

RETURNED INCOME CREDIT

House Bill 4783 as introduced First Analysis (6-17-97)

Sponsor: Rep. Mary Schroer
Committee: Tax Policy

THE APPARENT PROBLEM:

The Income Tax Act provides a credit for an amount equal to taxes paid in a prior year on income that was received by a taxpayer but then repaid. The credit is allowed only if the repayment of income made the taxpayer eligible for the credit or deduction permitted by the federal Internal Revenue Code. The state credit was added by Public Act 128 of 1993 (Senate Bill 663) and applied to the 1991 tax year and each tax year thereafter. The act arose out of cases involving people who had received taxable benefits pending the outcome of a lawsuit or administrative grievance procedure, and as a condition of settlement were required to return the payments they had received. While the federal tax form permitted them to get their overpaid taxes back through either a credit or a deduction, the state income tax law contained no provision allowing for the refunding of taxes to people who had returned some portion of their income on which taxes had already been paid.

Another case has arisen that is not covered by state law. According to testimony before the House Tax Policy Committee, a taxpayer who realized capital gains from the 1983 sale of a company had to make substantial paybacks in 1989 under warranties that were part of the sale agreement. As before, federal tax law permitted a rebate of taxes paid on the income earned but later returned, but the state law did not because it only covers cases beginning in 1991. Legislation has been introduced to address this.

THE CONTENT OF THE BILL:

The bill would amend the Income Tax Act to make the returned income credit apply to the 1989 tax year and each year thereafter (instead of beginning with the 1991 tax year).

MCL 206.265

FISCAL IMPLICATIONS:

A witness appearing before the House Tax Policy Committee estimated the amount that would be due to him under the bill at \$200,000. (6-11-97) This

information has not been confirmed. No other information is available at present.

ARGUMENTS:

For:

The bill would permit the return of state taxes overpaid by extending back to 1989 a provision that allows for an income tax credit for taxes paid on income received and then returned.

Response:

It's possible the bill is in conflict with the revenue act, which says a taxpayer cannot claim a refund more than four years after the deadline for the original return (see MCL 205.27a).

POSITIONS:

The Department of Treasury has no position on the bill. (6-11-97)

Analyst: C. Couch

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