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Senate Bill 770 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Senator Alan L. Cropsey
Committee: Finance

CONTENT

The bill would amend the Income Tax Act to require a person to file a copy of Federal form 1099-MISC (miscellaneous income paid to a taxpayer) with the Michigan Department of Treasury if the person were required under the Internal Revenue Code to file that form for a tax year. A person who failed to comply would be liable to the Department for a penalty of \$50 for each form that the person did not file. A person would have to file the form by January 31 each year, or by the day required for filing the form under the Internal Revenue Code, whichever was later.

In addition, a person required to file a copy of form 1099-MISC under the bill also would have to file a copy with the city reported as the payee's address on the form, if the city imposed a city income tax.

Proposed MCL 206.355a

Legislative Analyst: George Towne

FISCAL IMPACT

This bill is designed to reduce the tax avoidance that is occurring because businesses are not filing 1099-MISC forms with the Federal government or are filing them but with inaccurate information, or because taxpayers are not declaring 1099-MISC income on their Michigan income tax return.

Under Federal law, businesses are required to file 1099 forms, which declare to the Internal Revenue Service certain types of income being paid by businesses to taxpayers. There are many different types of income that are reported on 16 different 1099 forms. One of these 1099 forms is for miscellaneous income (1099-MISC), which includes business payments to nonemployees such as subcontractors.

The key question is whether requiring businesses to send the Michigan Department of Treasury a copy of all 1099-MISC forms they must file with the IRS, would do much to help stop the tax avoidance that is occurring given the current Federal filing requirements. The preliminary analysis is that the proposed filing requirement could help uncover some tax avoidance, such as tax avoidance by nonresident contractors working temporarily in Michigan, but probably not by a significant amount. Any business currently choosing not to obey the Federal 1099 filing requirements, for whatever reasons, probably would not change its current behavior just because the business would be required also to send a copy of the 1099-MISC to the Michigan Department of Treasury. In addition, the Department already has provisions in place to help identify taxpayers who exclude 1099-MISC income from their Michigan taxable income that is reported on a 1099-MISC to the Federal IRS.

Date Completed: 10-22-03

Fiscal Analyst: Jay Wortley