



**House  
Legislative  
Analysis  
Section**

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**SBT BASE: INSURERS**

**House Bill 5990 as enrolled  
Public Act 578 of 1996  
Second Analysis (1-14-97)**

**Sponsor: Rep. Barbara Dobb  
House Committee: Tax Policy  
Senate Committee: Finance**

***THE APPARENT PROBLEM:***

Insurance companies have unique treatment under the Single Business Tax Act. Most businesses pay a tax that is based on business activity, following a statutory formula, or can elect to base the tax on 50 percent of adjusted gross receipts. (The SBT, it should be noted, is quite complicated, with many available credits and deductions, and with many businesses exempt from the tax because of their small size.) Prior to 1987, domestic (Michigan-based) insurers paid the SBT and foreign (out-of-state) insurers paid a premium tax. The premium tax was ruled discriminatory by the Michigan Court of Appeals and, as a result, the legislature passed Public Act 262 of 1987, under which both domestic and foreign insurance companies pay a tax based on 25 percent of gross receipts, excluding receipts on the sale of annuities and receipts on all reinsurance transactions. Reportedly, when Public Act 262 was being crafted, it was assumed that on average 75 percent of premiums go for claims and that the value-added of insurance companies can be understood as premiums minus claims. But instead of making the tax base 25 percent of gross premiums, according to staff to the House Tax Policy Committee, the legislature used 25 percent of gross receipts in order to include rental and lease receipts in addition to premiums. According to a House Tax Policy staff memorandum, until 1995, the operating definition of gross receipts for insurance companies was gross direct premiums plus rental and lease receipts. But recently the Department of Treasury has been including in the tax base such items as reimbursement of allocated salaries and operating costs between affiliated companies. Including the reimbursement of these costs increases a company's SBT liability, even though they reflect matters of internal accounting rather than value added. The department, says the memorandum, has also been including receipts that an insurance company receives from a company cafeteria provided for employees, even though the cafeteria might only break even or even be subsidized by the company. Legislation has been introduced to re-define an insurance company's SBT tax base.

***THE CONTENT OF THE BILL:***

The bill would amend the Single Business Tax Act to specify that the tax base and adjusted tax base of an insurance company is 25 percent of the company's "adjusted receipts" (as apportioned) and would define that term. The bill's provisions would be retroactive and effective beginning January 1, 1991. Adjusted receipts would mean the sum of:

- Rental and royalty receipts from a person that is not either an affiliated insurance company or a licensed insurance agent.
- Gross direct premiums received for insurance on property or risk, deducting premiums on policies not taken and returned premiums on canceled policies.
- Receipts from administrative service only contracts with a person who is not an affiliated insurance company or an affiliated nonprofit corporation.
- Receipts from business activity other than the business of insurance. (The "business of insurance" refers to any activity related to the sale of insurance, payment of claims, or claims handling, on policies written by the taxpaying company.)
- Charges, not including interest charges, attributable to premiums paid on a deferred or installment basis.
- Receipts from servicing carrier fees received from the Michigan auto insurance placement facility.

The term "adjusted receipts" would not apply to:

- Receipts from interest, dividends, or proceeds from the sale of assets.
- Receipts from an affiliated insurance company, an affiliated nonprofit corporation, an employee, or a licensed insurance agent of the taxpaying company, other than such receipts cited above.

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-- Receipts on the sale of annuities.

-- Receipts on all reinsurance transactions.

The term "affiliated insurance company" would refer to a company that was a member of an affiliated group with the taxpayer or if the company did not issue stock, a company of which 50 percent or more of the members of that insurance company's board of directors were members of the taxpayer's board of directors. The term "affiliated nonprofit corporation" would refer to a nonprofit corporation of which 80 percent or more of the members of the board of directors are members of the taxpayer's board of directors.

A refund for taxes paid for tax years before the 1996 tax year would not be paid if the refund claim was made after June 30, 1997 and was based on the section amended by the bill as it existed of the effective date of the bill.

MCL 208.22a

### ***FISCAL IMPLICATIONS:***

The Department of Treasury estimates the annual loss of revenue at \$1 million. (1-14-97)

### ***ARGUMENTS:***

#### ***For:***

The bill would clearly specify the SBT base of insurance companies to more nearly reflect the intent of the original legislation subjecting both domestic and foreign insurance companies to the SBT. Contrary to estimates of revenue loss for the state, representatives of insurance companies assert that there is no real loss of revenue because under this bill, they will be paying in taxes what the 1987 law intended for them to pay.

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.