



**House
Legislative
Analysis
Section**

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FARM CO-OPS: RETAIN SBT EXEMPTION

House Bill 4987 (Substitute H-2)
First Analysis (10-26-89)

Sponsor: Rep. Thomas L. Hickner
Committee: Taxation

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NOV 16 1989

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THE APPARENT PROBLEM:

Entities that are exempt from federal income tax are exempt from paying Michigan's single business tax. Until recently, the Michigan Milk Producers Association (MMPA) enjoyed such an exemption as a farmers' cooperative corporation. Such a corporation, which markets the products of its members and purchases equipment and supplies on their behalf but earns no profit, is exempt from federal income tax under Section 521 of the Internal Revenue Code, and thus is exempt from the SBT. According to the House Taxation Committee staff, the MMPA lost its federal exemption when it began marketing butter made from cream that it repurchased from a cheesemaker. Proceeds from the sale of butter were distributed to MMPA members. The cheesemaker had no use for the cream since it made low-fat cheese from skim milk. The MMPA sold milk to the cheesemaker and then repurchased the unneeded cream, which apparently violated federal tax laws for such cooperatives. The loss of the federal exemption meant the loss of the SBT exemption. Another farmers' cooperative, the Michigan Agricultural Cooperative Marketing Association (MACMA) is described in a House Taxation Committee staff memo as a corporation that markets the crops of its members but also engages in activities (e.g., marketing products of non-members) that prevents it from being exempt under federal income tax law. Thus, it has no SBT exemption. It has been recommended that an SBT exemption be granted for those activities of MACMA that would be exempt if it did not also carry out non-exempt activities.

THE CONTENT OF THE BILL:

The bill would amend the Single Business Tax Act in two ways:

(1) to exempt a farmer's cooperative corporation that had been exempt from the SBT because of its federal income tax exemption and that would still be exempt except for the corporation's repurchase from nonproducer customers of portions or components of commodities the corporation marketed to the customers and the corporation's subsequent manufacturing or marketing of the repurchased portions or components.

(2) to exempt from the tax that portion of the tax base of a farmers' cooperative attributable to the cooperative's direct and indirect marketing activities if those activities are provided on behalf of the members of that corporation and are related to the members' direct sales of their products to third parties or, for livestock, are related to the members' direct or indirect sales of that product to third parties. Marketing activities for a product that is not livestock would not be exempt if the cooperative took physical possession of the product.

MCL 208.35

FISCAL IMPLICATIONS:

According to the House Taxation Committee staff, the MMPA exemption would not reduce SBT revenues and the MACMA exemption would result in a small revenue loss. (10-25-89)

ARGUMENTS:

For:

The bill would principally allow the Michigan Milk Producers Association to retain its exemption from the state's single business tax act. That exemption, which is predicated on MMPA's exemption from federal income taxes as a farmers' cooperative, was lost recently when the federal exemption was lost. The federal exemption was lost solely because the cooperative purchases unneeded cream from a milk customer (a cheesemaker) and markets butter made from that cream. That activity aside, the cooperative operates as it always has and should retain its SBT exemption. An exemption would also be granted for the marketing activities of another farmers' cooperative that also does not meet the federal standards for a tax exemption, the Michigan Agricultural Cooperative Marketing Association. Marketing activities of a kind that would be carried on by a fully tax-exempt cooperative carried out by MACMA would be exempt from the SBT.

POSITIONS:

The Department of Treasury supports the bills. (10-25-89)

A representative of both the Michigan Farm Bureau and the Michigan Milk Producers Association (MMPA) testified in support of the bill. (10-25-89)

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