 to a taxpayer who is a party to that proceeding."

MCL 205.27a

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate effect on State revenue and no effect on local revenue or expenditure. Any impact on State revenue would affect the General Fund. Entities that were previously excluded could either exhibit liabilities or be due refunds. The impact of the bill would depend on the net impact of the additional returns that would be received absent the bill.

Date Completed: 3-24-10

Fiscal Analyst: David Zin