



**House
Legislative
Analysis
Section**

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SBT BASE: INSURERS

**House Bill 5990 (Substitute H-1)
First Analysis (11-20-96)**

**Sponsor: Rep. Barbara Dobb
Committee: Tax Policy**

THE APPARENT PROBLEM:

Insurance companies have unique treatment under the Single Business Tax Act. Most businesses pay a tax that is based on business activity, following a statutory formula, or can elect to base the tax on 50 percent of adjusted gross receipts. (The SBT, it should be noted, is quite complicated, with many available credits and deductions, and with many businesses exempt from the tax because of their small size.) Prior to 1987, domestic (Michigan-based) insurers paid the SBT and foreign (out-of-state) insurers paid a premium tax. The premium tax was ruled discriminatory by the Michigan Court of Appeals and, as a result, the legislature passed Public Act 262 of 1987, under which both domestic and foreign insurance companies pay a tax based on 25 percent of gross receipts, excluding receipts on the sale of annuities and receipts on all reinsurance transactions. Reportedly, when Public Act 262 was being crafted, it was assumed that on average 75 percent of premiums go for claims and that the value-added of insurance companies can be understood as premiums minus claims. But instead of making the tax base 25 percent of gross premiums, according to staff to the House Tax Policy Committee, the legislature used 25 percent of gross receipts in order to include rental and lease receipts in addition to premiums. According to a House Tax Policy staff memorandum, until 1995, the operating definition of gross receipts for insurance companies was gross direct premiums plus rental and lease receipts. But recently the Department of Treasury has been including in the tax base such items as reimbursement of allocated salaries and operating costs between affiliated companies. Including the reimbursement of these costs increases a company's SBT liability, even though they reflect matters of internal accounting rather than value added. The department, says the memorandum, has also been including receipts that an insurance company receives from a company cafeteria provided for employees, even though the cafeteria might only break even or even be subsidized by the company. Legislation has been introduced to re-define an insurance company's SBT tax base.

THE CONTENT OF THE BILL:

The bill would amend the Single Business Tax Act to specify that the tax base and adjusted tax base of an insurance company is 25 percent of the company's receipts from gross and lease receipts; gross direct premiums received for insurance on property or risk, deducting premiums on policies not taken and returned premiums on canceled policies; receipts from administrative services only contracts with non-affiliated entities; and receipts from income derived from business other than the business of insurance as regulated under the Insurance Code. The bill would specify that the tax base and adjusted tax base on an insurance company does not include receipts from interest, dividends, and capital gains; receipts from affiliates subject to SBT tax liability; receipts on the sales of annuities; and receipts on all reinsurance transactions. (The last two are already specifically not included in a company's tax base.)

The bill's provisions would be retroactive and effective beginning January 1, 1991.

MCL 208.22a

FISCAL IMPLICATIONS:

A preliminary estimate from the House Fiscal Agency suggests a loss of \$3 million to \$5 million in revenues for fiscal year 1996-97. (Fiscal Note dated 11-13-96)

ARGUMENTS:

For:

The bill would clearly specify the SBT base of insurance companies to more nearly reflect the intent of the original legislation subjecting both domestic and foreign insurance companies to the SBT. Contrary to estimates of revenue loss for the state, representatives of insurance companies assert that there is no real loss of revenue because under this bill, they will be paying in taxes what the 1987 law intended for them to pay.

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Response:

While the Department of Treasury testified in committee that it was in favor of moving the bill along in the legislative process, the department has not yet agreed to any language and apparently discussions are continuing between the department and insurance companies over the definition of the SBT tax base for insurers.

POSITIONS:

The Michigan Insurance Federation supports the bill.
(11-14-96)

The Life Insurance Association of Michigan supports the bill. (11-18-96)

AAA Michigan (Triple A) supports the bill. (11-19-96)

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.