House
Legislative
Analysis
Section

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# STILLBIRTH TAX EXEMPTION

**House Bill 5818 (Substitute H-3)**
**First Analysis (11-29-00)**

**Sponsor: Rep. Jon Jellema**
**Committee: Tax Policy**

## *THE APPARENT PROBLEM:*

If an infant dies shortly after birth, the parents are entitled to claim an exemption for the child on the state income tax form for the tax year in which the child was born. (They can claim a full exemption even if the baby is born on the last day of the year.) In the case of a stillbirth, however, the parents are not entitled to an exemption. Some people consider this unjust, and note that parents in such tragic cases incur the same prenatal and baby preparation expenses as other parents and often bear the additional expenses associated with a funeral.

## *THE CONTENT OF THE BILL:*

The bill would amend the Income Tax Act to allow a taxpayer to claim a single additional exemption for a "qualified stillbirth". Specifically, the bill would allow the exemption for the tax year in which the taxpayer had a certificate of stillbirth documenting a qualified stillbirth and distributed by the Department of Community Health. The term "qualified stillbirth" would mean the spontaneous death of a fetus in utero resulting in a stillbirth if that fetus was at least 20 weeks of gestation at the time of death. The bill would apply to tax years beginning after December 31, 1999.

(In the 1999 tax year, such an additional personal exemption would have allowed a taxpayer to deduct $2,800 from taxable income for state income tax purposes. The amount is adjusted each year based on the change in the consumer price index. The income tax rate is set at 4.2 percent for the years 2000 and 2001 and then falls one-tenth of one percent per year until it reaches 3.9 percent in 2004.)

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## *FISCAL IMPLICATIONS:*

The House Fiscal Agency reports that the bill would reduce income tax revenues by about $75,000 in fiscal year 1999-2000 and $100,000 in 2000-2001. About 77 percent of the reduction would affect the General Fund and 23 percent the School Aid Fund, says the HFA. The agency notes that the Department of Community Health will not likely incur additional costs as the certificate of stillbirth referred to in the bill is a form in current use. (Fiscal Note dated 11-27-00)

## *ARGUMENTS:*

### *For:*

The bill would allow a personal exemption for a stillborn child. Proponents of this deduction say that a child born alive qualifies as an exemption even if he or she takes only a few breaths, yet the parent or parents of a stillborn child cannot claim a tax exemption. This is unjust, and the lack of recognition of the existence of the child adds to the anguish. Obviously, the expense of preparing for the arrival of a stillborn child is the same as for a child born alive. The exemption, obviously, would only be claimed for the tax year in which the stillbirth occurred, so it is a one-time exemption or deduction. (The bill would refer to a form that is already required in reporting the death of a fetus that has completed at least 20 weeks of gestation.)

### *Against:*

Is the Income Tax Act the proper place to address the tragedy of a stillbirth? Generally, state tax officials prefer changes in the tax law that will either encourage simplicity or that will provide a clear set of incentives. This bill would not accomplish either goal. Further, there may be administrative problems, in that the form used by the Department of Community Health (known as "the final disposition of a stillbirth") may not be adequate for tax purposes. (It should also be noted, for what it is worth, that the federal income tax law does not allow a deduction in the case of a stillbirth.)

## *POSITIONS:*

The Department of Treasury does not support the bill. (11-28-00)

Planned Parenthood Affiliates of Michigan has no position on the bill. (11-28-00)



Analyst: C. Couch

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