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Senate Bill 764 (Substitute S-1 as reported)
Sponsor: Senator Curtis Hertel, Jr.
Committee: Finance

CONTENT

The bill would amend the Income Tax Act to allow a taxpayer, for tax years beginning on and after January 1, 2021, and subject to the bill's limits, to deduct wagering losses claimed by the taxpayer on his or her Federal income tax return for that tax year.

The Act defines "taxable income" as, for a person other than a corporation, estate, or trust, adjusted gross income (AGI) as defined in the Internal Revenue Code (IRC), subject to certain adjustments. Under the bill, for tax years beginning on and after January 1, 2021, a taxpayer could deduct, to the extent not deducted in determining AGI, wagering losses deducted under Section 165(d) of the IRC on his or her annual Federal income tax return for the same tax year. For a nonresident, only wagering losses that were attributable to wagering transactions placed at or through a casino or licensed race meeting located in Michigan could be deducted and could not exceed the gains on those transactions allocated to Michigan under Section 110(2)(d). (Section 110(2)(d) allocates to Michigan, for a nonresident individual, estate, or trust, all taxable income to the extent it is acquired as winnings that are the proceeds of a wagering transaction paid by a casino or as a payoff price on a winning pari-mutuel wagering ticket at a licensed race meeting if the casino or race meeting is located in Michigan.)

(Section 165 of the IRC generally allows a taxpayer to deduct any loss sustained during a taxable year and not compensated for by insurance or otherwise. Under Section 165(d), losses from wagering transactions are allowed only to the extent of the gains from those transactions.)

The bill states that it is retroactive and applies to tax years beginning on and after January 1, 2021.

MCL 206.30

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would reduce individual income tax revenue by approximately \$12.0 million to \$17.0 million per year depending on the future growth in gaming activity.

Under Federal law, gambling losses are deductible for Federal tax purposes for those who are able to itemize their deductions. Itemized deductions, such as state and local tax payments, mortgage interest, charitable contributions exceeding \$300, and medical and dental expenses in excess of 7.5% of income, are taken after Federal adjusted gross income is calculated. Michigan taxable income starts with Federal adjusted gross income and requires certain additions and subtractions. Under current law, Michigan does not allow any Federal itemized deductions to be subtracted when computing Michigan taxable income.

Taxpayers with Michigan tax liabilities related to gaming could be Michigan residents (who gambled exclusively in Michigan or who gambled both in-state and out-of-state) or nonresidents who gambled in Michigan. Federal data indicate that in tax year 2019, gambling losses deducted for Federal tax purposes totaled \$20.1 billion. The portion of those losses incurred by individuals with a Michigan tax liability is unknown, as is the portion attributable to gaming in Michigan

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Fiscal Analyst: David Zin