

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1248  
Ways and Means

(Delegate King, *et al.*)

Budget and Taxation

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**Tax - Filing Requirements for Employer Withholding Tax Returns**

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This bill allows an employer who withheld \$15,000 or more in the previous calendar year to file monthly if the employer is allowed to file monthly for federal withholding tax purposes.

The bill takes effect July 1, 2006 and applies to calendar 2007 and beyond.

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**Fiscal Summary**

**State Effect:** Minimal decrease in general fund revenues in FY 2007 and beyond due to decreased interest earnings. Expenditures would not be affected.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Employers remit withholding taxes for federal and State purposes based on the amount of taxes withheld as discussed below.

**Background:**

*State Withholding Requirements*

Based on the amount of taxes withheld, employers remit withholding taxes to the Comptroller monthly, quarterly, annually, or as accumulated (for the largest employers).

- **Annually:** If an employer expects to withhold less than \$250 in taxes in the calendar year, the employer must remit withholdings by January 31 of the year that follows the year in which the taxes were withheld.
- **Seasonally:** Employers who operate only during certain months and obtained prior approval from the Comptroller's Office can file seasonally.
- **Quarterly:** If an employer expects to withhold \$250 or more in taxes annually and less than \$700 in a calendar quarter, the employer must remit withholdings by the fifteenth day of the month following the calendar quarter in which the taxes were withheld.
- **Monthly:** If an employer expects to withhold \$700 or more in a calendar quarter, the employer must remit withholdings by the fifteenth day of the month following the month in which the taxes were withheld.
- **Within Three Business Days:** For employers that withheld more than \$15,000 or more in the preceding calendar year, withholdings must be remitted within three business days following each payroll that cause total accumulated withholdings to exceed \$699.

#### *Federal Tax Withholding Requirements*

Employers generally deposit withheld employment taxes either on a monthly or semi-weekly schedule. An employer's status as a monthly depositor or a semi-weekly depositor is known before the beginning of each calendar year and is determined annually, based on the employer's employment tax reporting history during a 12-month lookback period that ended the preceding June 30. The IRS notifies employers by November of each year which schedule they will follow for the upcoming year.

- **Monthly:** If an employer withheld \$50,000 or less during the lookback period, the employer must remit withholdings by the fifteenth day of the month following the month in which the taxes were withheld.
- **Semi-weekly:** If an employer withheld over \$50,000 during the lookback period, the employer must remit withholdings by the Wednesday after the payday, if the payday falls on a Wednesday, Thursday, or Friday. For all other paydays, the deposit is due by the Friday following payday. Whether monthly or semi-weekly, employers will always have at least three-banking days after the payday to make the deposit.
- **One-day:** Employers with \$100,000 or more of accumulated liability during a monthly or semi-weekly period are required to deposit by the first banking day after the \$100,000 threshold is reached.

The IRS recently released temporary and proposed regulations which reduce the filing burden on certain small businesses. Under the new rules, employers who are approved by the IRS and who estimate their annual employment tax liability to be \$1,000 or less can file on annual basis instead of quarterly.

### *Recent State Legislation*

In the last few sessions, several bills have been passed that have accelerated the requirements for remitting State withholding taxes. Chapter 203 of 2003 requires the largest employers to remit withholding taxes effectively after every payroll, rather than monthly as under prior law. Chapter 203 of 2003 also accelerates the due date for filing certain monthly and tax withholding returns from the last day to the fifteenth day of the month that follows the month in which the taxes were withheld. These changes are estimated to increase State tax revenues by approximately \$23.2 million in fiscal 2007.

Chapter 23 of 2004 requires employers to remit quarterly withholding returns on the fifteenth day following the quarter in which the taxes were withheld. This change is estimated to increase State tax revenues by approximately \$86,000 in fiscal 2007.

Chapter 5 of 2005 requires employers who withheld more than \$15,000 in the previous calendar year and currently have less than \$700 in accumulated withholdings to remit withholding taxes to the Comptroller on a monthly basis. This change is estimated to increase general fund revenues minimally in fiscal 2007.

**State Revenues:** The bill allows an employer who withheld \$15,000 or more in the previous calendar year to file on a monthly basis if the employer is allowed to file monthly for federal withholding tax purposes beginning in calendar 2007. Based on the federal and State requirements, the number of employers who are required to file on an accelerated basis under current State law and monthly for federal tax purposes is expected to be minimal, resulting in a minimal decrease in general fund revenues in fiscal 2007 and beyond due to decreased interest earnings.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, Internal Revenue Service, Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2006  
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