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Senate Bill 399 (as introduced 4-17-07)
Sponsor: Senator Tom George
Committee: Appropriations

Date Completed: 6-12-07

CONTENT

The bill would amend the Income Tax Act to require the Department of Treasury, by June 1 of each year, to submit a report on the amount of Michigan income tax paid by nonresident entertainers and athletes for the previous calendar year. The bill would require that an equal amount of income tax revenue be appropriated each year to the Department of History, Arts, and Libraries to fund the Michigan Council for Arts and Cultural Affairs.

Proposed MCL 206.420

FISCAL IMPACT

Currently, any nonresident athlete or entertainer is subject to the State's income tax under the Income Tax Act for any income earned in Michigan for the performance of personal services. A nonresident athlete or performer who is an employee of a business will have Michigan income tax withheld by the employer. Nonresident nonemployee athletes and entertainers are responsible for paying estimated tax on their Michigan income. In general, athletes' taxable income is allocated among the states in which they play based on factors such as games played compared with the length of the season.

Michigan has reciprocal income tax agreements with Illinois, Indiana, Kentucky, Minnesota, Ohio, and Wisconsin that create exceptions to Michigan's taxation of nonresident income. Under these agreements, Michigan agrees not to tax the income earned in Michigan by residents from participating states in exchange for Michigan residents' not having a tax obligation in those states.

Department of Treasury staff has indicated that the Department does not have data on the amount of income tax paid by nonresident athletes and entertainers.

According to a 2004 audit conducted by the Auditor General, the Department of Treasury collected income tax from nonresident entertainers (not including athletes) of \$858,650 in FY 2000-01 and \$665,395 in FY 2001-02. The audit stated that the State was unable to collect income taxes from 49.0% of the performances it tracked for FY 2000-01, and 57.0% of the performances tracked for FY 2001-02.

The revenue identified by the bill currently is deposited in the General Fund. The proposed earmark of income tax revenue would reduce the amount of unrestricted revenue available to support other programs in the State. The amount of revenue earmarked by the bill would depend on the activities of nonresident performers and the degree of compliance.

The bill would increase the administrative expenses in the Department of Treasury by an unknown amount due to the requirement to track and report the Michigan income of nonresident entertainers and athletes.

For FY 2006-07, the year-to-date total appropriation for the Michigan Council for Arts and Cultural Affairs is \$7,208,400. This consists of administrative funding of \$664,100 GF/GP and the appropriation for Arts and Cultural Grants of \$6,544,300 (funded by \$700,000 of Federal funds and \$5,844,300 GF/GP). The bill could increase the funding for this program.

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