




Senate Fiscal Agency
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BILL ANALYSIS

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House Bills 4558, 4559, and 4560 (as reported by the Committee of the Whole)
House Bill 4561 (Substitute H-1 as reported without amendment)
House Bill 4562 (Substitute S-1 as reported)
House Bill 4563 (Substitute H-1 as reported by the Committee of the Whole)
House Bill 4564 (as reported by the Committee of the Whole)
House Bill 4565 (Substitute H-1 as reported by the Committee of the Whole)
Sponsor: Representative Steve Bieda (H.B. 4556)
Representative Paul Condino (H.B. 4558 & 4559)
Representative Paula K. Zelenko (H.B. 4560 & 4562)
Representative William J. O'Neil (H.B. 4561)
Representative Barbara Farrah (H.B. 4563 & 4565)
Representative Jack Minore (H.B. 4564)

House Committee: Tax Policy
Senate Committee: Finance

CONTENT

The bills would amend the Income Tax Act to apply income tax deduction and withholding requirements to a flow-through entity, casino licensee, race meeting licensee, and track licensee. All of the bills would take effect October 1, 2003. House Bills 4558 to 4560 and 4562 (S-1) to 4565 (H-1) are tie-barred to House Bill 4561.

House Bill 4565 (H-1) would define "flow-through entity" as an S corporation, partnership, limited partnership, limited liability partnership, or limited liability company. A flow-through entity would not include a publicly traded partnership (as that term is defined in the Internal Revenue Code) that has equity securities registered with the Securities and Exchange Commission. "Member of a flow-through entity" would mean a shareholder of an S corporation, a partner in a partnership or limited partnership, or a member of a limited liability company.

"Nonresident member" would mean any of the following who was a member of a flow-through entity: an individual who was not domiciled in the State; a nonresident estate or trust; or a nonresident member.

House Bill 4561 (H-1) would amend Section 351 of the Act, which prescribes the responsibilities of employers regarding the deduction and withholding of income tax from individuals. The bill would extend these requirements to a flow-through entity, casino licensee, race meeting licensee, and track licensee. The bill also would require every flow-through entity in the State to withhold a tax in an amount computed by applying the tax rate prescribed in Section 51 to the share of taxable income available for distribution of each nonresident member, after deducting from that distributive income the same proportion of the total amount of the individual's personal and dependency exemptions that the period of time covered by the distributive income was of one year. (Section 51 prescribes the tax rate on taxable income of a person other than a corporation.)

Every casino licensee would have to withhold a tax in an amount computed by applying the prescribed tax rate to the winnings of a nonresident reportable by the casino licensee under the Internal Revenue Code (IRC). Every race meeting licensee or track licensee would have to withhold a tax in an amount computed by applying the prescribed tax rate to a payoff price on a winning ticket of a nonresident, reportable by the race meeting licensee or track licensee under the IRC, that was the result of pari-mutuel wagering at a licensed race meeting.

House Bills 4558 and 4559 would redefine the terms "tax" and "taxpayer" to include the tax required to be withheld by a flow-through entity, and any flow-through entity required to withhold taxes, on nonresident members' share of income available for distribution.

House Bill 4560 would allow a nonresident member who had income in the State from one or more flow-through entities to elect to be included in the composite income tax return of a flow-through entity. A flow-through entity could file a composite income tax return on behalf of electing nonresident members and report and pay the tax due based on their shares of income available for distribution from the flow-through entity for doing business in, or deriving income from, sources within the State.

House Bill 4562 (S-1) would amend Section 355, which specifies that all provisions relating to the administration, collection, and enforcement of the Act apply to an employer required to withhold taxes. The bill would extend these provisions to a flow-through entity, casino licensee, race meeting licensee, and track licensee required to withhold taxes.

The bill also would require every publicly traded partnership that had equity securities registered with the Securities and Exchange Commission to file on or before each August 30 all unitholder information from the publicly traded partnership's schedule K-1 for the immediately preceding calendar year, by paper or electronic format.

House Bill 4563 (H-1) would amend Section 365, which requires an employer to give each employee every year a statement of total compensation paid and amounts deducted or withheld; requires the statements to be filed with the Department of Treasury; and requires an employer to make certain returns and reports. The bill would extend these requirements to a flow-through entity, casino licensee, race meeting licensee, and track licensee regarding a share of income available for distribution, winnings, or payoff on a winning ticket provided to a nonresident member or a person with winnings or a payoff on a winning ticket subject to withholding under the Act.

House Bill 4564 would amend Section 451, which provides that a domestic or foreign corporation authorized to transact business in Michigan, that submits a certificate of dissolution or requests a certificate of withdrawal from the State, must request from the Department a certificate stating that taxes are not due, as provided in Section 27a of the revenue Act. A corporation that does not request a certificate is subject to the same penalties that a taxpayer would be subject to for failure to file a return, as provided in the revenue Act. The bill would extend these provisions to other business entities.

MCL 206.22 (H.B. 4558)
206.26 (H.B. 4559)
206.315 (H.B. 4560)
206.351 (H.B. 4561)
206.355 (H.B. 4562)
206.365 (H.B. 4563)
206.451 (H.B. 4564)
206.12 (H.B. 4565)

Legislative Analyst: George Towne

FISCAL IMPACT

Based on information from the Department of Treasury, these bills would generate an estimated \$2 million in additional income tax revenue in FY 2003-04, of which \$1.5 million would go to the General Fund/General Purpose budget and \$0.5 million would go to the School Aid Fund.

Date Completed: 6-4-03

Fiscal Analyst: Jay Wortley

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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.