



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 368 (as introduced 5-10-11)
Sponsor: Senator Jack Brandenburg
Committee: Finance

Date Completed: 10-26-11

CONTENT

The bill would amend the revenue Act to prevent the Department of Treasury from assessing the former Single Business Tax on income or gains of an individual, estate, or person organized for estate planning purposes, from activity, transactions, or sources other than those in the regular course of the person's trade or business, or on income or gains from personal investment activity.

Specifically, the bill would prohibit the Department from assessing a tax or reducing an overpayment under the former Single Business Tax (SBT) Act for an individual, estate, or other person organized for estate or gift planning purposes, for amounts received, income, or gain other than those from transactions, activities, and sources in the regular course of the person's trade or business.

The Department also could not assess a tax or reduce an overpayment under the SBT Act for receipts, income, or gain derived from investment activity other than receipts, income, or gain from transactions, activities, and sources in the regular course of the person's trade or business by a person that was organized exclusively to conduct investment activity and did not conduct investment activity for anyone other than an individual or group of individuals or by a common trust fund established under the Collective Investment Funds Act.

With respect to an individual, estate, or person organized for estate or gift planning purposes, receipts, income, and gain from transactions, activities, and sources in the regular course of the person's business would include amounts derived from the following:

- Tangible and intangible property if the acquisition, rental, lease, management, or disposition of the property constituted integral parts of the person's regular trade or business operations.
- Transactions in the course of the person's trade or business from stock and securities of any foreign or domestic corporation and dividend and interest income.
- Isolated sales, leases, assignments, licenses, divisions, or other infrequently occurring dispositions, transfers, or transactions involving tangible, intangible, or real property used in the person's trade or business.
- The sale of an interest in a business that constituted an integral part of the person's regular trade or business.
- The lease or rental of real property.

Receipts, income, and gain that were not from transactions, activities, and sources in the regular course of the person's trade or business would include the following:

- Investment income, including interest, dividends, royalties, and gains from an investment portfolio or retirement account, if the investment activity were not part of the person's trade or business.
- The disposition of tangible, intangible, or real property held for personal use and enjoyment, such as a personal residence or personal assets.

The bill states that it "is curative, shall be applied to all open tax years, and is intended to correct any misinterpretation concerning the treatment of an individual, an estate, a person organized for estate or gift planning purposes, a person that is organized exclusively to conduct investment activity and that does not conduct investment activity for any person other than an individual or group of individuals, or a common trust fund, and that person's liability for tax under former 1975 PA 228 [the former SBT Act], and to clarify that any activity other than that arising from transactions, activities, and sources in the regular course of that person's trade or business is not subject to tax under former 1975 PA 228".

MCL 205.27a

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would prevent possible increases or decreases of General Fund revenue by an unknown, and likely minimal, amount. The bill would prevent the Department of Treasury from assessing additional taxes or reducing overpayments (thus reducing revenue through refunds) on income affected by the bill.

The bill would not affect local unit revenue or expenditure.

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.