

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 1044
Ways and Means

(Delegate Conway, *et al.*)

Budget and Taxation

Vessel Excise Tax - Amnesty for Unpaid Taxes

This bill requires the Secretary of Natural Resources to declare an amnesty period for delinquent taxpayers from September 1, 2002 through October 31, 2002 for penalties attributable to the nonreporting, underreporting, and nonpayment of vessel excise tax liability. The bill increases misdemeanor penalties for violations relating to the collection and remittance of the vessel excise tax from \$5,000 to \$10,000, effective at the end of the amnesty period (November 1). The Secretary of Natural Resources must report to the Governor and the General Assembly by March 15, 2003 on the revenues raised under the amnesty program and other matters relating to the program.

The bill takes effect July 1, 2002.

Fiscal Summary

State Effect: Potential significant increase in special fund revenues in FY 2003 only. The Department of Natural Resources (DNR) could handle the bill's requirements with existing budgeted resources.

Local Effect: The bill's enhanced criminal penalty provision is not anticipated to significantly affect local revenues. Local jurisdictions receive grants from the Waterway Improvement Fund; accordingly, to the extent revenues to that fund increase, local grant revenues could increase.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires the Secretary to waive all civil penalties (except previously assessed fraud penalties) attributable to taxes paid during the amnesty period imposed against a taxpayer who:

- on or before December 31, 2001, failed to pay the vessel excise tax; and
- during the amnesty period, pays the tax due, including all interest.

A taxpayer may not be charged with a criminal tax offense arising out of any tax paid during the amnesty period if the taxpayer, in accordance with the bill, pays any tax previously due, including all interest, during the amnesty period. The amnesty from criminal charges does not apply to any criminal charges pending in the courts of the State or any criminal charges under investigation by an office with constitutional authority to prosecute a person for violation of criminal laws.

The revenue generated under the bill must be distributed in accordance with the State Boat Act.

Current Law: Except under specified conditions, an excise tax is levied at the rate of 5% of the fair market value of a vessel on: (1) the issuance of every original certificate of title required for a vessel; (2) the issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel; (3) the sale within the State of every other vessel; and (4) the possession within the State of a vessel purchased outside the State to be used principally in the State. If a person obligated to pay the tax fails to pay the tax when due, DNR must assess against the person a penalty of 10% plus interest at the rate of 1.5% per month or fraction of a month from the time the tax was due until paid. This penalty and interest may be waived under specified conditions. If the failure to pay the tax is due to an attempt to defraud, then the penalty is 100% of the tax due plus interest at the rate of 1.5% per month or fraction of a month from the time due until paid. Except for \$225,000 of the amount collected in vessel excise taxes, which is credited to the general fund, revenues from excise taxes, penalties, and interest are paid into the Waterway Improvement Fund.

Except for specified exemptions, the State Boat Act provides that the Waterway Improvement Fund may be used solely for the following projects: (1) marking channels and harbors and establishing aids to navigation in cooperation with and as an extension of operations of the U.S. Coast Guard; (2) clearing debris, aquatic vegetation, and obstruction from waters of the State; (3) dredging channels and harbors and construction of jetties and breakwaters in cooperation with and as an extension of operations of the U.S. Army Corps of Engineers; (4) constructing and maintaining marine facilities

beneficial to the boating public; (5) improvement, reconstruction, or removal of bridges, drawbridges, or similar structures over or across waters, if those structures delay, impede, or obstruct the boating public; (6) evaluation of water-oriented recreation needs and recreational capacities of Maryland waterways and development of comprehensive plans for waterway improvements; (7) to provide matching grants to local governments for the construction of marine facilities for marine firefighting, marine police, or medical services and for the acquisition of vessels and equipment for vessels for those purposes; (8) structural and nonstructural shore erosion control; (9) acquisition of equipment and State vessels for firefighting, policing, first aid and medical assistance, and communications, in order to promote safety of life and property and general service to the boating public utilizing waters of the State; (10) boating information and education; and (11) to provide interest-free loans to a governing body for specified dredging.

Background: The revenues generated from the vessel excise tax depend largely on boat sales, which vary from year to year. Excise tax collections have increased from a low of about \$10.9 million in fiscal 1993 to about \$23.6 million in fiscal 2001. DNR advises that it does not know the extent to which some vessel owners (primarily those who bring boats into Maryland from other states) have not paid the excise tax on boats principally used in the State. The Natural Resources Police, Boat Tax Enforcement Program attempts to identify those individuals who are delinquent in vessel excise tax payments. To the extent that a vessel owner has been identified as not having paid the tax, DNR sends the individual an assessment indicating the amount of tax and interest owed.

State Revenues: DNR advises that it has identified \$1.9 million in unpaid vessel excise taxes (including interest) for taxes owed through December 31, 2001. This amount reflects approximately 300 cases of unpaid vessel excise taxes. Those who owe taxes have received an assessment from DNR indicating the amount owed. If all delinquent taxpayers that have been identified by DNR were to pay the amount owed (including interest) during the two-month amnesty period, special fund revenues would increase by \$1.9 million in fiscal 2003. Of course, some delinquent taxpayers will pay the amount owed regardless of the establishment of an amnesty program. In addition, the extent to which delinquent taxpayers will avail themselves of the amnesty program cannot be predicted. Accordingly, a reliable estimate of the actual increase in special fund revenues that will occur as a result of the amnesty program cannot be made at this time.

Because the bill waives all civil penalties attributable to taxes paid during the amnesty period, special fund revenues that would otherwise be collected in penalties would be foregone under the amnesty program (except those previously assessed for fraud). The bill's enhanced criminal penalty provision is not expected to significantly affect State revenues.

Additional Comments: The proposed Budget Reconciliation Act of 2002 (SB 323/HB 424) would transfer \$8 million from the Waterway Improvement Fund to the general fund in fiscal 2002. DNR plans to cancel \$4 million worth of projects if the transfer is made.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Comptroller's Office (Bureau of Revenue Estimates), Department of Legislative Services

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