

TAXES: LIMITED LIABILITY CO.

House Bill 5892 as introduced House Bill 5909 (Substitute H-1) First Analysis (6-16-98)

**Sponsor: Rep. Kirk A. Profit
Committee: Tax Policy**

THE APPARENT PROBLEM:

Recent legislation, beginning with Public Act 23 of 1993, has authorized the formation of limited liability companies and partnerships, a new form of business entity. (For information on this kind of entity, see the House Legislative Analysis Section's analysis of House Bill 4606 of this session [dated 5-13-97] and a recent House Fiscal Agency publication [10-10-97] entitled "Recent Legislative Changes to Michigan's Limited Liability Company Act.") This new kind of entity, it has been pointed out, is not specifically mentioned in various tax acts, as many other entities are. Legislation has been introduced to address that.

THE CONTENT OF THE BILLS:

The bills would address the tax status of limited liability companies and their managers. House Bill 5892 would amend the Single Business Tax Act (MCL 208.6) to specify that a limited liability company that files as a corporation for federal tax purposes would be treated as a corporation under the SBT, and a limited liability company that files as a partnership for federal tax purposes would be treated as a partnership under the SBT. (Members of the corporation would be treated as shareholders or partners, respectively.) House Bill 5909 would amend the revenue act (MCL 205.27a) so that managers of a limited liability company having control or supervision of, or charged with the responsibility for, making the returns or payments would be personally liable for a company's failure to file the required returns or pay the taxes due (as corporate officers currently are for corporations). The bill also would specify that the dissolution of the company would not discharge a manager's liability for a prior failure of the company to make a return or remit taxes due (as is the case with corporate officers of corporations). The revenue act applies to the collection of a variety of state taxes.

BACKGROUND INFORMATION:

House Bill 5106 included limited liability companies and partnerships under the General Sales Tax Act. It has passed the House.

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The bills would ensure that limited liability companies, a relatively new form of business organization, would be referred to in the Single Business Tax Act and the revenue act as other similar entities are.

POSITIONS:

The Department of Treasury had indicated support for the bills. (6-10-98)

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.