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WITHHOLDING OPTIONAL AFTER 65

House Bill 5109 (Substitute H-1)
First Analysis (6-30-98)

Sponsor: Rep. Kirk A. Profit
Committee: Tax Policy

THE APPARENT PROBLEM:

Some people believe that the withholding of taxes from paychecks represents government mistrust of taxpayers and is a practice that is unwarranted and inconsistent with a free, democratic society. Legislation has been introduced that would at least allow older employees to opt out of withholding, on the grounds that older taxpayers have demonstrated over the years their reliability in meeting tax obligations.

THE CONTENT OF THE BILL:

The bill would amend the Income Tax Act so that an employer would not be required to deduct and withhold taxes on compensation paid to a person over 65 years of age if that person had indicated he or she did not want taxes withheld. A person would have to furnish a verified statement to the employer each year opting for no withholding on a form approved by the Department of Treasury. An employer would have to furnish the person who had opted for no withholding a statement in duplicate of the total compensation paid during the tax year on or before January 31 of the succeeding year.

MCL 206.351 and 206.365

BACKGROUND INFORMATION:

Section 301 of the Income Tax Act (MCL 206.301) says that a person whose annual tax can reasonably be expected to exceed the amount withheld under Section 351 and all allowable credits by more than $500 must pay installments of estimated tax on or before April 15, June 15, and September 15 of the tax year and January 15 in the following year. Each installment must be equal to one-quarter of the taxpayer's estimated tax after deducting withholding. A person can instead make an annual estimated tax payment for the succeeding tax year when filing the annual return for the previous tax year.

FISCAL IMPLICATIONS:

The House Fiscal Agency says the bill would have no revenue impact. (6-24-98)

ARGUMENTS:

For:

Older taxpayers have, after years of paying taxes, earned the right to keep the dollars they earn until taxes are due and not be subject to regular withholding. [Some people believe withholding is an improper practice in any case, but this bill allows a person to opt out after the age of 65. The bill as introduced applied to those over 55.] Critics of employer withholding say it represents unwarranted government distrust of its citizens and masks the true cost of government. This bill at least would allow older employees to keep their money until taxes are due. The bill requires that the employee affirmatively choose to opt out of withholding, so the fact that taxes have not been withheld -- and that a larger lump sum may be due -- will not come as a surprise.

Against:

Withholding of taxes is a useful method of ensuring compliance with tax laws. All taxpayers benefit from mechanisms to discourage tax evasion and tax delinquency. The regular withholding of income taxes, for example, makes it less likely that a taxpayer will be faced with a large unanticipated tax bill. Without withholding, taxpayers who do not plan properly will face the prospect of paying interest and penalties on overdue taxes. (Further, tax specialists say estimated tax payments will still have to be made periodically by the taxpayer, which may not be well understood by taxpayers not used to doing this.) The withholding of taxes also is beneficial to the state's cash flow. Also, it is not clear that there is a convincing argument available in favor of selecting one special group of taxpayers for different treatment regarding withholding or evidence that this one age group is more deserving of this treatment than others.

POSITIONS:

The Department of Treasury is opposed to the bill. (6-24-98)

Analyst: C. Couch

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.