

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 810

(Delegate Heller, *et al.*) (Chair, Joint Committee on the Management of Public Funds)

Ways and Means

Budget and Taxation

Income Tax - Mandatory Income Tax Return Preparer Requirements

This bill requires income tax return preparers who prepare more than a specified number of State income tax returns each tax year to file the returns electronically. The bill authorizes the Comptroller’s Office to impose a \$50 penalty on any tax professional who fails to file an electronic return as required by the bill and exempts a tax professional from the requirements of the bill under specified circumstances.

The bill takes effect July 1, 2009 and applies to tax year 2009 and beyond.

Fiscal Summary

State Effect: General fund expenditures decrease by \$155,000 in FY 2010. Future year expenditures reflect the estimated number of affected returns and inflation. The proposed State budget assumes the implementation of the bill will decrease general fund expenditures by \$338,000 in FY 2010. Potential minimal increase in general fund revenues due to the bill’s penalty provisions.

| (in dollars) | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| GF Revenue | - | - | - | - | - |
| GF Expenditure | (\$155,000) | (\$304,300) | (\$370,900) | (\$365,300) | (\$358,400) |
| Net Effect | \$155,000 | \$304,300 | \$370,900 | \$365,300 | \$358,400 |

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill requires an income tax return preparer who for compensation prepares more than 300 income tax returns in tax year 2009, more than 200 in tax year 2010, and more than 100 returns in any tax year after 2010 to file the returns electronically. The Comptroller's Office is given the authority to grant a waiver from this requirement if it would cause undue hardship as evidenced in a written request submitted to the Comptroller's Office. The bill also exempts any tax return from the electronic mandate if the taxpayer indicates he/she does not wish to file an electronic return. The Comptroller's Office is authorized to impose a penalty of \$50 if an income tax return preparer fails to file an electronic return as required by the bill. The total amount of penalties assessed on a tax preparer may not exceed \$500 for any tax year.

Current Law: Income tax preparers are not required to file State income tax returns electronically. An individual, regardless of whether or not a tax preparer, who files an electronic return by April 15 and pays the amount due electronically, can pay the amount due the later of April 30 or to the date an electronic return is due for federal income tax purposes. Individuals who file a paper return are required to file and to remit any amount due the later of April 15 or the date the return is due for federal income tax purposes.

Background: According to the Federation of Tax Administrators, less than one-half of states that impose an income tax including the surrounding states of New Jersey, Virginia, and West Virginia have some type of requirements mandating the electronic filing of returns or the use of software that produces tax returns with 2D barcodes. The Comptroller's Office advises that paper income tax returns are more time consuming and more expensive to process and impose additional storage and data capture costs compared to electronic returns. In 2008 about 1.2 million income tax returns or 44% of all returns were paper returns. About 99% of all paper returns were processed within 22 business days whereas 96% of all electronic returns were processed within 4 business days.

State Fiscal Effect: General fund expenditures decrease by \$155,000 in fiscal 2010 and by \$358,400 in fiscal 2014. General fund revenues could increase minimally in fiscal 2010 and beyond due to the bill's penalty provisions. This estimate is based on the following facts and assumptions:

- A total of 1.2 million paper returns were filed in tax year 2008 and the Comptroller's Office estimates that 1.1 million paper returns will be filed in tax year 2009.
- The Comptroller's Office estimates that it will pay temporary employees \$1.1 million in fiscal 2010 in order to process all paper tax returns.

- The Comptroller's Office estimates that 9% of all tax year 2007 paper returns are process by preparers who process more than 300 tax returns, 14% are processed by preparers who process more than 200 returns, and 22% are processed by preparers who process more than 100 returns.
- About 95% of all paper tax returns in each year are for the current tax year.
- About one-half of all paper tax returns are due a refund. Each refund check costs the Comptroller an estimated \$0.49 to process in fiscal 2010.
- Increased electronic filing will reduce supplies and image and system support and maintenance costs at the Comptroller's Office by \$109,000 in fiscal 2010.
- Paper income tax processing expenditures increase by about 3% per return.

Legislative Services advises that individuals who have their tax returns filed electronically as a result of the bill would have their refunds paid quicker and could opt to pay any amount due later as provided under current law. Based on current interest rates, the loss in interest earnings due to these timing issues would be negligible. Revenue losses will increase in future years as interest rates are forecasted to increase but are still expected to be minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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