

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 39
Budget and Taxation

(Senator Young)

Back Taxes - No Penalty, No Interest

This bill prohibits State agencies and local governments from assessing interest for a failure to pay or underpayment of specified taxes unless the tax collector assesses a penalty for failure to pay the tax.

Fiscal Summary

State Effect: To the extent State agencies are not assessing penalties when interest is assessed and do assess additional penalties as a result of the bill, State tax revenues may increase beginning in FY 2015. No effect on expenditures.

Local Effect: Local tax revenues may increase beginning in FY 2015, to the extent local governments receive additional penalties as a result of the bill. No effect on expenditures.

Small Business Effect: Minimal.

Analysis

Current Law: If a person (or governmental unit) fails to file a tax return a tax collector is required to mail a notice and demand for the required return. If a notice and demand for a return is made and the person or governmental unit fails to file the return, the tax collector (1) may compel the person to file the return and (2) is required to make an assessment of the estimated taxes due. A tax collector is also required to make an assessment against a person if upon examination or audit of a return the tax due exceeds the amount of taxes paid.

Under the Tax-General Article, a tax collector is defined as the person or governmental unit responsible for collecting a tax and includes the Comptroller's Office, the State Department of Assessments and Taxation (SDAT) with regard to the public service franchise tax, and the Register of Wills (inheritance tax).

In general a tax collector is required to assess interest from the due date of the tax to the date on which the tax is paid if a taxpayer fails to pay a tax due, fails to pay an installment when due, or pays an estimated amount that is less than certain thresholds. By October 1 of each year, the Comptroller must set the annual interest rate for tax refunds and monies owed to the State for the next calendar year at a rate equal to the greater of 13%, or three percentage points, above the average prime rate of interest in the previous fiscal year, based on information from the Federal Reserve Bank. Interest may not be assessed on penalties.

In general a tax collector is required to assess a penalty not exceeding (1) 10% of the unpaid tax when a return is not filed or tax not paid or (2) 25% of the amount of tax underpaid or underestimated. A tax collector is required to assess an additional penalty of 25% if a person does not comply with a notice and demand for a return.

For reasonable cause, a tax collector may waive interest and penalties assessed against a person.

State/Local Fiscal Effect: Under current law, State agencies and local governments that collect taxes (1) are required to assess both specified interest and penalties for failure to pay or underpayment of taxes and (2) may for reasonable cause waive the assessed interest and penalties. The bill prohibits State agencies and local governments from assessing interest unless the tax collector assesses a penalty for failure to pay the tax. To the extent State agencies and local governments are not assessing penalties when interest is assessed and do assess and collect additional penalties as a result of the bill, State tax revenues (general and special funds) may increase beginning in fiscal 2015.

Local tax revenues that may increase include local income tax revenues and local highway user revenues. Local property tax revenues are not affected.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Comptroller's Office, Maryland Association of Counties, Montgomery County, Baltimore City, Public Service Commission, Department of Legislative Services

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Analysis by: Robert J. Rehrmann

Direct Inquiries to:
(410) 946-5510
(301) 970-5510