

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 555

(Senator Conway)

Education, Health, and Environmental Affairs

Economic Matters

Business Occupations and Professions - Individual Tax Preparers - Examination Requirements

This bill repeals the requirement that the examination administered by the State Board of Individual Tax Preparers may not be less stringent than the Individuals section of the Special Enrollment Examination for enrolled agents.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: None. DLLR advises that the board's exam development expenditures are unchanged by the bill.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law/Background:

Maryland Individual Tax Preparers Act Requirements

Chapter 623 of 2008 (the Maryland Individual Tax Preparers Act) established the State Board of Individual Tax Preparers. According to DLLR, Chapter 623 has not been implemented because the necessary staff and corresponding funds have not yet been authorized to create the board. However, the Governor's proposed fiscal 2011 budget includes a \$201,611 special fund appropriation to implement the Act.

Individuals are required to register with the board before providing individual tax preparation services in the State. Registration is valid for two years; a continuing education requirement must be fulfilled for renewal. To qualify, an individual must be a high school graduate, pay a registration fee, and pass an examination that is not less stringent than the Individuals section of the Special Enrollment Examination prepared by the U.S. Internal Revenue Service (IRS) for enrolled agents.

Chapter 623 requires the board to grant a waiver of the examination requirements for registration to any individual who has at least 15 consecutive years of individual tax preparation experience; completes at least eight hours of annual continuing education; and is in good standing with IRS, DLLR, the Office of the Comptroller, and the Office of the Attorney General. In fiscal 2011, DLLR expects to open registration only to individuals who are exempted from the examination requirements. Typically, when licensure or registration is established for a profession, the first to register are individuals who meet the requirements for exemption. However, to encourage them to be in compliance, DLLR limits the timeframe to register without taking the exam; this is referred to as a “grandfathering window.” DLLR anticipates that the registration fee revenue collected from those who are eligible for exemption is equal to or greater than the fiscal 2011 special fund appropriation.

Federal Government Plans Greater Oversight of Individual Tax Preparers

IRS plans to increase federal oversight of individual tax preparers beginning this year. According to IRS, more than 80% of American households use a tax preparer or tax software to assist with preparing and filing taxes. IRS advises that higher standards for the tax preparation community enhances protections and service for taxpayers, increases confidence in the tax system, and results in greater compliance with tax laws. IRS plans to expand its oversight of tax preparers by (1) requiring all paid tax preparers to register with IRS and obtain an identification number; (2) requiring competency tests and ongoing continuing education for all paid tax return preparers, except for members of certain professions, such as attorneys, certified public accountants (CPAs), or enrolled agents; and (3) extending the ethical rules that apply to attorneys and CPAs to all paid preparers.

DLLR advises that it expects federal regulations to be issued within the next year pertaining to the work of individual tax preparers. The regulations are important in determining the extent to which implementation of the Maryland Individual Tax Preparers Act will be affected. According to DLLR, some degree of preemption is expected and the scope and content of the federal licensing examination will have a significant impact on board decisions relating to the substance of the examination required for registration. Nevertheless, because a significant number of applicants are exempted from taking the State examination, DLLR advises that the federal regulations

should not inhibit the board from collecting sufficient revenue to cover the fiscal 2011 appropriation.

Additional Information

Prior Introductions: None.

Cross File: HB 873 (Delegate Davis) - Economic Matters.

Information Source(s): Maryland Higher Education Commission; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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