Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 634 (as reported without amendment) *(as enrolled)*
Sponsor: Senator Joe Hune
Committee: Finance

Date Completed: 1-30-12

RATIONALE

In Michigan, property taxes may be collected in the summer or the winter, or both. The timing of collections depends on the tax that is being collected and the local tax collecting unit. For some taxpayers, paying property taxes in the summer can be a hardship. Individuals who receive a State homestead tax refund can use it to pay their winter property taxes, but the summer taxes might be due before a refund check arrives. In addition, some farmers rely on the receipts from their fall or winter harvest to pay their property taxes. To address these situations, the General Property Tax Act allows certain categories of taxpayers to defer their summer property taxes until the following February 15. Individuals may defer the summer taxes on their principal residence if the taxpayers meet criteria related to physical condition, age, or military service, and their household income for the prior taxable year does not exceed $40,000. The Act also allows a deferment for agricultural property if the gross receipts from agricultural or horticultural operations in the previous year, or the average gross receipts in the previous three years, are not less than the owner's household income in the prior year.

Several years ago, it was pointed out that an increasing number of farmers find it advantageous to form a limited liability company (LLC). If an LLC was formed, however, the agricultural property no longer qualified for a summer tax deferment. To address this situation, Public Act 189 of 2009 amended the General Property Tax Act to extend the deferment to agricultural property owned by an LLC, if its individual members qualified for the deferment before they formed the limited liability company. It has now been suggested that agricultural property owned by a partnership should qualify for the same treatment.

CONTENT

The bill would amend the General Property Tax Act allow the deferment of summer taxes on agricultural property owned by a partnership if the gross receipts of the operations in the previous year, or the average gross receipts of the operations in the previous three years, were not less than the combined household incomes in the previous year of the individual partners. A partnership could claim the deferment only if the individual partners qualified for a deferment before they formed the partnership.

MCL 211.51

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

Like other small businesses, farmers may find it advantageous to form partnerships because they offer the benefit of pass-through income taxation and, in the case of limited liability partnerships, protect the individual partners against personal liability for the debts and liabilities of the business. When farmers enter into a partnership, however, the agricultural property no longer qualifies for a deferment of summer property taxes, because the statutory criteria are based on the household income of the owner. Nevertheless, an agricultural partnership might need the proceeds of the fall or winter harvest to pay summer property taxes, as the individual farmers did before they formed the partnership. Because the same dilemma existed for farmers who formed limited liability companies, Public Act 189 of 2009 amended the Act to accommodate those situations. The bill also would allow a partnership to defer the summer property taxes on its agricultural property if its operations met the income requirement and the individual partners qualified for a deferment before they formed the partnership.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would change the timing of when State and local property tax revenue would be received from affected taxpayers. As a result, the cash flow for units of government that levy a property tax millage could be affected. It is unknown how many taxpayers or governmental units would be affected, or what the magnitude of the impact would be. In aggregate, any impact of the bill is likely to be minimal, although for a large taxpayer in a single local unit, the impact could be greater.

Fiscal Analyst: David Zin

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