

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 94 (Chairman, Budget and Taxation Committee)
(By Request – Departmental – Comptroller)

Budget and Taxation

Ways and Means

Income Tax - Withholding - Annual Statements

This departmental bill requires employers or payors of payments subject to State withholding taxes to submit required withholding tax information on magnetic media or in other machine-readable form or electronic format that the Comptroller requires if the employer or payor submits to the Comptroller: • 150 or more statements in 2006; or • 100 or more in 2007 and beyond. If at any time the employee or payor is subject to a lower threshold for federal income tax reporting purposes, the federal threshold applies for State withholding tax reporting requirements. Any payor of a payment subject to State withholding taxes is subject to these requirements and not just payors of gambling winnings as specified in current law. The Comptroller's Office is required to adopt regulations that establish a process for employers or payors to request a waiver from these requirements.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: Minimal increase in general fund revenues due to increased efficiency in tax processing and enforcement activities at the Comptroller's Office in FY 2007 and beyond. Potential minimal decrease in processing expenses at the Comptroller's Office in FY 2007 and beyond.

Local Effect: Minimal increase in local income tax revenues due to increased efficiency in tax processing and enforcement activities in FY 2007 and beyond.

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 as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: An employer or payor of gambling winnings required to withhold income taxes is required to submit a statement that shows for the previous calendar year: (1) the name of the employer or payor; (2) name of person receiving the winnings; (3) the total amount of the wages or payment; (4) total amount of tips reported by the employee; (5) total amount of income tax withheld; (6) any amount by which the income tax withheld on tips exceeds other net wages paid to the employee; and (7) any other information the Comptroller requires by regulation.

Two copies of this statement must be provided to the individual receiving the winnings by January 31 of each year and one copy must be provided to the Comptroller by February 28 of each year. The Comptroller may not require this statement to be submitted on magnetic tape or other machine-readable form unless the employer or payor is required to do so for federal income tax purposes.

Background: Section 6011 (e) of the Internal Revenue Code requires the Secretary of the U.S. Treasury to promulgate regulations specifying which statements must be filed in machine-readable form. The regulations must take into account the ability of the taxpayer to comply at a reasonable cost with the requirement and may not require any person to file statements on magnetic media unless the person is required to file at least 250 statements annually. Partnerships with more than 100 partners, however, are required to file returns in machine-readable form.

The Comptroller's Office currently receives required information regarding withholding taxes on the W-2 (wage and tax statements) and MW508 (Annual Employer Withholding Reconciliation Report) forms. In tax year 2004, 55,509 employers sent the forms electronically while 78,763 employers sent paper forms. The amount of withholding taxes reported on the MW508 is compared to the actual amount of withholdings paid by the employer during the tax year. Employers who paid less (more) withholding taxes than reported on the MW508 are billed (refunded) for any difference.

The Comptroller's Office advises that MW508s accompanied with checks are processed immediately. The process of reconciling electronically-filed MW508s begins as they are received. From about January 15 of each year the Comptroller's Office is processing personal income tax refunds and payments as they are received. After all returns received by April 15 are processed, which is usually accomplished in July, the

Comptroller's Office processes paper MW508s and sends out refunds or billing statements. This reconciliation typically is completed in October or November each year.

W-2 forms are used by the Comptroller's Office to settle tax disputes where wage and salary amounts reported by a taxpayer are in question and to respond to taxpayer queries. The Comptroller's Office advises that it lacks the resources to scan paper W-2 forms into an electronic format. This requires the Comptroller to expend time sifting through boxes in order to locate the paper W-2, delaying tax enforcement activities and taxpayer services.

State Fiscal Effect: General fund revenues could increase minimally in fiscal 2007 and beyond due to increased efficiencies in tax processing and enforcement activities. The Comptroller's Office advises that receiving additional withholding tax information electronically could allow it to allocate resources to sending additional MW508 reconciliation bills from January to April of each year, before all of its resources are devoted to processing paper income tax payments. General fund revenues could increase minimally on a one-time basis in fiscal 2007 due to MW508 reconciliation payments being received in fiscal 2007 instead of fiscal 2008. In addition, completing the processing of MW508s earlier each year could lead to increased efficiency in tax enforcement activities in fiscal 2007 and beyond due to the earlier identification of underreporting and underpayments. The Comptroller's Office was unable to provide an estimate on how much revenue is collected annually from MW508 reconciliation and how much quicker it anticipates completing MW508 processing if the bill were to pass.

Requiring additional withholding statements to be submitted electronically could potentially decrease tax processing expenditures at the Comptroller's Office minimally in fiscal 2007 and beyond.

Local Revenues: To the extent that additional income tax is collected, local government income tax revenues would also increase (by approximately 40% of the total collected) in fiscal 2007 and beyond.

Small Business Effect: This bill would require additional employers and payors of payments subject to State withholding to have the ability to submit withholding statements to the Comptroller's Office in a machine-readable or electronic format. The impact on any affected business is expected to be minimal and the bill would not apply to a small business that has less than 50 employees unless that business makes 100 payments annually that are subject to State tax withholding. The Division of Unemployment Insurance of the Department of Labor, Licensing, and Regulation (DLLR) currently requires that employers with more than 100 employees file quarterly wage information on magnetic tape or other approved magnetic media. In addition, the

Comptroller's Office can waive the requirements under the bill if the requirements would result in undue hardship. DLLR may also approve a request of an employer to report the information on a computer diskette. DLLR estimates that 60% of Maryland employers currently submit the required information on electronic media.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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