

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL NOTE
Revised

House Bill 108 (Delegate Feldman, *et al.*)
Ways and Means

Budget and Taxation

Tax Amnesty Program

This bill requires the Comptroller to declare an amnesty period for delinquent taxpayers from September 1, 2009 through October 30, 2009, for penalties and one-half the interest due attributable to the nonpayment, nonreporting, or underreporting of income taxes, withholding taxes, sales and use taxes, or admissions and amusement taxes that are paid during the amnesty period. Individuals or corporations who enter into a payment agreement with the Comptroller's Office can qualify for the amnesty. The Comptroller must report to the Governor and the General Assembly by March 15, 2010 on the amnesty program.

The bill takes effect June 1, 2009.

Fiscal Summary

State Effect: General fund revenues may increase significantly in FY 2010 and 2011 due to delinquent personal income, sales, and corporate income tax revenues payments. Transportation Trust Fund (TTF) revenues may increase significantly in FY 2010 and 2011 due to additional corporate income and sales tax payments. Based on previous tax amnesty programs and other factors, total revenues (before any distributions to the local governments) may increase by \$5.0 million to \$10.0 million in FY 2010 and 2011. Expenditures are not affected.

Local Effect: Local government tax revenues and local highway user revenues distributed from TTF may increase significantly in FY 2010 and 2011 due to the tax amnesty program. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill requires the Comptroller to declare an amnesty period for delinquent taxpayers from September 1, 2009 through October 30, 2009, for penalties and one-half of the interest due attributable to the nonpayment, nonreporting, or underreporting of income taxes, withholding taxes, sales and use taxes, or admissions and amusement taxes that are paid during the amnesty period. Taxpayers who enter into a payment agreement with the Comptroller's Office and pay the full amount of the delinquent tax and one-half of the interest due before January 1, 2011, can qualify for the amnesty. The amnesty program does not apply: (1) to any business that, as of September 1, 2009, has more than 500 employees in the United States or is a member of a corporate group that has more than 500 employees in the United States; (2) to any tax for which a taxpayer was granted amnesty under the 2001 Maryland tax amnesty; or (3) any taxpayer who was eligible for the Delaware Holding Company settlement period established by Chapter 557 of 2004.

Current Law: None applicable.

Background: The following is a brief discussion of current and previous tax amnesty programs in Maryland and other states, as well as, recent tax compliance initiatives at the Comptroller's Office.

Other State Amnesty Programs

According to the Federation of Tax Administrators, 43 states implemented a total of 80 tax amnesty programs between November 1982 and June 2007. Several other states have implemented or recently implemented tax amnesty programs. Oklahoma and Nevada offered tax amnesties in 2008, and New York instituted a limited amnesty program beginning in January 2008. Oklahoma received \$82 million from its 90-day amnesty program; and Nevada, which does not impose an income tax, received \$41 million from its four-month program. Nevada also forgave about \$14 million in penalties. As of December 2008, tax amnesty payments in New York totaled \$11 million. With difficult economic conditions and several states facing significant budget deficits, several states are currently considering offering tax amnesty programs. For example, Connecticut will offer a tax amnesty from May to June of 2009.

Appendix 1 lists State amnesty programs from 1990 to 2007, whether or not the program allows installment arrangements, and total collections where available.

Maryland Tax Amnesty Programs

The State has offered two tax amnesty periods – September and October of 1987 and September through October 31, 2001. In the first amnesty, \$33.5 million was collected with \$20 million distributed to the general fund. In the second amnesty, \$39.5 million was collected with \$28.5 million distributed to the State’s general fund, \$8.0 million to local governments, \$2.0 million to the Comptroller’s Office for advertisement and additional enforcement efforts, and \$1.0 million to the Maryland Department of Transportation. The total amount collected in the second amnesty period was around one-half of the anticipated revenues. **Exhibit 1** illustrates the collections from both amnesty periods.

Exhibit 1 State Tax Amnesty Collections

<u>Tax Type</u>	<u>1987</u>	<u>2001</u>
Personal Income Tax	\$16,901,600	\$26,684,800
Corporate Income Tax	8,966,200	3,808,900
Sales and Use Tax	7,543,700	8,866,800
Admissions and Amusement Tax	71,000	89,600
Total Receipts	\$33,482,500	\$39,450,100

Source: Office of the Comptroller

Recent State Tax Compliance Initiatives

Pursuant to legislation passed by the General Assembly, the Comptroller’s Office has implemented a variety of tax compliance programs in the last several years. These programs include tax clearance requirements for virtually all business licenses; a federal vendor offset program; direct salary attachment for all taxes; new or enhanced withholding from direct payments including gambling winnings, lump-sum distributions, and nonresident realty sales; and limiting withholding exemptions under certain circumstances.

The Joint Committee on the Management of Public Funds 2008 Interim report detailed several of these initiatives recently undertaken by the Comptroller to improve tax administration and compliance in addition to a recent \$87 million tax compliance program investment at the Comptroller’s Office.

- **Tax Collection and Enforcement:** In response to significant declines in State revenues, the Comptroller is stepping up tax enforcement to collect money the State is owed. The Comptroller's Office entered into a partnership with the U.S. Department of Treasury that has yielded \$21 million to State coffers by allowing Maryland to intercept federal vendor payments to satisfy State income tax liabilities. The Comptroller has also initiated tax compliance efforts related to Delaware holding companies and other tax avoidance strategies, with recent legal victories in Maryland Tax Court against certain retailers. A successful effort to disallow the captive Real Estate Investment Trusts deduction has already led to a \$10.8 million settlement with a major corporation.
- **Modernized Integrated Tax System (MITS):** MITS is a state-of-the-art tax collection system that will replace a 20-year-old computer system currently being used by the Comptroller's Office. The advanced data warehousing capabilities of this new system, combined with strategic investments in new auditors and tax collection agents, will enable the Comptroller's Office to capture hundreds of millions in unpaid taxes over the next several years. The contract for MITS was approved by the Board of Public Works on December 3, 2008, for \$87 million with a minority business enterprise rate of 27%.
- **Data Warehouse Agency – Data Sharing:** This requires all State agencies to provide information from its databases to the Comptroller's Office upon request. Information requested may include addresses, assets, employer information, bank information, professional licenses held, and other miscellaneous information. The data warehouse is intended to allow the Comptroller's Office to perform analyses to better target audit and collection efforts. The data sharing component was stated to be an integral part of MITS.

State Revenues: State revenues may increase significantly in fiscal 2010 and 2011 as a result of the tax amnesty program. Although the amount of total collections cannot be precisely estimated, **Exhibit 2** illustrates the estimated impact if a total of \$5 million to \$10 million is collected.

Exhibit 2
Allocation of Potential Revenue Impacts
(\$ in Millions)

Total Collections	\$5.0	\$10.0
General Fund	3.6	7.2
Transportation Trust Fund	0.2	0.4
State	0.2	0.3
Local	0.1	0.1
Local Income Taxes and Admissions and Amusement Taxes	1.2	2.4

Several factors suggest that the proposed tax amnesty will generate less revenue than previous amnesties. Most economists forecast that the economy will reach its low point in fall 2010 which will constrain the amount of resources available to individuals and businesses to settle outstanding tax liabilities as well as dampening resolve to settle liabilities given a continued lack of business and consumer confidence. Unlike the 2001 amnesty, the bill does not increase future penalties associated with tax evasion. In addition, the Comptroller's Office has instituted several tax compliance programs since the last tax amnesty. Some of the money collected will also represent an acceleration of money received and not a net increase in revenues as part of the revenue collected would have been collected under existing compliance programs or MITS.

The bill waives one-half of any interest owed for the tax overdue on a return that is filed and allows the Comptroller to enter into a payment agreement for payment of the overdue tax and remaining interest. Existing tax compliance efforts directed at many of these returns will collect a portion of the overdue tax and interest penalties. In addition, revenues will likely be less because Senate Bill 552: (1) requires that on-half of any interest due is waived; (2) does not provide money for the Comptroller to advertise the program; and (3) does not allow certain taxpayers to qualify for the amnesty program. Of the \$39.5 million collected in the last amnesty, \$13.2 million or one-third of the total amount was from interest payments.

Local Revenues: Local income tax revenues, admissions and amusement taxes, and local highway user revenues distributed from TTF would increase in fiscal 2010 and 2011 as a result of the tax amnesty program. Exhibit 2 illustrates the potential increase in local revenues in fiscal 2010 if a total of \$5 million to \$10 million is collected.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Federation of Tax Administrators,
Department of Legislative Services

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Appendix 1
State Tax Amnesty Programs Since 1990

State	Year	Collections (\$ Millions)	Installment Arrangements	State	Year	Collections (\$ Millions)	Installment Arrangements
Arizona	2002		No	Missouri	2002	76.4	
	2003	\$73.0	Yes		2003	20.0	
Arkansas	2004		No	Nebraska	2004	7.5	No
California	2005	43.0	Yes	Nevada	2002	7.3	
Colorado	2003	18.4	Yes	New Hampshire	1997	13.5	No
Connecticut	1990	54.0	Yes		2001	13.5	
	1995	46.2	Yes	New Jersey	2002	276.9	
	2002	109.0		New York	1996	253.4	Yes
Florida	2003	80.0			2002	582.7	Yes
Georgia	1992	51.3	No		2005	349	
Idaho	1983	0.3	No	North Dakota	2003	6.9	
Illinois	2003	532		Ohio	2001	48.5	No
Indiana	2005	255.0	Yes		2006	63.0	No
Iowa	2007	26.5		Oklahoma	2002		
Kansas	2003	53.7		Pennsylvania	1995		No
Kentucky	2002	100.0	No	Rhode Island	1996	7.9	Yes
Louisiana	1998	1.3	No		2006	6.5	Yes
	2001	173.1	No	South Carolina	2002	66.2	
Maine	1990	29.0	Yes	Texas	2004		No
	2003	37.6			2007		No
Massachusetts	2002	96.1	Yes	Vermont	1990	1.0	No
	2003	11.2		Virginia	1990	32.2	No
Michigan	2002				2003	98.3	
Mississippi	2004	7.9	No	West Virginia	2004	10.4	Yes
				District of Columbia	1995	19.5	Yes