



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 650 through 681 (as reported without amendment)

Sponsor: Senator Jack Brandenburg (S.B. 650-657)
Senator Mark C. Jansen (S.B. 658-663)
Senator John Pappageorge (S.B. 664-669)
Senator Dave Robertson (S.B. 670-675)
Senator John Proos (S.B. 675-681)

Committee: Finance

CONTENT

Each of the bills except Senate Bill 658 would amend the Income Tax Act to make changes in Part 1 (individual income tax), Part 2 (corporate income tax), or Part 3 (withholding requirements).

Senate Bills 661 to 664 and 681 would amend Part 1 to do the following:

- Revise the definitions of "total household resources" and "income".
- Refer to a senior citizen with total household resources of \$21,000 or less, for purposes of the homestead property tax credit.
- Change the date on which the single-factor apportionment of business income begins.

Senate Bills 650 to 657, 659, 660, 665 to 669, 671 to 676, and 678 would amend Part 2 to do the following regarding the corporate income tax (CIT):

- Provide for the recapture of credits previously granted under the Single Business Tax Act or the Michigan Business Tax Act (MBT), in the event of a taxpayer's noncompliance.
- Require gross receipts of a flow-through entity to be imputed to each member based on the member's proportionate share of distributive income.
- Extend disqualification for the small business credit to a unitary business group.
- Define substantial nexus for a financial institution.
- Add sourcing provisions concerning the benefit of services.
- Provide for the sourcing of leased prewritten computer software for apportionment purposes.
- Revise the time for submitting a final liability.
- Make changes regarding estimated tax payments and returns.
- Revise provisions concerning a foreign person's tax base and sales factor.
- Require a person that was a disregarded entity for Federal tax purposes to be treated as a disregarded entity for purposes of Part 2.
- Require a taxpayer computing the CIT for a portion of a year to use the method the taxpayer used to compute the MBT for the other portion of the year.
- Specify the tax year for a person joining or leaving a unitary business group except at the end of the person's Federal tax year.
- Redefine "gross receipts".
- Define "actively solicits".
- Revise the definitions of "business income", "business loss", "corporation", "financial institution", "foreign operating entity", "person", "shareholder", and "United States person".

Senate Bills 670, 677, 679, and 680 would amend Part 3 to:

- Revise withholding requirements that apply to a person that disburses pension or annuity payments.
- Provide that taxes withheld by a flow-through entity would accrue on the 15th of April, June, September, and January, and require withholding for each period to be equal to one-fourth of the total expected for the tax year.
- Require a flow-through entity that withheld tax to file an annual reconciliation return.
- Authorize the Department of Treasury to require a flow-through entity to file an annual business income information return.
- Revise the withholding requirement that applies when a person whose income is subject to withholding fails or refuses to provide information.
- Delete reference to a trust in the definition of "flow-through entity".

Senate Bill 658 would amend the Michigan Business Tax Act to:

- Require separate returns for short period tax years.
- Require a fiscal year taxpayer with two short period tax years to use the same method of computing the tax for each short period tax year.
- Require a U.S. person disregarded for Federal income tax purposes to be treated as a disregarded entity for purposes of the MBT Act.
- Require the MBT return of a unitary business group to include all the people in the group.
- Require a taxpayer with a certificated credit for a multiphase brownfield project to continue to file a return and pay the MBT until the credit was used up.
- Disallow a deduction for a business loss for a prior year in which the taxpayer was not subject to the MBT Act.
- Allow a taxpayer claiming a credit for health care benefits to report the aggregate costs of employer-sponsored benefits.

All of the bills would take effect on January 1, 2012.

MCL 206.653 (S.B. 650)
206.669 (S.B. 651)
206.651 (S.B. 652)
206.607 (S.B. 653)
206.685 (S.B. 654)
206.671 (S.B. 655)
206.665 (S.B. 656)
206.611 (S.B. 657)
208.107 et al. (S.B. 658)

Proposed 206.673 (S.B. 659)

MCL 206.681 (S.B. 660)
206.508 (S.B. 661)
206.510 (S.B. 662)
206.522 (S.B. 663)
206.115 (S.B. 664)
206.603 (S.B. 665)
206.605 (S.B. 666)
206.609 (S.B. 667)
206.623 (S.B. 668)
206.621 (S.B. 669)
206.703 (S.B. 670)
206.667 (S.B. 671)
206.683 (S.B. 672)
206.663 (S.B. 673)

Legislative Analyst: Suzanne Lowe

206.661 (S.B. 674)
206.625 (S.B. 675)
206.607 (S.B. 676)
206.705 (S.B. 677)
Proposed 206.699 (S.B. 678)
MCL 206.711 (S.B. 679)
206.701 (S.B. 680)
206.251 (S.B. 681)

FISCAL IMPACT

The bills would generally have one of three types of impact on State General Fund revenue:

- 1) Little or no fiscal impact, largely because the bill represents technical clarifications or corrections.
- 2) A zero or minimal fiscal impact, generally of an unknown magnitude, but no fiscal impact relative to the estimates made when the statute was amended in May 2011. (In these cases, the language adopted in May 2011 was assumed to be consistent with the revenue estimates, but now it has been realized that certain adjustments need to be made to the language.)
- 3) A fiscal impact relative to the prior estimates.

The following bills fall under the first category, and are not expected to have a fiscal impact:

- SB 651 (codifies rules issued under a revenue administrative bulletin)
- SB 652 (corrects reference to Federal agency)
- SB 656 (clarifies apportionment issue regarding software)
- SB 658 (primarily clarifies provisions in the MBT Act regarding certificated credits and the transition to the corporate income tax)
- SB 660 (clarifies references to tax base and required estimated payments)
- SB 661 (clarifies definition of household resources)
- SB 662 (clarifies definition of income)
- SB 664 (corrects effective date of apportionment changes)
- SB 666 (corrects circular reference in definition of corporation)
- SB 667 (clarifies definitions of person and shareholder)
- SB 668 (clarifies definitions of net income and business loss)
- SB 669 (codifies definition issued under revenue administrative bulletin)
- SB 671 (clarifies reference to the State Treasurer)
- SB 672 (clarifies computation methods across shortened tax years)
- SB 673 (clarifies legislative intent statement regarding apportionment)
- SB 674 (clarifies applicability of apportionment formula to certain entities)
- SB 675 (clarifies apportionment provisions regarding certain export sales)
- SB 677 (clarifies description of persons required to make withholding payments)
- SB 680 (clarifies description of persons required to make withholding payments)
- SB 681 (corrects reference in statute)

The following bills fall under the second category. These bills potentially have a fiscal impact relative to the language currently in statute (and adopted in May 2011), although many do not, and when such a fiscal impact may be present it is not an impact relative to the revenue estimates made when the May 2011 changes were adopted:

- SB 650 (regarding nexus provisions)
- SB 653 (regarding the definition of members of flow-through entities)
- SB 654 (regarding calculating gross receipts for filing threshold purposes)
- SB 655 (regarding small business credit disqualifications)

- SB 657 (regarding partial year membership in unitary business groups and inclusion of certain foreign taxpayers)
- SB 663 (regarding computing the homestead property tax credit for seniors with incomes over \$21,000)
- SB 665 (regarding computing business income for mutual or cooperative electric companies)
- SB 670 (regarding withholding requirements, which could affect the timing of when the State receives certain payments)
- SB 676 (regarding the definition of gross receipts, which is now used only for determining requirements to file a return)
- SB 678 (regarding the treatment of foreign entities disregarded for Federal income tax purposes)
- SB 679 (regarding withholding requirements, which could affect the timing of the State's receipt of certain payments)

Senate Bill 659 (which provides for the recapture of tax credits) is an example of a bill described under the third category, and is expected to increase General Fund revenue by approximately \$15.0 million to \$20.0 million per year.

The bills would have no impact on local unit revenue or expenditure.

Date Completed: 9-21-11

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.