

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 455

(Harford County Senators)

Budget and Taxation

Ways and Means

Personal Property Tax - Refunds and Reports - Interest

This bill authorizes a county to provide a personal property tax refund without interest within 180 days after the claim is approved if it is determined by the State Department of Assessments and Taxation that the refund is the result of a failure to file a specified report or other taxpayer error.

The bill takes effect June 1, 2008 and applies to all taxable years beginning after June 30, 2008.

Fiscal Summary

State Effect: None.

Local Effect: County expenditures would decrease by not paying interest on amended personal property tax reports. The amount could be significant depending on the tax refund.

Small Business Effect: Potential minimal.

Analysis

Current Law: Municipalities are authorized to provide a personal property tax refund without interest within three years after the claim is approved if it is determined by SDAT that the refund is the result of a failure to file a specified report or other taxpayer error.

Chapter 529 of 2002 altered the process by which businesses may correct inaccurate personal property returns that were filed with SDAT. Chapter 529 provided that a person who files a personal property report and subsequently determines that information was incorrectly reported may file an amended report and receive a refund within three years after the April 15 that the original report was due. After reviewing the report, SDAT may either issue a corrected assessment notice or notify the person that the original assessment stands. That person may appeal the department determination.

Chapter 529 also clarified that a local government must refund tax overpayments resulting from a corrected assessment issued by SDAT. In addition, a municipality can pay a refund based on a revised personal property report within three years without interest if the refund is due to taxpayer error.

Background: SDAT is responsible for assessing all personal property in the State. To accomplish that, the department requires all companies doing business in Maryland to file an annual personal property tax return by April 15. This report details the business' personal property located in the State. Personal property generally includes furniture, fixtures, equipment, machinery, tools, supplies, inventory, and any other property not classified as real property. Personal property is assessed based on the original cost less an annual depreciation allowance. After the department reviews the returns, assessment notices showing the assessed value of the properties are mailed to the businesses. Those values are also certified to each local government for taxation purposes. Local personal property tax rates vary by jurisdiction. The State has not imposed a personal property tax rate since 1984.

Local Fiscal Effect: This bill should not affect the total number of amended reports filed. County governments will no longer be required to pay interest on refunds resulting from taxpayer error. Consequently, county expenditures for interest payments would decrease. The actual reduction would depend on the number of corrected reports filed, the amount of the refund, and the applicable local government's interest rate. However, the amount could be significant as illustrated in a recent case involving Harford County.

An April 2007 opinion by the Court of Special Appeals affirmed a ruling by the Court of Appeals in the case of *Harford County, Maryland v. Saks Fifth Avenue Distribution Company* (September 2005) that Harford County was required to refund a tax overpayment with interest even though the overpayment was due to taxpayer error. The court also remanded the case to the Harford County Circuit Court for further proceeding consistent with the ruling. The court case resulted from the overpayment of personal property taxes by Saks over a three-year period, 1998 through 2000. According to the

court brief, Saks alleged that the county owed the company over \$300,000 in interest from the tax refund.

Additional Information

Prior Introductions: None.

Cross File: HB 429 (Harford County Delegation) – Ways and Means.

Information Source(s): State Department of Assessments and Taxation, Frederick County, Harford County, Montgomery County, Prince George’s County, Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2008
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