

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 34 (Delegate McDermott)
Ways and Means

**Income Tax Return Preparers - False Returns or Claims for Refund - Statute of
Limitations**

This bill establishes that an income tax preparer who violates the State's prohibition on preparing a false income tax return or a false claim for a refund may be prosecuted at any time for the violation.

The bill applies prospectively to income tax returns or claims for refunds filed on or after the bill's October 1, 2014 effective date.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from monetary penalties imposed in criminal cases prosecuted under the extended statute of limitations. Minimal increase in general fund revenues from tax returns adjusted as a result of investigations conducted pursuant to the extended statute of limitations. Potential minimal increase in general fund expenditures from incarceration penalties imposed in convictions secured as a result of the bill's extension of the statute of limitations for this offense. However, any fiscal impact from the bill does not occur until FY 2018.

Local Effect: Potential minimal increase in local revenues and expenditures starting in FY 2018 from additional convictions resulting from the bill's extension of the statute of limitations for this offense.

Small Business Effect: None.

Analysis

Current Law: In general, a prosecution for a misdemeanor must be instituted within one year after the offense was committed. However, if a statute provides that a misdemeanor is punishable by imprisonment in the penitentiary, or that a person is subject to § 5-106(b) of the Courts and Judicial Proceedings Article, the State may institute a prosecution for the misdemeanor at any time.

An income tax return preparer who willfully prepares, assists in preparing, or causes the preparation of a false income tax return or claim for refund with fraudulent intent or the intent to evade income tax is guilty of a misdemeanor. Violators are subject to imprisonment for up to five years and/or a \$10,000 maximum fine. A prosecution for this offense must be instituted within three years after the date on which the offense was committed.

Background: According to the Administrative Office of the Courts, the District Court did not handle any cases involving the preparation of a false tax return by an income tax preparer during fiscal 2012. According to the Maryland Sentencing Guidelines database, there were no convictions for this offense in the State's circuit courts during fiscal 2013 and five convictions for this offense in the State's circuit courts during fiscal 2012. Four of the convictions in fiscal 2012 were attributable to one individual.

Additional Information

Prior Introductions: HB 967 of 2013 received a hearing in the House Ways and Means Committee. No further action was taken on the bill.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; State's Attorneys' Association; Department of Legislative Services

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ncs/kdm

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