



**Senate Fiscal Agency**  
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**BILL ANALYSIS**



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Senate Bill 768 (as enrolled)  
 Sponsor: Senator Joanne G. Emmons  
 Senate Committee: Finance  
 House Committee: Taxation

**PUBLIC ACT 255 of 1995**

Date Completed: 1-31-96

**RATIONALE**

Under the Single Business Tax (SBT) Act, if a charitable organization is exempt from Federal taxation under Section 501(c)(3) of the Internal Revenue Code (IRC), generally it is exempt from the SBT. (An exception to this exemption is unregulated business taxable income, that is, income not substantially related to the exempt purpose or function of the charity. Such income is subject to Federal tax and the SBT.) It has been pointed out, however, that because of technical differences between the IRC and the SBT Act, partnerships formed by charities cannot claim an exemption from the SBT.

Evidently, the IRC treats partnerships as pass-through entities, that is, a partnership is not taxed but the partners that make up the partnership are taxed. This means, then, that a partnership cannot obtain a 501(c)(3) exemption because it is not recognized as a Federal taxpayer, but an individual member of the partnership can qualify as an exempt charity (if it meets the criteria for a charity). The SBT Act, on the other hand, taxes partnerships at the partnership level rather than taxing the individual partners. Thus, a partnership of charities, because it cannot obtain tax-exempt status under the IRC even though its members and their income are exempt from taxation, cannot obtain tax-exempt status under the SBT Act and is subject to the tax on all of its income. It has been suggested that since individual charities are exempt from the SBT, the SBT Act be amended to exempt charitable partnerships also.

**CONTENT**

The bill amended the Single Business Tax Act to exempt from the tax certain partnership entities, if

the activities of an entity are exclusively related to a charitable, educational, or other purpose or function that is the basis for an exemption (under the Internal Revenue Code) from Federal income tax of the members of the partnerships, and if all of the partners or members of the entity are exempt from Federal income tax under the Code. The bill applies to a partnership, limited partnership, unincorporated association, or other group or combination of entities acting as a unit.

The bill applies to tax years beginning after December 31, 1995.

MCL 208.35

**ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

**Supporting Argument**

A technical difference in the taxation of partnerships between the IRC and the SBT Act has resulted in a situation that requires a partnership of charities to pay the SBT, even though it may be exempt from Federal taxation. Under the IRC partnerships are not considered Federal taxpayers but partners are subject to the tax; under the SBT Act partners are not taxed but partnerships are. Regarding charities, then, because a partnership cannot obtain tax-exempt status (but the individual partners can) under the IRC, it can never obtain tax-exempt status under the SBT Act, and thus is taxed. This tax treatment is unfair and discourages charities from banding together in partnerships. The bill corrects this flaw

and allows a partnership of charities exemption from the SBT, just as qualified individual charities are exempt.

Legislative Analyst: G. Towne

**FISCAL IMPACT**

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

Fiscal Analyst: J. Wortley

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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.