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BILL ANALYSIS

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Senate Bill 1058 (Substitute S-1 as reported)
Sponsor: Senator Roger Kahn, M.D.
Committee: Finance

(as passed by the Senate)

CONTENT

The bill would amend the Michigan Business Tax (MBT) Act to revise requirements for quarterly MBT payments.

Under the MBT Act, a taxpayer that reasonably expects liability for the tax year to exceed \$800 must file an estimated return and pay an estimated tax for each quarter of the tax year. The estimated payment made with each quarterly return must be for the estimated business income tax base and modified gross receipts tax base for the quarter or 25% of the estimated annual liability. Under the bill, a taxpayer would have to pay the estimated payment for the quarter or 25% of the required annual payment. The required annual payment would be the lesser of 100% of the tax shown on the return for that tax year, including the surcharge imposed under the Act, or 100% of the tax shown on the taxpayer's return for the immediately preceding year under the Act, including the surcharge, or, for the 2008 tax year only, 200% of the tax shown on the taxpayer's return under the former Single Business Tax (SBT) Act.

A penalty for underpayment of an estimated tax under the Act would not be assessed for a taxpayer's first tax year beginning after December 31, 2007, if that taxpayer paid 80% of the tax due under the MBT Act for the tax year and 100% of the tax that would have been due under the SBT Act.

In addition, a taxpayer that calculates and pays estimated payments for Federal income tax purposes pursuant to Section 6655(E) of the Internal Revenue Code, could calculate the estimated payments required each quarter under the Act by using the same methodology as used to calculate the annualized income installment or the adjusted seasonal installment, whichever was used as the basis for the Federal estimated payment. (Section 6655(E) allows a corporation to use a lower required installment when the annualized income installment or adjusted seasonal installment is less than 25% of the required annual payment.)

MCL 208.1501

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill would not change a business's annual tax liability under the Michigan Business Tax Act; however, it would likely create a significant shift in the timing of tax payments away from FY 2007-08 and into FY 2008-09. As under the Single Business Tax Act, businesses will have to pay their MBT liability for any particular tax year through quarterly payments and an annual return. For a business whose tax year coincides with the calendar year, these quarterly payments must be paid by April 15, July 15, October 15, and January 15, and then an annual return must be filed by April 15 in the year following the business's tax year. As a result, given that the MBT Act became effective January 1, 2008, the only Michigan business tax receipts that will be received during FY 2007-08 will be those payments made through the quarterly payments due in April, July, and October 2008. The final quarterly payment and the annual payment for the 2008 tax year will be received in FY

2008-09. Under this bill, for the 2008 tax year only, taxpayers would have to pay through their quarterly payments the lesser of 100% of their tax due under the MBT Act in 2008 or 200% of their 2007 single business tax liability. For many taxpayers, 200% of their 2007 SBT liability would be less than 100% of their 2008 MBT liability and for some taxpayers it would be much less. Potentially, this proposed change could significantly reduce quarterly payments in 2008 by several hundred million dollars. However, some of this potential reduction in quarterly payments in 2008 would be offset by the requirement that, in order to avoid incurring penalties and interest, taxpayers pay at least 80% of the final tax liability through their quarterly payments. Under current law, businesses must pay at least 85% of their final liability through their quarterly payments in order to avoid penalty and interest charges. As a result, it is estimated the bill would allow taxpayers to postpone payment of at least \$120.0 million of their 2008 MBT liability, and potentially as much as \$800.0 million, from FY 2007-08 to FY 2008-09. This loss in revenue in FY 2007-08 would affect GF/GP revenue. In addition, this loss of revenue in FY 2007-08 would not automatically boost revenue in FY 2008-09 by the same amount because there is a cap on the amount of MBT revenue that may be collected in a fiscal year. The artificial boost in MBT revenue in FY 2008-09 that would occur under this bill could cause the limit to be exceeded, which would automatically result in 60% of the excess revenue over the limit being refunded to taxpayers and 40% deposited into the Budget Stabilization Fund.

Date Completed: 2-6-08

Fiscal Analyst: Jay Wortley