SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383

Senate Bill 342 (as reported with amendments)
Sponsor: Senator Norman D. Shinkle
Committee: Finance

Date Completed: 4-24-89

RATIONALE

Under the Internal Revenue Code, a U.S. citizen who works and lives in a foreign country for an entire tax year, or during any 12 consecutive months is present in a foreign country or countries for at least 330 days in that period, can exclude the income earned in a foreign country from the Federal income tax. Reportedly, since 1971 the administrative practice of the Michigan Department of Treasury regarding State income taxes has been to mirror the Federal procedures and treat "foreign service" employees as nonresidents of Michigan (and thus not subject to the State's income tax) during the time that those persons qualified for the Federal exclusion. Recently, Treasury officials have begun to question this practice because the Income Tax Act defines "resident" as an individual "domiciled" in this State, and further defines "domicile" as a place where a person has his or her permanent home and principal establishment to which, when absent, he or she intends to return. It has been pointed out that a strict interpretation of the current definition of "resident" could subject the income of foreign service employees to the State income tax. It has been suggested that the Act be amended to codify what has for many years been the practice of the Department, and thus treat foreign service employees as nonresidents during the time when they qualify for the Federal income tax exclusion.

CONTENT

The bill would amend the Income Tax Act to specify that the term "resident" would not include an individual during the period of time that both of the following were true:

- **The individual was a "qualified individual" as defined in the Internal Revenue Code.**
- **The individual's spouse, if any, was a qualified individual or was domiciled outside of the State.**

Under the Internal Revenue Code, "qualified individual" means an individual whose tax home is in a foreign country and who either a) is a United States citizen and establishes that he or she has been a bona fide resident of a foreign country or countries for an uninterrupted period that includes an entire taxable year, or b) is a citizen or resident of the United States and, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days in that period.

MCL 206.18

FISCAL IMPACT

The bill would lead to a minor reduction in GF/GP income tax revenue.

ARGUMENTS

Supporting Argument

The Federal government has for years recognized that a person shouldn't have to pay income taxes on income earned while working and living in a foreign country, and the Department of Treasury has allowed the same exclusion from State income taxes. The bill would simply place in law the past administrative practice of the Department of Treasury in its treatment of income earned in a foreign country by Michigan residents working in a foreign country.

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Senate Bill S.B. 343

Analysis Summary

See S.B. 161