

A copy of the final bill, which now goes to the Governor's desk, can be found here:
http://www.ofii.org/docs/Michigan_Committee_Report.pdf.

ORGANIZATION FOR INTERNATIONAL INVESTMENT
INTERNATIONAL BUSINESS INVESTING IN AMERICA

TO: Matt Hanley
Howard Ryan
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FROM: Todd M. Malan
President & CEO
Organization for International Investment (OFII)
www.ofii.org

RE: Modifications to Michigan Business Tax Proposal

DATE: June 26, 2007

On behalf of the Michigan subsidiaries of foreign companies who are significant employers in the state, I am writing to urgently request some modifications to the draft Michigan Business Tax Proposal (including Senate Bill No. 94), which as written could impose substantial double taxation on international companies that invest in Michigan and thereby negatively impact Michigan's ability to attract foreign direct investment.

The Organization for International Investment ("OFII") is an association representing the interests of U.S. subsidiaries of international companies. U.S. subsidiaries make a significant contribution to the U.S. economy: providing over 5 million jobs, spending \$29.9 billion on U.S. research and development, paying over \$29 billion in federal taxes and exporting a record \$153.9 billion in goods from the U.S. – 19% of all U.S. exports. In Michigan, U.S. subsidiaries provide over 201,000 jobs. OFII's membership list is attached.

The proposal as currently drafted is unclear with regard to some of the exceptions to the general rule prohibiting the deductibility of interest and royalty expenses paid to related persons. There is an exception if the transaction basically operates as a pass through as part of a larger unrelated party transaction. This is good policy and consistent with other states' statutes but the language is confusing. The following revised language would address this concern:

Change Sec. 201(2)(f)(i) to read:

The related person recipient directly or indirectly paid, accrued or incurred the amount to a person or entity that is not a related person.

Additionally, every state that has enacted legislation prohibiting the deductibility of interest and royalty expenses paid to related persons has provided an exception to allow full deductibility where legitimate interest and royalty payments are made from a business to its foreign parent or affiliate in a foreign country with whom the U.S. has a double taxation treaty. The following new language would address this concern.

Add a **new** Sec. 201(2)(f)(iv):

The related person recipient is organized under the laws of a foreign nation which has in force a comprehensive income tax treaty with the United States.

Thank you for considering our views. We do not believe implementing our suggestions would materially impact the tax collected under the new law. In fact, given the negative impact that double taxation would have on the state's ability to attract new foreign investment, these suggestions may prevent the loss of tax revenue.

Please do not hesitate to contact me directly by email (tmalan@ofii.org) or phone 1-202-659-1903.

Sincerely,

Todd M. Malan
President & CEO