

ADDITIONAL INTEREST RATE ON LATE MBT TAX REFUNDS

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House Bill 4760 (reported from committee as H-1)
Sponsor: Rep. Vicki Barnett
Committee: Tax Policy

Complete to 10-8-13

A SUMMARY OF HOUSE BILL 4760 AS REPORTED FROM COMMITTEE

The bill would amend the Revenue Act, 1941 PA 122, to impose additional interest on the late payment of refunds owed to taxpayers by the Department of Treasury under the Michigan Business Tax (MBT).

The MBT has mostly been superseded by enactment in 2011 of the new corporate income tax. The MBT is due to be repealed when the last credit or carryforward based on a credit is claimed. Currently, taxpayers can choose to continue to file under the MBT only to keep certain "certificated credits." However, according to testimony from the Department of Treasury, the department continues to work on a backlog of MBT returns.

Under House Bill 4760, the additional interest, beyond the interest already required on late refunds, would apply if a refund is not paid within 90 days after the claim is approved or 90 days after the date established by law for filing the return, whichever is later. In that case, the department would have to pay an additional monthly interest rate of 3% per annum for each day the refund is not issued within the appropriate time frame.

For the additional interest to apply, all of the following conditions would have to be met:

- The refund is claimed on an original return that was timely filed under Section 505 (1) of the MBT.
- The refund is not adjusted by the department.
- The refund is not claimed by a taxpayer filing as a unitary business group.
- The return is not subject to Section 27a (3) or (4), except for audit. (Those subsections deal with the suspension of the statute of limitations.)
- The return is complete for processing purposes with no calculation errors and contains all required information, including any state and federal returns, forms, or schedules needed to process the return.
- The taxpayer who has filed a complete return has complied with the department's request, if any, for additional documentation or information within 30 days of that request.
- No portion of the refund is subject to state interception for other taxpayer liabilities.
- The amount to be refunded is more than \$10.

Under current law, if a taxpayer is owed a refund, the Department of Treasury must pay interest on the amount of the refund beginning 45 days after the claim is filed or 45 days after the date established by law for the filing of the return, whichever is later.¹ (This applies to refunds for the overpayment of taxes; the overpayment of taxes, penalties, and interest erroneously assessed and collected; or the overpayment of taxes, penalties, and interest unjustly assessed, excessive in amount, or wrongfully collected.)

The current interest rate is determined under Section 23 of the Revenue Act (MCL 205.23) as one percentage point above the average predominant prime rate quoted by not less than three commercial banks to large businesses (the "adjusted prime rate"). Under this calculation, Treasury currently pays a daily interest rate of 0.0001164 based on an adjusted annual rate of 4.25%.² [Treasury sets the interest rate on July 1st (for July 1 - December 31) and January 1st (for January 1 - June 30).]

FISCAL IMPACT:

As written, the bill would reduce state revenue by an unknown amount, with the reduction affecting the General Fund. The bill only affects overdue MBT refunds; because the MBT has been replaced by the Corporate Income Tax, the only entities still filing under the MBT are those with outstanding certificated credits.

POSITIONS:

Among those who have indicated support for the bill are the Michigan Chamber of Commerce; the Michigan Association of Certified Public Accountants; and the Grand Rapids Area Chamber of Commerce.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

¹ See, Revenue Administrative Bulletin 1996-4, *Credit or Refund of Overpayment of Taxes or Credits in Excess of Tax Due and Applicable Interest*, May 13, 1996, http://www.michigan.gov/documents/96-4_114735_7.pdf

² See, Revenue Administrative Bulletin 2013-5, *Interest Rate*, April 4, 2013
http://www.michigan.gov/documents/treasury/RAB2013-5_416649_7.pdf.