House Legislative Analysis Section
House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

SBT: DEF'N OF GROSS RECEIPTS

Senate Bill 1422 (Substitute H-2)
First Analysis (12-11-02)

Sponsor: Sen. Joanne G. Emmons
House Committee: Tax Policy
Senate Committee: Finance

THE APPARENT PROBLEM:

Public Act 477 of 2000 (Senate Bill 1300) made a number of changes to the Single Business Tax Act including a revised definition of the term "gross receipts". The aim of the new definition was said to be to provide greater clarity and transparency and less circularity to the definition. Business representatives say that the new definition has had unintended consequences (although Department of Treasury officials dispute this) and has resulted in tax increases for many firms. The new definition, they say, is overly broad and includes in the SBT tax base such things as interest, dividends, proceeds or gain on the sale of assets, insurance proceeds, tax refunds, and more.

Under the act as amended in 2000, "gross receipts" is defined to mean "the entire amount received by the taxpayer from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others" with certain specified exceptions.

The new definition has resulted in an adverse impact, says the Michigan Chamber of Commerce, for taxpayers who use the gross receipts reduction, small businesses (which can be exempt if below a certain gross receipts threshold), and taxpayers that benefit from the small business investment credit and the small business credit. Because gross receipts are used in calculating these various benefits, the broader definition means higher tax liability (even though Senate Bill 1300 was expected to reduce tax revenues). Legislation has been developed to address this concern.

THE CONTENT OF THE BILL:

The bill would amend the Single Business Tax Act to specifically exclude certain items from the definition of "gross receipts" for the purpose of calculating a taxpayer's tax liability. The bill would apply to tax years beginning on or after October 1, 2002.

Under the bill, the following would not be included: proceeds from the taxpayer's transfer of an account receivable if the sale that generated the account receivable was included in gross receipts for federal tax purposes (although this would not apply to a taxpayer that during the tax year both bought and sold any receivables); proceeds from the original issue of stock or equity instruments or the original issue of debt instruments; refunds from returned merchandise; cash and in-kind discounts; trade discounts; federal, state, or local tax refunds; security deposits; payment of the principal portion of loans; value of property received in a like-kind exchange; proceeds from a sale, transaction, exchange, involuntary conversion, or other disposition of tangible, intangible, or real property that was a capital asset under Section 1221(a) of the federal Internal Revenue Code or land that qualified as property used in the trade or business as defined in Section 1231 (b) of the federal Internal Revenue Code, less any gain from the disposition to the extent that the gain was included in federal taxable income; and the proceeds from a policy of insurance, a settlement of a claim, or a judgment in a civil action, less any proceeds that were included in federal taxable income.

MCL 208.7

HOUSE COMMITTEE ACTION:

The House Committee on Tax Policy reported a substitute H-2. The substitute has the same general aim as the Senate-passed version and contains similar provisions, but the exclusions from gross receipt in the substitute differ in some details from the Senate-passed version.

BACKGROUND INFORMATION:

For more information on Public Act 477 of 2000, see the analysis of Senate Bill 1300 of the 1999-2000 legislative session by the House Legislative Analysis

Section dated 11-29-00, and the enrolled summary of that bill by the Senate Fiscal Agency dated 1-31-01.

FISCAL IMPLICATIONS:

A representative from the Department of Treasury testified before the House Committee on Tax Policy that the bill would reduce SBT revenues by $1.5 million to $3 million annually. (12-10-02)

ARGUMENTS:

For:

The bill would specifically exclude from the SBT's definition of "gross receipts" certain items that business representatives say were added inadvertently when that term was newly defined in legislation enacted two years ago. This has resulted in an increase in taxes for some firms, which was not expected. While this problem needs additional attention, this bill is a step in the right direction. It represents sound tax policy.

Against:

The bill will reduce state tax revenues at a time when the state budget is already under great strain. State tax officials say that it is not fair to say that the consequences from the new definition of "gross receipts" were unintended. Senate Bill 1300 was expected to provide a tax cut for business overall but that did not mean than all firms were expected to see a tax reduction. Indeed, some firms have had to pay more under the new definition. State tax officials are also concerned with the early effective date.

POSITIONS:

The Michigan Chamber of Commerce supports the bill. (12-10-02)

The Department of Treasury is opposed to the bill. (12-10-02)

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.