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House Bill 4760 (Substitute H-1 as passed by the House)  
Sponsor: Representative Vicki Barnett  
House Committee: Tax Policy  
Senate Committee: Finance

Date Completed: 1-15-14

### **CONTENT**

**The bill would amend the revenue Act to require the Department of Treasury to pay additional interest on Michigan Business Tax (MBT) refunds that were not paid within 90 days after a claim was approved or 90 days after the date established by law for filing a return, whichever was later, if various conditions were met.**

Currently, the Department is required to pay interest on a refund beginning 45 days after a claim for refund is filed or 45 days after the date established by law for the filing of the return, whichever is later, unless the amount is less than \$1. The rate of interest must be calculated as required for deficiencies in tax payments. (As a rule, that rate is one percentage point above the adjusted prime rate—as defined in the Act—per annum.)

Beginning January 1, 2014, in addition to and separate from the interest added to a refund as currently required, for refunds of taxes imposed under the MBT Act, the bill would require the Department to add interest to refunds that were not paid within 90 days after a claim was approved or 90 days after the date established by law for filing a return, whichever was later. The additional interest would have to be paid at a rate of 3% per annum for each day the refund was not issued within this time frame, if all of the following conditions were met:

- The refund was claimed on an original return that was timely filed under the MBT Act.
- The refund was not adjusted by the Department.
- The refund was not claimed by a taxpayer filing as a unitary business group.
- The refund was not subject to Section 27a(3) or (4) of the revenue Act (described below), except for audit by the Department.
- The refund was complete for processing purposes with no calculation errors and contained all required information as prescribed by the Department under the MBT Act, including any State and Federal returns, forms, or schedules necessary to process the return.
- The taxpayer who filed a complete return had complied with the Department's request, if any, for additional documentation or information within 30 days of that request.
- No portion of the refund was subject to interception under Section 30a of the revenue Act (described below).
- The amount to be refunded was more than \$10.

(Section 27a of the revenue Act prescribes a four-year period, referred to as the statute of limitations, for a taxpayer to claim a refund, or for the Department to assess a deficiency, interest, or penalty. Under Section 27a(3), the running of the statute of limitations is suspended for 1) the period pending a final determination of tax and one year after that period; and 2) the period for which the taxpayer and the State Treasurer have consented to

an extension of that period. Section 27a(4) provides that the running of the statute of limitations is suspended only as to those items that were the subject of the audit, conference, hearing, or litigation for Federal income tax or a tax administered by the Department.

Under Section 30a, before a refund is paid to a taxpayer, the amount must be applied to: 1) any other known tax liability of the taxpayer to the State; 2) any other known liability of the taxpayer to the State, including a liability to pay support; and 3) a support liability of the taxpayer; a writ of garnishment or other valid court order to satisfy a liability of the taxpayer; a levy of the Internal Revenue Service; or a liability to repay unemployment benefits.)

MCL 205.30

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would reduce General Fund revenue by an unknown amount. Based on the January 2014 Consensus estimates, the State is expected to pay \$505 million in certificated credits under the Michigan Business Tax. Other refunds are also possible for a variety of reasons. While the number of refunds affected by the bill is unknown, as are the relevant refund amounts, a full year of additional interest would reduce General Fund revenue by \$7.6 million if the bill affected half of the certificated credits.

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.