



**House
Legislative
Analysis
Section**

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FOREIGN AIRLINES TAX BASE

**Senate Bill 775 as passed by the Senate
First Analysis (12-11-01)**

**Sponsor: Sen. Bill Bullard, Jr.
House Committee: Tax Policy
Senate Committee: Finance**

THE APPARENT PROBLEM:

Reportedly, foreign-based international airlines did not have to pay Michigan's single business tax prior to 2000 and are exempt from paying the tax for years after 2000, but are subject to the tax for 2000. According to tax specialists, the foreign airlines were not subject to tax on this income for years prior to 2000 because the SBT did not then tax foreign companies with no federal tax liability. The law's treatment of foreign companies in general was later altered to make them subject to the SBT regardless of federal tax liability, beginning as of January 1, 2000. Subsequently, Public Act 477 of 2000 amended the Single Business Tax Act in a number of ways to provide a new definition of the term "gross receipts" for the purpose of calculating a firm's tax base. That act (Senate Bill 1300) excluded from gross receipts, and thus exempted from the SBT, income of a foreign corporation engaged in the international operation of an aircraft, if the income was excluded from gross income under the federal Internal Revenue Code. Federal tax law exempts the income of foreign airlines from taxes if the home country of that airline grants the same exemption to companies based in the United States. Public Act 477 applied to tax years beginning after December 31, 2000, but did not address the 2000 tax year.

THE CONTENT OF THE BILL:

The bill would amend the Single Business Tax Act, for tax years beginning after December 31, 1999 and before January 1, 2001, to exempt from the tax the portion of the tax base attributable to the international operation of aircraft by a foreign corporation whose gross income was exempt under Section 883 (a) of the federal Internal Revenue Code. (A foreign corporation is one formed under the laws of a foreign country or a political subdivision of a foreign country, whether or not subject to tax under the Internal Revenue Code.

MCL 208.19

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no direct fiscal impact. (HFA fiscal note dated 12-3-01)

ARGUMENTS:

For:

Proponents say that the bill addresses an oversight in the SBT act by extending backward by one year the exemption for the income of foreign airlines that is not subject to federal taxation. Otherwise, say tax specialists, these companies would have been exempt for all years leading up to 2000 and for years after 2000 but not for 2000 itself. The bill recognizes the principle that income from international airline operations should be taxed in the home country of the airline. Federal tax law grants that exemption so long as the home country of the airline provides the same treatment to airlines based in the United States.

POSITIONS:

The Department of Treasury had indicated support for the bill. (12-5-01)

The International Air Transport Association supports the bill. (12-5-01)

Analyst: C. Couch

■ 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.

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