HB 1143

Department of Legislative Services

Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1143 (Delegate Barve)
Ways and Means Budget and Taxation

Income Tax Withholding - Nonresident Contractors

This bill repeals the requirement that any person doing business with a nonresident contractor under a contract for $50,000 or more must withhold payment of 3% of the contract price until the contract is complete and the Comptroller has issued a tax clearance certificate.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: General fund revenues would decrease by $346,600 in FY 2008. Future years reflect 4% growth. General fund expenditures would decrease by $143,300. Future years reflect inflation and the elimination of ongoing operating costs.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	($346,600)	($360,500)	($374,900)	($389,900)	($405,500)
GF Expenditure	(143,300)	(144,100)	(147,600)	(157,900)	(165,600)
Net Effect	($203,300)	($216,400)	($227,300)	($232,000)	($239,900)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local income tax revenues would decrease minimally in FY 2008 and beyond as a result of less withholdings tax liabilities being collected. No effect on expenditures.

Small Business Effect: Minimal.

Analysis

Current Law: The Budget and Reconciliation and Financing Act (BRFA) of 2003 (Chapter 203) included numerous tax compliance measures, including the requirement that any person doing business with a nonresident contractor under a contract for $50,000 or more must withhold payment of 3% of the contract price until the contract is complete and the Comptroller has issued a tax clearance certificate. These withholding requirements do not apply to:

- improvements of residential property that the owner occupies or intends to occupy; or
- contracts for the improvement of real property where the value of the improvement is less than $500,000 or a subcontract under a contract for improvements of real property of less than $500,000.

Background: Under the tax compliance program, 3% of payments made to nonresident contractors are withheld unless the Comptroller's Office certifies that the nonresident contractor does not have any outstanding withholding and sales and use tax liabilities and has properly paid the State sales and use tax on all materials used in the building project. Some of the money withheld is returned by the Comptroller because either the nonresident contractor did not have any outstanding liabilities but neglected to obtain tax clearance or the amount withheld was greater than the outstanding tax liability. In addition to the amount withheld, the Comptroller's Office has audited companies and individuals for compliance. If an audit determines that the individual or company did not withhold when required, the Comptroller's Office will assess the individual or company for 3% of the contract. In order to satisfy the assessment, the assessee either has to prove that the nonresident contractor did not have any outstanding liabilities and properly paid any State sales tax for materials or must pay the assessment. **Exhibit 1** lists the amount that has been withheld and assessed under the program.

Exhibit 1
Nonresident Contracts Amount Withheld and Assessed
Fiscal 2004 through 2006

	Amount Withheld	Assessments	Total
2004	$78,955	$0	$78,955
2005	302,888	73,057	375,945
2006	562,966	389,998	952,964

State Revenues: Repealing the tax compliance program effective July 1, 2007 would decrease general fund revenues by $346,600 in fiscal 2008. This estimate is based on the following facts and assumptions:

- one-half of the amount withheld is retained by the Comptroller's Office, applied to outstanding tax liabilities, and would not have been otherwise collected; and
- 10% of the amount assessed by the Comptroller's Office is ultimately collected that otherwise would not have been collected.

State Expenditures: The Comptroller's Office advises that three positions are currently used to support the program, one part-time employee, one contractual employee, and one full-time employee who devotes three-fourth's of the individual's time to the program. An additional minimal amount of expenses are incurred due to appeals hearings and occasional audit support. As a result, general fund expenditures would decrease by $143,300 in fiscal 2008 if the tax compliance program was terminated.

The Comptroller's Office advises that if the positions were not eliminated, it would reassign them to other auditing duties, with each full-time auditor typically collecting between $400,000 to $700,000 annually in unpaid taxes.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 21, 2007
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