

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 214

(Chairman, Judiciary Committee)

(By Request – Departmental – Comptroller)

Judiciary

Judicial Proceedings

**Criminal Law - Sales and Use Tax and Admissions and Amusement Tax
Offenses - Statute of Limitations**

This departmental bill extends the limitation period for prosecution of misdemeanor offenses related to: (1) the sales and use tax; and (2) the admissions and amusement tax from one year to three years.

Fiscal Summary

State Effect: To the extent the bill allows increased prosecutions and/or encourages increased voluntary compliance with the sales and use tax provisions, State revenues could increase. The amount of such increase cannot be reliably estimated at this time, but is assumed to be minimal. This increase likely more than offsets any potential minimal increase in general fund expenditures associated with any additional prosecutions.

Local Effect: To the extent the bill allows increased prosecutions and/or encourages increased voluntary compliance with the admissions and amusement tax provisions, local revenues could increase. The amount of such increase cannot be reliably estimated at this time, but is assumed to be minimal. This increase likely more than offsets any potential minimal increase in general fund expenditures associated with any additional prosecutions.

Small Business Effect: The Comptroller's Office has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: Prosecution of offenses with respect to the sales and use tax and the admissions and amusement tax must be instituted within one year after the offense was committed. The Tax General Article contains several criminal provisions relating to failure to pay the sales and use tax and the admissions and amusement tax. For example, failure to pay the admissions and amusement tax is a misdemeanor; the violator is subject to a fine not exceeding \$500 or imprisonment not exceeding six months or both. Failure to collect or pay over the sales and use tax is also a misdemeanor; the violator is subject to a fine not exceeding \$5,000 or imprisonment not exceeding five years or both. These criminal penalties are in addition to the violator being subject to judgment for the amount of the nonpayment plus interest (of 13%) and penalties (of 10% to 25%) on the unpaid tax.

Background: The Comptroller's Office advises that the one-year period does not allow sufficient time to uncover and investigate alleged offenses. As a result, many offenses are not prosecuted because they are barred by statute. Prosecutions for offenses related to the financial institution, income, and motor fuel taxes are subject to a three-year limitation period, under an exception to the general rule requiring prosecution of misdemeanors within one year.

State Fiscal Effect: General fund revenues could increase minimally as a result of additional cases and from increased voluntary compliance with the sales and use tax provisions. The Comptroller's Office advises that it prosecuted one case in 2002, one in 2001, and none for the prior three years. The limited number of prosecutions is attributable to the short limitation period. On the other hand, the number of prosecutions under the bill is not likely to increase significantly because it is assumed that the vast majority of taxpayers who could be subject to a criminal prosecution will settle with the Comptroller prior to prosecution. The credible threat of prosecution, however, may encourage more taxpayers to settle, and for higher amounts, resulting in potentially higher tax revenues.

General fund expenditures could increase minimally as a result of the bill's extension of the limitation period due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of additional people convicted of any of these offenses is expected to be minimal.

Local Revenues: Revenues could increase minimally as a result of additional cases heard in the circuit courts and from increased voluntary compliance with the admissions and amusement tax.

Local Expenditures: Local incarceration expenditures could increase minimally as a result of the bill's extension of the limitation period.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 10, 2003
ncs/cer

Analysis by: Matthew D. Riven

Direct Inquiries to:
(410) 946-5510
(301) 970-5510