

Legislative Analysis



MBT: EXCLUDE REAL ESTATE COMMISSIONS FROM GROSS RECEIPTS TAX

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House Bill 5924

Sponsor: Rep. Steve Bieda

Committee: Tax Policy

Complete to 9-9-08

A SUMMARY OF HOUSE BILL 5924 AS INTRODUCED 3-20-08

The Michigan Business Tax Act excludes "purchases from other firms" from the 0.8 percent modified gross receipts tax. The bill specifies that "purchases from other firms" would include payments made by taxpayers licensed under Article 25 (Real Estate Brokers and Salespersons) and Article 26 (Real Estate Appraisers) of the Occupational Code to independent contractors licensed under Articles 25 and 26. This means such payments would be excluded from the MBT gross receipts tax base.

MCL 208.1113

FISCAL IMPACT:

Relative to current law, the bill would reduce MBT revenue by an unknown amount.

BACKGROUND INFORMATION:

The typical business relationship of a real estate salesperson to a broker is that of an independent contractor, rather than an employee, with commissions received from the sale of real estate paid by the broker to the salesperson (independent contractor). Article 25 of the Occupational Code defines "independent contractor relationship" to mean a relationship between a real estate broker and an associate broker or real estate sales person that satisfies both of the following conditions: (1) a written agreement exists in which the real estate broker does not consider the associate broker or real estate salesperson as an employee for federal and state income tax purposes; and (2) not less than 75 percent of the annual compensation paid by the real estate broker to the associate broker or real estate sales person is from commissions from the sale of real estate. The Michigan Association of Realtors website includes a sample independent contractor agreement at <http://www.mirealtors.com/PDFs/newindependentcontractor.pdf>.

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