

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 77

(Chairman, Finance Committee)

(By Request – Departmental – Comptroller)

Finance

Office of the Comptroller - Subpoenas Served on Financial Institutions

This departmental bill allows the Comptroller's Office to issue a subpoena on a fiduciary institution in order to access the financial records of a person whose name is unknown to the Comptroller. The subpoena must contain certification that the person's name is unknown to the Comptroller.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to increased recovery of incorrectly routed tax refunds. No effect on expenditures.

Local Effect: Minimal increase in local government revenues due to increased local income tax distributions. Local expenditures are not affected.

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: Fiduciary institutions may disclose financial records or information from these records only in compliance with a subpoena served on the institution if the subpoena contains certification that either (1) a copy of the subpoena has been served on the person whose records are sought; or (2) service has been waived by a court.

Background: Tax refunds can be paid to the wrong account due to error by the taxpayer, Comptroller, or financial institution. Under current law, if a tax refund is deposited to the wrong account, the financial institution cannot provide financial records to answer a subpoena unless the person whose records are sought has been notified or a court has determined there is good cause for not notifying the person. Since the Comptroller does not know the identity of the person whose records are being sought, the Comptroller must obtain a court order requesting financial institutions to provide the financial records. The Comptroller's Office advises that having the ability to subpoena the financial institutions in these circumstances would enable the Comptroller to recover the improperly sent tax refund faster and more efficiently.

According to the Comptroller's Office, in calendar 2003, 190 taxpayers with total refunds of \$164,942 notified the Comptroller's Office that their tax refunds were not received. One hundred seventy-six of the refunds were eventually recovered. Fourteen refunds, totaling \$11,230, were not recovered.

State Revenues: General fund revenues could potentially increase minimally in fiscal 2006 due to increased recovery of improperly routed tax refunds. Given the projected increase in electronic tax filing, the increase in general fund revenues could increase in future years but will remain minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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Analysis by: Robert J. Rehrmann

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