HB 205

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 205 (Delegate Cardin, *et al.*)
Ways and Means

Tax Overpayment - Interest on Refunds

This bill requires the Comptroller to pay interest on tax refund claims, regardless of whether the refund resulted from an error on the part of the State or of the claimant. If the refund results from an error or mistake of the claimant that is not attributable to the State, the Comptroller will pay interest from the forty-fifth day after the claim is filed. Otherwise, the Comptroller is required to pay interest from the date of the tax overpayment.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: General fund revenues may decrease significantly beginning in FY 2014 due to additional interest payments made on tax refund claims. Transportation Trust Fund and Higher Education Investment Fund revenues may decrease significantly beginning in FY 2014 due to additional interest paid on corporate income tax refunds. General fund expenditures may increase significantly beginning in FY 2014 due to implementation costs at the Comptroller's Office.

Local Effect: Local highway user revenues may decrease significantly beginning in FY 2014 due to additional interest paid on corporate income tax refunds. Local income tax revenues may decrease significantly due to additional interest payments paid on personal income tax refunds. No effect on expenditures.

Small Business Effect: Minimal.

Analysis

Current Law: The Comptroller may pay a refund to a taxpayer if the claim meets specified requirements. These requirements include making the claim for refund under oath and in a form required by the Comptroller and, except as otherwise provided by law, filing a refund claim within three years. The Comptroller may not provide a refund if the taxpayer is subject to a tax refund intercept request from a unit of federal, state, or local government.

Except as otherwise provided by law, the Comptroller will pay interest on a refund from the forty-fifth day after the date of the claim to the date of the refund if the claim was made due to (1) erroneous payments to the State that are greater than the amount actually due or payments that are wrongfully, illegally, or erroneously assessed or (2) for an estate or generation-skipping-transfer (GST) tax if the refund is due to a decrease in federal estate or GST tax law, respectively.

In addition to these limitations, the Comptroller may only pay interest if the error is attributable to the State or a unit of the State. Interest may also not be paid on a refund if it is based on (1) withholding excess income tax or an overpayment of estimated income tax; (2) overpayment of Maryland estate tax based on an inheritance tax payment made after payment of the Maryland estate tax; or (3) overpayment of the Maryland estate tax or Maryland GST tax if the claim is made more than one year after the event on which the claim is based.

Background: Tax refunds can result from a variety of circumstances. First, taxpayers can claim a refund based on estimated taxes or taxes withheld during the tax year. Taxpayers have taxes withheld during the tax year in an effort to collect income taxes as wages are earned, as part of the State's "pay-as-you-go" plan of income tax collection. Although the amount withheld is based on withholding tables issued by the Comptroller, taxpayers can, subject to limitations, adjust the amount withheld depending on whether the taxpayer prefers a large refund during income tax filing season. In fiscal 2012, the Comptroller received 619,500 paper personal income tax returns from residents of which about 511,000 received a refund. All of the current year, paper-filed personal resident returns received during the income tax filing season were processed and refunds issued within 22 business days of the date the returns were received. During the same period, 2.1 million electronic returns were filed, of which 1.7 million received a refund; all of those returns were processed within four business days.

Second, a taxpayer can file an amended return that results in a lower tax liability than the amount paid on the original return. In general, a taxpayer may not file an amended return electronically and the Comptroller must process the return manually. Third, the

Comptroller can pay a refund if an overpayment results from an error, whether on the part of the taxpayer or the State. For example, a taxpayer can make a calculation error within a tax return and upon discovery of the error the Comptroller will issue a refund. Refunds can also result in the course of tax litigation where a taxpayer successfully challenges taxes imposed by the Comptroller. In these instances, the Comptroller is required to pay interest on the amount determined by a court to be wrongfully assessed from the forty-fifth day of the overpayment.

State Revenues: The bill will increase interest payments resulting from refunds attributable to an error of the State as specified under current law by paying interest from the date of the overpayment instead of 45 days from the date of the overpayment. In fiscal 2012, $225,958 of interest was paid for refunds owed to taxpayers; the majority of this amount was related to net operating losses and tax litigation.

The bill also expands the instances in which the Comptroller must pay interest. In general, if the Comptroller does not process a refund claim within 45 days it will be required to pay interest from the forty-fifth day of the claim. In addition, the Comptroller may be required to pay additional interest on refunds related to the estate and GST tax. Estate tax returns are generally due within nine months of the date of the decedent's death. The Comptroller's Office advises that it often grants a filing extension to an estate, which requires the estate to pay the estimated tax liability. Upon final determination of tax liability, including credits for any inheritance tax paid, an estate may be owed a refund. Under the bill, the Comptroller may be required to pay interest on the amount of estate tax refunded.

State Expenditures: General fund expenditures may increase significantly beginning in fiscal 2014 due to implementation costs at the Comptroller's Office. The bill will require the Comptroller to make a determination of cause for each refund issued, requiring additional computer programming and tax processing system expenses. In addition, since the bill will result in additional refunds issued, additional staff may be required to process the returns.

Additional Information

Prior Introductions: None.

Cross File: SB 100 (Senator Kasemeyer) - Budget and Taxation.

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

Fiscal Note History: First Reader - February 5, 2013
ncs/jrb

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