SB 175

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 175 (Senator Mooney)
Budget and Taxation Ways and Means

Income Tax - Claims for Refunds

This bill allows a claim for refund or credit for overpayment of income tax attributable to a right to a reduction in a person's Maryland income tax that is established by a decision of an administrative board, or by an appeal of such a decision, to be filed within one year after the date of a final decision of the administrative board or of the highest court to which an appeal of a final decision of the administrative board is taken.

The bill also provides that a claim for refund or credit for overpayment of income tax filed on or after January 1, 2000, but prior to July 1, 2003, may not be denied on the basis of late filing of the claim if the claim is: (1) attributable to a right to a reduction in a person's Maryland income tax that is established by a decision of an administrative board or by an appeal of a decision of an administrative board; and (2) was filed within 18 months after the date of a final decision of the administrative board or of the highest court to which an appeal of a final decision of the administrative board was taken.

The bill takes effect July 1, 2003.

Fiscal Summary

State Effect: Minimal general fund and Transportation Trust Fund (TTF) revenue loss. No effect on expenditures.

Local Effect: Local government revenues could decrease due to refunds being issued to individuals or corporations.

Small Business Effect: None.

Analysis

Current Law: A taxpayer may file a claim for a refund within three years from the date the tax, interest, or penalty was paid. A taxpayer may not file a claim for a refund later than one year after a final decision of the highest court to which an appeal of a final decision of an administrative board is taken.

Background: Internal Revenue Code rules allow a taxpayer to file a claim for a credit or refund of a tax overpayment paid by return provided that the claim is filed within the later of: (1) three years from the date the return was filed (or due date if filed earlier); or (2) two years from the date the tax was paid. If a return was not filed, the claim must be filed within two years from when the tax was paid. Under specified circumstances such as those involving a taxpayer's physical or mental impairment, overpayment resulting from bad debt, or overpayment of foreign taxes, the refund claim period may be extended.

This bill is the result of two cases that have been under review by the Comptroller where taxpayers filed for a refund after the three-year period due to a dispute of their residency status.

State Fiscal Effect: The Comptroller indicates that only a few cases of this type occur each year. Credits taken on personal income tax returns will reduce general fund revenues in the amount of the credits. Because 75% of all corporate income tax revenues are distributed to the general fund and 25% are distributed to the TTF, credits taken on corporate income tax returns will reduce general fund revenues by 75% of the amount of the credits taken, and TTF revenues will be reduced by 25% of the credits taken. In addition, 30% of the 25% of revenue distributed to the TTF is distributed to local governments. Credits taken against the insurance premiums tax will reduce general fund revenues. At this time, the number of credits expected to be claimed on personal or corporate income tax returns cannot be reliably estimated. The only cases to date have involved individuals, but to the extent that corporations are affected in the future, both general fund and TTF revenues would decrease. Revenues are not expected to decrease significantly as a result of the bill. The current amount of refunds that would be paid as a result of the bill is less than $10,000. The annual revenue loss would depend on the number and amount of refunds issued each year.

Additional Information

Prior Introductions: This bill was introduced as SB 38 in the 2002 session. It was vetoed by the Governor for tax policy reasons. It was also introduced as SB 344 in the 2001 session, and was vetoed by the Governor for tax policy reasons.

Cross File: None.

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

Fiscal Note History: First Reader - February 7, 2003
mld/mdr Revised - Correction - February 11, 2003

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