

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

Senate Bill 430

(Senator Hogan, *et al.*)

Budget and Taxation

Ways and Means

Personal Property Tax - Refunds and Reports

This bill alters the process by which businesses may correct inaccurate personal property returns that were filed with the Department of Assessments and Taxation (DAT). The bill also provides that an exemption for manufacturing personal property may not be claimed with an amended return for prior years, unless the exemption already existed.

The bill is effective July 1, 2002 and provides that a person may file an amended report that was originally due on April 15, 1999 by April 15, 2003.

Fiscal Summary

State Effect: None. The change is procedural in nature and would not directly affect governmental finances.

Local Effect: Local government expenditures would decrease minimally, because they would not be required to pay interest on amended personal property tax reports.

Small Business Effect: Potential minimal decrease in interest earnings.

Analysis

Bill Summary: This bill provides that a person who files a personal property report and subsequently determines that information was incorrectly reported may file an amended report and receive a refund within three years after the April 15 that the original report was due. After reviewing the report, DAT may either issue a corrected assessment notice

or notify the person that the original assessment stands. That person may appeal the department determination.

The bill also clarifies that a local government must refund tax overpayments resulting from a corrected assessment issued by DAT. In addition, a municipality can pay a refund based on a revised personal property report within three years without interest if the refund is due to taxpayer error.

Current Law: In order to correct the prior filing of a personal property return with DAT, the property owner must appeal the assessment by submitting a petition for review within three years of the date of the notice of assessment. Under the terms of having an assessment reduced by means of an appeal, any refunded money paid to the taxpayer must provide for interest at the same rate that would have been charged if the taxes were overdue.

Background: DAT is responsible for assessing all personal property in the State. To accomplish that, the department requires all companies doing business in Maryland to file an annual personal property tax return by April 15. This report details the business' personal property located in the State. Personal property generally includes furniture, fixtures, equipment, machinery, tools, supplies, inventory, and any other property not classified as real property. Personal property is assessed based on the original cost less an annual depreciation allowance. After the department reviews the returns, assessment notices showing the assessed value of the properties are mailed to the businesses. Those values are also certified to each local government for taxation purposes. The State's personal property tax rate has been \$0 since 1984.

The only mechanism in place to correct previously filed personal property returns is to appeal the assessment. In calendar 2001, the department corrected 11,233 returns affecting fiscal 2001, 9,749 affecting fiscal 2000, and 4,033 affecting fiscal 1999. The department had allowed businesses to file back year petitions, including exemption claims, for three years. Corrected assessments are certified to the local governments, who have to refund overpayments including interest (typically 12% to 18%). If a property owner fails to file a personal property tax return, the department estimates the personal property at twice the value of the prior year. The owner then usually appeals the assessment and receives a refund including interest. That was the case in approximately 8,000 of the calendar 2001 adjustments.

During 2000, DAT's counsel advised that while the law allowed appeals for up to three years from the date of assessment, it limited a refund for an exemption claim to one year. The department has subsequently denied some back year exemption claims.

Local Fiscal Effect: This bill should not affect the total number of amended reports filed. Local governments will no longer be required to pay interest on refunds resulting from taxpayer error. Consequently, local government expenditures for interest payments would decrease.

The actual local government expenditure reduction would depend on the number of corrected reports filed, the amount of the refund, and the applicable local government's interest rate. However, the decrease is expected to be minimal.

Additional Information

Prior Introductions: None.

Cross File: HB 386 (Delegate Bozman, *et al.*) – Ways and Means.

Information Source(s): Department of Assessments and Taxation, Baltimore City, Montgomery County, Prince George's County, Department of Legislative Services

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