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BILL ANALYSIS

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Senate Bill 770 (as enrolled)
Sponsor: Senator Alan L. Cropsy
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 211 of 2003

Date Completed: 1-28-04

CONTENT

The bill amended the Income Tax Act to require a person to file a copy of Federal form 1099-MISC (miscellaneous income paid to a taxpayer) with the Michigan Department of Treasury if the person is required under the Internal Revenue Code to file that form for a tax year. A person who fails to comply is liable to the Department for a penalty of \$50 for each form that the person fails to file. A person must file the form by January 31 each year, or by the day required for filing the form under the Internal Revenue Code, whichever is later.

reported on 16 different 1099 forms. One of these 1099 forms is for miscellaneous income (1099-MISC), which includes business payments to nonemployees such as subcontractors.

In addition, a person required to file a copy of form 1099-MISC under the bill also must file a copy with the city reported as the payee's address on the form, if the city imposes a city income tax.

The key question is whether requiring businesses to send the Michigan Department of Treasury a copy of all 1099-MISC forms they must file with the IRS, will do much to help stop the tax avoidance that is occurring given the current Federal filing requirements. The preliminary analysis is that the new filing requirement may help uncover some tax avoidance, such as tax avoidance by nonresident contractors working temporarily in Michigan, but probably not by a significant amount. Any business that has chosen not to obey the Federal 1099 filing requirements, for whatever reasons, probably will not change its behavior just because the business will be required also to send a copy of the 1099-MISC to the Michigan Department of Treasury. In addition, the Department already has provisions in place to help identify taxpayers who exclude from their Michigan taxable income 1099-MISC income that is reported on a 1099-MISC to the Federal IRS.

The bill took effect on November 26, 2003.

MCL 206.355a

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FISCAL IMPACT

This bill is designed to reduce the tax avoidance that is occurring because businesses are not filing 1099-MISC forms with the Federal government or are filing them but with inaccurate information, or because taxpayers are not declaring 1099-MISC income on their Michigan income tax return.

Under Federal law, businesses are required to file 1099 forms, which declare to the Internal Revenue Service certain types of income being paid by businesses to taxpayers. There are many different types of income that are

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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.