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House Bill 5332 (as passed by the House)
Sponsor: Representative Joe Haveman
House Committee: Commerce
Senate Committee: Economic Development

Date Completed: 2-22-12

CONTENT

The bill would amend the Income Tax Act to allow a taxpayer not to file a combined return as a unitary business group, and instead file a separate return and pay the tax, if any, under the Michigan Business Tax (MBT) Act, if the taxpayer had a certificated credit under that Act related to battery manufacturing. (The bill would complement a provision added to the MBT Act by Public Act 292 of 2011, described in **BACKGROUND.**)

The Income Tax Act requires a unitary business group to file a combined return that includes each U.S. person that is included in the unitary business group. Each U.S. person included in a unitary business group or included in a combined return is treated as a single person, and all transactions between the people included in the group must be eliminated from the Corporate Income Tax base and apportionment formulas under the Act.

Under the bill, a taxpayer that was a member of a unitary business group would not have to file a combined return as a unitary business group and could elect to file a separate return and pay the MBT, if the taxpayer had a certificated credit under the MBT Act for the manufacture of plug-in traction battery packs or for capital investment expenses for the construction of an integrative cell manufacturing facility that includes anode and cathode manufacturing and cell assembly.

The Income Tax Act defines "unitary business group" as a group of U.S. persons that are corporations, insurance companies, or financial institutions, other than a foreign operating entity, one of which owns or controls more than 50% of the ownership interests with voting rights or comparable rights of the other members, and that has business activities or operations that result in a flow of value between or among members included in the group or that are integrated with, are dependent upon, or contribute to each other.

MCL 206.680 & 206.691

BACKGROUND

Public Act 38 of 2011 amended the Income Tax Act to eliminate numerous credits, deductions, and exemptions as well as change future tax rates related to the individual income tax. It also created the Corporate Income Tax, to be levied on businesses organized as traditional corporations under Federal law.

Public Act 39 of 2011 amended the MBT Act to provide for its eventual repeal and allow certain taxpayers that wish to claim select credits allowed under the Act to continue claiming those credits if they continue to file returns under the MBT Act.

Public Act 292 of 2011 amended the MBT Act to allow a taxpayer that is a member of a unitary business group to elect to file a separate return and pay the MBT, if the taxpayer has a certificated credit under the MBT Act for the manufacture of plug-in traction battery packs or for capital investment expenses for the construction of an integrative cell manufacturing facility that includes anode and cathode manufacturing and cell assembly.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.