JACKSON NATIONAL: SBT CREDIT

House Legislative Analysis Section

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

House Bill 4931 (Substitute H-1)
First Analysis (10-31-95)

Sponsor: Rep. Willis Bullard, Jr.
Committee: Tax Policy

THE APPARENT PROBLEM:

The Jackson National Life Insurance Company, headquartered in Lansing, has requested the enactment of legislation to allow the company to gain credits against the single business tax that it has lost under peculiar circumstances. As explained by company representatives, Jackson National established a subsidiary in 1992 at the behest of the state's insurance commissioner as part of a plan to acquire the Michigan life insurance policies issued by Executive Life, a failed California insurer. Jackson National transferred its own Michigan business to the subsidiary in December of that year so as to improve the finances of the new company. Ultimately, however, the negotiations were unsuccessful and the Executive Life business was never purchased.

The existence of the subsidiary complicated the ability of the company to claim credits that are available to insurers for their contributions to the Michigan Life and Health Guaranty Association. The association is a statutorily created entity made up of companies authorized to write life and health insurance in the state. Its primary aim is to protect policyholders and other interested persons in the event a company is unable to meet its obligations due to impairment or insolvency. The association, when circumstances demand, guarantees or assumes the policies of failed companies and assures payments of its contractual obligations. Insurance companies pay assessments to the association so that it can carry out its functions. Companies can then take a credit for the amount of the assessments against their SBT liability in the year after the assessment was paid. Assessments to the association for insolvencies are based on premiums from Michigan business over the previous three calendar years.

Because of the creation by Jackson Life of the new subsidiary containing all of its Michigan business, the company was unable to claim its SBT credits for the years 1993-1995. This is because, as company representatives have put it, the parent company had no SBT liability against which to use the credit for assessments it had paid, and the subsidiary had all of the SBT liability without the credit. The company, further, was not allowed to file a consolidated SBT return with the state, which would have allowed it to obtain the credit. Jackson National says that it intends to fold the subsidiary back into the parent company in the near future. It has requested legislation that would allow the company to obtain the SBT credits denied for the three years this problem existed.

THE CONTENT OF THE BILL:

The bill would amend the Single Business Tax Act to specify that an affiliated group, one of whose members has no employees and acquires goods and services from other affiliated group members, could allocate the assessments paid to the Michigan Life and Health Guarantee Authority (and used to determine its SBT credit) among the members of the affiliated group. The provision would apply for tax years beginning after December 31, 1992, and before January 1, 1996.

MCL 208.22c

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would result in a decrease in state and local revenues. The company involved estimates its lost SBT credits at \$2.185 million over a three-year period. The SBT reductions per year are \$725,000 for 1994; \$760,000 for 1994; and \$700,000 for 1995. The HFA notes that any SBT revenue reductions in fiscal year 1995 could reduce revenue sharing payments in fiscal year 1996. The HFA also points out that the Department of Treasury "views the impact of this bill as a revenue loss, but due to legal issues concerning taxpayer confidentiality can not provide an estimate of revenue losses." (Fiscal Note dated 10-30-95)

ARGUMENTS:

For:

The bill would allow a Michigan-based insurance company to obtain credits against the single business tax that it lost when it formed a subsidiary with the encouragement of the state's insurance commissioner in order to acquire business from an insolvent insurer.

These are tax credits that insurance companies are entitled to for contributions to a special, statutorily created guarantee association that aims at protecting insurance customers from company insolvencies. (See Problem statement above.) The exception is narrowly drawn, and applies only for three years.

Response:

Some people (who are supporting this bill) believe that the real problem is that the company could not file a consolidated tax return, and believe that the larger issue of how the state treats consolidated returns needs to be addressed.

Against:

Some people believe that the company should have anticipated this problem when the subsidiary was created. It is not the legislature's job to correct problems that lawyers and tax advisors fail to anticipate. Further, perhaps the legislature should re-examine the credit, which essentially makes the state (and its taxpayers) pay the cost of bailing out insolvent insurance companies.

POSITIONS:

The Jackson National Life Insurance Company supports the bill. (10-26-95)

The Department of Treasury does not oppose the bill. (10-26-95)

■ 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.