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BILL ANALYSIS

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House Bill 5720 (as passed by the House)
Sponsor: Representative Al Pscholka
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 12-6-16

CONTENT

The bill would amend the Michigan Business Tax (MBT) Act to allow a taxpayer with a certificated credit granted under the Natural Resources and Environmental Protection Act that could no longer be claimed under the Income Tax Act, to elect to file a return under the MBT Act and pay the MBT, under certain circumstances.

Certificated credits are MBT credits that were preserved when the Corporate Income Tax, provided for under Part 2 of the Income Tax Act, was enacted and the MBT Act was repealed for most taxpayers as part of tax restructuring legislation enacted in 2011. In general, certificated credits include credits that were awarded as a result of a taxpayer's obtaining a voucher or credit certificate under an agreement with the State, for agreements entered into before January 1, 2012. The MBT Act will be fully repealed when all certificated credits have been exhausted.

Certificated credits include credits granted under the Natural Resources and Environmental Protection Act (NREPA) to the owner of farmland based on a farmland development rights agreement. Under the bill, if such a certificated credit had been claimed in a previous tax year under the Income Tax Act but that certificated credit were no longer eligible to be claimed under the Act as a result of the death after December 31, 2011, of an individual farmland owner or an individual considered the farmland owner under NREPA, and the transfer into an estate or trust of the ownership of the farmland property subject to the farmland development rights agreement upon which that certificated credit was based, the taxpayer with the credit could elect to pay the tax imposed by the MBT Act in the first tax year in which that certificated credit could be claimed under the Act.

The taxpayer would have to continue to file an MBT return and pay the tax for each subsequent tax year until the certificated credit granted under NREPA was complete and that credit was used up, or the taxpayer no longer owned the property subject to the agreement, whichever occurred first.

When the taxpayer's certificated credit was extinguished, or the taxpayer no longer owned the property under the farmland development rights agreement, whichever occurred first, the taxpayer would no longer be eligible to pay the tax under the MBT Act and could no longer claim any other remaining certificated credits.

The bill would be retroactive and effective for tax years beginning after December 31, 2011.

MCL 208.1500

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would reduce General Fund revenue by an unknown, but likely minimal to negligible, amount that would depend on the number of affected taxpayers and the value of any credits to which they would be entitled. Farmland credits under the individual income tax total approximately $40.0 million per year, although the bill would be expected to affect a small number of those credits. Individual credits under the individual income tax average approximately $5,000. Under the conditions specified in the bill, rather than ending upon the death of the individual, the credit amounts could continue to be claimed against the Michigan Business Tax. Regardless of whether the credits are claimed under the individual income tax or the MBT, the credits reduce General Fund revenue only.

Fiscal Analyst: David Zin