



Senate Fiscal Agency  
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## BILL ANALYSIS



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Senate Bill 1102 (Substitute S-2 as reported)  
Sponsor: Senator Aric Nesbitt  
Committee: Finance

**CONTENT**

The bill would amend the Income Tax Act to specify that certain conditions would apply for the purposes of applying a business interest expense limitation.

Generally, a unitary business group must file a combined return that includes each United States person that is included in the unitary business group. Each United States person included in a unitary business group or included in a combined return must be treated as a single person, and all transactions between those entities included in the unitary business group must be eliminated from the corporate income tax base, the apportionment formulas, and for purposes of determining exemptions, credits, and the filing threshold under Part 2.

Under the bill, for the purposes of applying the business interest expense limitation under Section 163(j) of the Internal Revenue Code (IRC), if a person included in a unitary business group met any one of the following conditions, that person would not be subject to the limitation under Section 163(j)(1) of the IRC for purposes of reporting Federal taxable income:

- The person's or its Federal consolidated group's business interest expense was not limited under Section 163(j)(1) of the IRC.
- The person was exempt from the limitation under Section 163(j)(3) of the IRC.
- The person did not have business interest properly allocable to a trade or business under Section 163(j)(5) and (7) of the IRC and related regulations.
- The person was included in a Federal consolidated group that met any of the above conditions.

(Section 163(j) of the IRC pertains to the limitations on business interest deduction, which may not exceed the sum of business interest income of a taxpayer for a taxable year, 30% of the adjusted taxable income of a taxpayer for a taxable year, and the floor plan financing interest of a taxpayer for a taxable year.)

MCL 206.691

Legislative Analyst: Jeff Mann

**FISCAL IMPACT**

The bill likely would reduce State revenue by \$10.0 million to \$15.0 million per year, according to the Michigan Department of Treasury. The estimate is based on Federal data, but because there are differences between Federal and State rules and statute as to which members are included in unitary business groups, the estimate has a relatively large margin of error. The inclusion or exclusion of certain members relative to current law could reduce or increase tax liabilities, depending on the specific circumstances of the group members. The bill primarily would affect Corporate Income Tax revenue. For taxpayers who file under the Corporate

Income Tax or the Michigan Business Tax, 100% of any impact would affect General Fund revenue.

Date Completed: 11-10-20

Fiscal Analyst: David Zin