



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1009 (as introduced 1-9-08)
Sponsor: Senator Nancy Cassis
Committee: Finance

Date Completed: 1-17-08

CONTENT

The bill would amend the Michigan Business Tax Act to exempt from the tax a foreign person that did not have a permanent establishment in the United States during the tax year or a foreign person that was exempt from taxation under the Internal Revenue Code either as the result of an income tax treaty or otherwise.

Under the bill, "foreign person" would mean either an individual who is not a U.S. resident, whether or not the individual is subject to taxation under the Internal Revenue Code, or a person formed under the laws of a foreign country or a political subdivision of a foreign country, whether or not the person is subject to taxation under the Internal Revenue Code.

"Permanent establishment" would mean either of the following:

- If an income tax treaty applies to the foreign person, that term as defined in that income tax treaty in effect between the U.S. and another nation.
- If no income tax treaty applies to the foreign person, that term as defined in the U.S. Model Income Tax Convention.

(Under the U.S. Model Income Tax Convention, "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on, except as otherwise provided.)

The bill states that it would be retroactive and effective January 1, 2008, and would apply to all business activity occurring after December 31, 2007.

MCL 208.1207

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill would reduce General Fund revenue in FY 2007-08 and FY 2008-09 by an unknown and potentially significant amount. The types of foreign persons affected by the bill were generally taxed under the single business tax, but the tax base computations were modified to reflect certain circumstances. The bill would exempt these entities from the Michigan Business Tax Act. The number of taxpayers affected and their liability is unknown, but could be significant because the bill would appear to exempt any foreign business that does not have property in Michigan, regardless of its level of nexus.

The bill would have no fiscal impact on local government.

Fiscal Analyst: David Zin

S0708\S1009sa

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.