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FISCAL IMPACT REPORT

SPONSOR: Lujan DATE TYPED: 03/06/03 HB 920/aHTRC

SHORT TITLE: Income Tax Act Definition of "Resident" SB _____

ANALYST: Hayes

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$4 million	See Narrative	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to HB 282

SOURCES OF INFORMATION

Response Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendments

Two references in this bill's "residency" definition as "an individual who is physically present in this state for ~~seven months~~ or more" are amended to one hundred eighty-five days (185) or more.

The other HTRC amendment adds a clause at the end of sub-section S, "for periods after that change of abode", which clarifies the definition and timeframe for determining a non-resident for purposes of the Income Tax Act.

Synopsis of Original Bill

House Bill 920 amends the Income Tax General Provisions, Section 7-2-2 NMSA 1978, to change the definition of a New Mexico "resident" for the purposes of the Income Tax Act. A "resident" means an individual who is domiciled in this state during any part of the taxable year or an individual who is physically present in this state for seven months or more during the taxable year. However, if the individual changes his place of abode to outside New Mexico on or

before the last day of the taxable year with the intention of continuing to live outside New Mexico, then the individual is not considered a “resident” for purposes of the Income Tax Act.

The effective date of the provisions of this legislation applies to taxable years beginning on or after January 1, 2003.

Significant Issues

1. Changing the definition of “resident” for tax purposes, and requiring that the person physically live in the state for 7+ months during the taxable year, will result in more individuals being subject to New Mexico income tax.
2. There have been examples whereby an individual lives in New Mexico during most of the tax year, and then moves out-of-state before year-end in order to avoid being subject to New Mexico income tax. This legislation strengthens residency requirements, which will also help in audit situations, and potentially discourages individuals who try to evade New Mexico taxes.

FISCAL IMPLICATIONS

TRD estimates a \$4 million revenue impact from this legislation. The estimate is only approximate and depends a great deal upon compliance and enforcement. The department does not have detailed information on the amount of time spent in New Mexico by “interim” residents. However, the amount of income potentially affected by the proposal is significant according to TRD. Total taxable income reported by taxpayers filing schedule PIT-B is approximately \$10 billion per year. Most of this income is not taxable in New Mexico, but HB 902 could increase the portion that is, in fact, taxable in New Mexico.

RELATIONSHIP

HB 282 amends the state’s Income Tax Act.

TECHNICAL ISSUES

“Seven months” may need to be changed to a specific number of days, e.g., 210 days, since the number of days in a seven-month period could be different depending on which months are used.

CMH/prr