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Senate Bill 1380 (Substitute S-2 as reported by the Committee of the Whole)

Sponsor: Senator Bill Schuette

Committee: Finance

## **CONTENT**

The bill would amend the Single Business Tax (SBT) Act to provide that a "foreign person" that did not have a permanent establishment in the United States, and whose business activity consisted of the transportation of persons or property for others by motor vehicle, could elect to calculate compensation related to U.S. business activity by one of the following methods:

- Calculate compensation under Section 19 and reduce the final calculation by 50%. (Section 19 governs the application of the SBT to a foreign person, and provides that the person's tax base is business income, as defined in Section 19, plus adjustments, including compensation. Section 19 specifies that for a foreign person, compensation is the daily compensation paid to each employee, officer, and director of the foreign person multiplied by the number of days an employee, officer, or director has physical contact with the U. S.)
- Calculate compensation by determining total compensation everywhere, apportioned to the United States by a formula, the numerator of which was revenue miles traveled in the United States and the denominator of which was revenue miles traveled everywhere.

The bill provides that a foreign taxpayer could not claim the excess compensation deduction allowed under the Act, if the foreign taxpayer calculated compensation under Section 19 and reduced the final calculation by 50%. A "foreign person" would be an individual who was not a U.S. resident, or a person formed under the laws of a foreign country, whether or not the person was subject to taxation under the Federal Internal Revenue Code.

Proposed MCL 208.35b

Legislative Analyst: G. Towne

## **FISCAL IMPACT**

The bill would reduce State General Fund revenues by an unknown amount. Although firms affected by the bill have not traditionally been taxable under the SBT Act, Public Act 115 of 1999 made changes to the Act that would cause such businesses to become taxable. Over the 1993-1996 period, SBT receipts from firms in the transportation sector comprised 1.9% of SBT revenues. The share of SBT revenues that would be attributable to firms subject to the bill is unknown, although the share is likely to be minimal. The Revenue Consensus Estimate for SBT revenues is \$2.2 billion in both fiscal year (FY) 2000 and FY 2001. If firms covered by the bill comprised 2% of SBT revenues from firms in the transportation sector, it is estimated that they would pay approximately \$800,000 per year in SBT. The bill would allow affected taxpayers to reduce the compensation portion of the tax base by at least 50%. Compensation has historically comprised approximately 70% of the tax base for transportation companies. Consequently, the bill would allow taxpayers to reduce the tax base by at least 35%. If the affected taxpayers, on average, exhibited a 40% reduction in the tax base, then the bill would reduce SBT revenues by approximately \$320,000 per year. If the average reduction in the tax base were over 40%, the revenue reduction would be increased, although the impact would remain below the \$800,000 reduction that would be experienced if the affected taxpayers were exempted from the SBT.

The bill would have no fiscal impact on local units.

Date Completed: 11-28-00

Fiscal Analyst: D. Zin