

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

Senate Bill 493

(Senator Frosh)

Budget and Taxation

Ways and Means

Lawyers - Payment of Taxes and Unemployment Insurance Contributions

This bill repeals the requirement that the Client Protection Fund verify through the Comptroller’s Office that a lawyer has paid or has entered into an accepted payment plan for all undisputed taxes and unemployment insurance contributions before certifying as paid any annual fee paid by a lawyer.

The bill instead requires that the fund provide the Comptroller a list of lawyers who have paid annual fees to the fund each year and provides that the Comptroller may refer a lawyer to the Bar Counsel if the individual does not make payment or payment arrangements on the undisputed past due tax and unemployment insurance contribution amounts.

The bill takes effect June 1, 2008.

Fiscal Summary

State Effect: General fund revenues would decrease \$1.0 million annually in FY 2009 and FY 2010 and \$750,000 annually beginning in FY 2011 due to decreased tax revenue collections. Expenditures would not be affected.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	(\$1,000,000)	(\$1,000,000)	(\$750,000)	(\$750,000)	(\$750,000)
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$1,000,000)	(\$1,000,000)	(\$750,000)	(\$750,000)	(\$750,000)

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

Local Effect: Local income tax revenues would decrease beginning in FY 2009 as a result of decreased delinquent tax collections from attorneys. Local highway user revenues distributed from the corporate income tax and sales tax and local revenues from

the admissions and amusement tax could decrease minimally beginning in FY 2009. Expenditures would not be affected.

Small Business Effect: None.

Analysis

Current Law: The Budget Reconciliation Act of 2003 (Chapter 203 of 2003, BRFA of 2003) required that, before various licenses or permits may be renewed, the issuing authority must verify through the Comptroller's Office that the applicant has paid all undisputed taxes and unemployment insurance contributions or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection. Covered licenses and permits include those governing business occupations and professions, regulated industries, natural resources and environment, health occupations, other licenses granted by the Comptroller, and certain motor vehicle licenses and permits (but not motor vehicle registrations or driver's licenses). The BRFA of 2005 extended these tax clearance requirements to insurance business licenses.

Chapter 3 of the 2007 special session extended these requirements to lawyers. Chapter 3 requires the Client Protection Fund of the Bar of Maryland to verify through the Comptroller's Office that the applicant has paid all undisputed taxes and unemployment insurance contributions or has entered into an accepted payment plan before certifying as paid any annual fee paid by a lawyer.

The fund is also required by August 31 of each year to provide the State Department of Assessments and Taxation a list of lawyers who have paid an annual fee during the previous fiscal year to assist the department in identifying new businesses within the State. The list must include for each person on the list (1) the name and mailing address of the person; and (2) the federal tax identification number of the person or, if the person does not have a federal tax identification number, the Social Security number of the individual.

Background: The Client Protection Fund of the Bar of Maryland, created in 1965, reimburses claimants for losses caused by theft of funds by members of the Maryland Bar, acting either as attorneys or as fiduciaries. About 33,000 lawyers pay annual fees to support the fund.

Through May 2007 the Comptroller's Office received \$166.4 million in delinquent tax collections under the business license tax clearance program. In the last two years, about \$55 million has been collected annually. In these two years, almost two-thirds of the revenues have been individual income tax or withholding payments, 30% from past due

sales tax, and corporate income tax comprising the majority of the rest (a minimal amount of admissions and amusement tax has been collected). The Department of Labor, Licensing, and Regulation estimates that the legislation has had a minimal impact on unemployment insurance contributions.

The Board of Revenue Estimates projects that extending tax clearance requirements to lawyers would increase revenues by \$1.0 million in both fiscal 2009 and \$1.5 million annually beginning in fiscal 2010.

State Revenues: The bill eliminates the current tax clearance requirement for lawyers and replaces it with the provision that the Comptroller may refer lawyers with unresolved tax delinquencies to the Maryland Bar Counsel. As a result, general fund revenues could decrease \$1.0 million in both fiscal 2009 and 2010 and \$750,000 annually beginning in fiscal 2011. This estimate is based on the following facts and assumptions:

- delinquent tax collections would, on average, be collected one year later than under current law; and
- one-half of revenues collected under current law would not be collected under the bill.

To the extent that tax compliance efforts are degraded by a higher amount than estimated, revenue losses would be greater than estimated. The Comptroller's Office advises that the bill could potentially eliminate all the estimated revenue gains resulting from requiring tax clearance for lawyers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Comptroller's Office, Department of Legislative Services

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mll/hlb

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