




Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4567 (Substitute H-1 as reported without amendment)
House Bill 4568 (Substitute H-1 as reported without amendment)
House Bill 4569 (Substitute H-1 as reported without amendment)
Sponsor: Representative Paul Condino (H.B. 4567)
Representative Paula K. Zelenko (H.B. 4568)
Representative Barbara Farrah (H.B. 4569)
House Committee: Tax Policy
Senate Committee: Finance

CONTENT

House Bill 4567 (H-1) would amend the revenue Act to provide that the members, managers, or partners of certain business entities would be personally liable for failure to pay a tax due. House Bills 4568 (H-1) and 4569 (H-1) would amend the General Sales Tax Act and the Use Tax Act, respectively, to remove current provisions that hold the officers of a corporation personally liable for failure to pay sales or use tax due. Each bill would apply to returns and remittances due or filed on or after its effective date.

House Bill 4567 (H-1). Currently, if a corporation liable for taxes administered under the revenue Act (e.g., the sales tax, use tax, and single business tax) fails for any reason to file the required returns or to pay the tax due, any of its officers, having control or supervision of, or responsibility for, making the returns or payments is personally liable for the failure. The signature of any corporate officer on returns or negotiable instruments submitted in payment of taxes is prima facie evidence of his or her responsibility for making the returns and payments. The bill would extend these provisions to a limited liability company, limited liability partnership, partnership, or limited partnership, and to its members, managers, or partners. In any case, the liability would apply to members, managers, or partners whom the Department of Treasury determined, based on an audit or investigation, had control or supervision of, or responsibility for making, returns or payments.

Under the Act, the dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return and remit the tax due. The bill would extend this provision also to a limited liability company, limited liability partnership, partnership, or limited partnership, and its members, managers, or partners.

House Bills 4568 (H-1) & 4569 (H-1). If a corporation licensed under the General Sales Tax Act or the Use Tax Act fails for any reason to file the required returns or to pay the tax due, any of its officers having control or supervision of, or responsibility for making the returns and payments is personally liable for the failure. The dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The bills would remove this provision.

In addition, under the General Sales Tax Act, a domestic or foreign corporation that submits a certificate of dissolution or requests a certificate of withdrawal from the State must request a certificate from the Treasury Department stating that taxes are not due under the revenue Act. A corporation that does not request a certificate is subject to the same penalties under that Act that would apply for failure to file a return. Under the bill, these provisions would apply to a domestic or foreign corporation or "other business entity".

MCL 205.27a (H.B. 4567)
205.65 (H.B. 4568)
205.96 (H.B. 4569)

Legislative Analyst: George Towne

FISCAL IMPACT

Based on information from the Department of Treasury, these bills would generate an estimated \$2 million annually beginning in FY 2003-04. This revenue would come from the major taxes including the income, single business, sales and use taxes, and would be distributed as follows: an estimated \$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: 5-30-03

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.