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TAX AMNESTY: ROAD FUNDS

House Bill 4926 (Substitute H-1) First Analysis (6-24-97)

Sponsor: Rep. Nancy Quarles
Committee: Tax Policy

THE APPARENT PROBLEM:

One component of the House Democrat's \$423 million road funding package is a tax amnesty program modeled on the state's 1986 tax amnesty, which is said to have brought in about \$110 million. According to proponents of the proposal, of the \$1.38 billion in taxes owed to the state in unpaid taxes, some \$500 million is considered to be collectible. One way to get additional one-time revenue to use in addressing the state's critical road repair needs would be to engage in a new tax amnesty program for a limited period of time, with the promise of tougher penalties on tax cheats and tax avoiders thereafter.

THE CONTENT OF THE BILL:

The bill would amend the revenue act to create a tax amnesty program. Under the bill, the revenue commissioner would waive all criminal and civil penalties for failing or refusing to file a return, for failing to pay a tax, or for making an excessive claim for a refund, for taxes due before January 1, 1997, for taxpayers who made a written request for a waiver, filed a return or an amended return, and made full payment of the tax and interest, or partial payment under an installment plan. The taxpayer would have to do this after July 30, 1997, and before October 1, 1997. (The bill would apply to taxes administered by the Revenue Division of the Department of Treasury.) A taxpayer who failed during the amnesty period to file a return or pay a tax due before January 1, 1997 would be liable for an additional penalty equal to 25 percent of the tax due.

The bill also would increase the maximum penalty in the act for failing or refusing to file a return or pay a tax to 75 percent of the tax. Currently, the maximum is 50 percent of the tax.

The program would apply to the non-reporting and under-reporting of tax liabilities or to the nonpayment of taxes previously determined to be due, but only to the extent of the penalties attributable to the taxes that were due before January 1, 1997, and that were paid during the designated time period. It would not apply to any taxes due by the taxpayer that were under criminal

investigation or involved in a civil action or criminal prosecution. Revenues received under the program would be dedicated to the Michigan Transportation Fund, except for revenues otherwise dedicated by law.

The revenue commissioner would be required to administer the tax amnesty program. A taxpayer could pay by credit card or debit card (in addition to all forms of payment authorized). The commissioner could enter into an installment payment plan for tax payments. If the taxpayer fully complied with the installment plan executed with the Department of Treasury, all criminal and civil penalties would be waived. If the taxpayer did not fully comply, criminal and civil penalties would not be waived; the treasury department could collect the tax liability and impose penalties.

The bill would appropriate \$5 million from the revenue generated by the amnesty plan to the Department of Treasury for administration. The appropriation would be allotted for expenditure on the effective date of the bill. Any unencumbered funds could be carried over into the 1997-98 fiscal year. Only general purpose revenue generated by the amnesty program could be used to finance the appropriation.

MCL 205.24 and 205.31

BACKGROUND INFORMATION:

According to the executive summary of a July 1987 Department of Treasury report, the 1986 tax amnesty program generated \$109.8 million in taxes and interest from 128,000 returns filed by 75,000 individuals from May 12 to June 30 of that year. About 80 percent of the amnesty revenue came from three taxes: the income tax (33.2 percent), the single business tax (27.8 percent), and the use tax (18.9 percent). The summary says about \$69.4 million (63 percent of the total) was generated from original cases (\$44.6 million) and accounts receivable (\$24.8 million) that otherwise would not have been collected. Original cases are those that had not previously been known or assessed by the Department of Treasury. (The report itself provides a range of revenue that otherwise would not have been collected,

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with \$69.4 million the maximum.) The taxes that were part of the program were: individual income and withholding taxes; sales and use taxes; single business tax; intangibles tax; inheritance tax; excise taxes on aviation fuel, cigarettes, diesel fuel, gasoline, liquefied petroleum gas, marine fuel, and motor carrier diesel fuel; severance taxes; and the public utility property tax.

FISCAL IMPLICATIONS:

A preliminary estimate from the House Fiscal Agency is that the bill would generate \$100 million to \$150 million. About 75 percent of that would go to transportation funding. Also, about five to ten percent of the amount collected would represent a permanent increase in state tax collections. (6-23-97)

ARGUMENTS:

For:

The state's 1986 tax amnesty program brought in about \$110 million. Now, 11 years later, enough time has passed to justify a new program, with much of the money from this one-time infusion of revenue to go to road improvements. Proponents say other states have had success with second amnesties. Two states that had amnesties in 1996 (Rhode Island and New Jersey) reportedly collected far more the second time than from their amnesties in the 1980s. A tax amnesty program, coupled with tougher post-amnesty tax enforcement, has several benefits. Obviously, it brings in revenue that otherwise would not be forthcoming. But, advocates say, it also provides the opportunity for tax debtors to begin a cycle of voluntary compliance. In other words, amnesty programs not only bring in additional revenue in the short run but also produce more state tax revenue over time as the people who take advantage of the amnesty stay in the tax system. Third, an amnesty program reduces tax enforcement costs by quickly closing cases that otherwise could take considerable time and effort. An amnesty plan is not unfair to people who have been paying their taxes; on the contrary, it produces contributions from taxpayers who have not been paying their fair share, and brings them into the system. Compliant taxpayers should be pleased about this. And, the revenue collected can be used to benefit everyone. With the economy relatively healthy, this is a good time to launch a new amnesty program. It should be noted that the bill allows installment payments and credit card payments of overdue taxes.

Against:

This is a tax break for tax cheats. It is an affront to those who play by the rules. It also comes too soon after the last amnesty and, once over, could encourage some people to delay paying taxes in anticipation of yet another amnesty program in a few years. The last

amnesty program was sold as a once-in-a-lifetime sort of effort. What message does it send to do it all over again so soon? Current Department of Treasury officials say that nearly half of the taxes collected in the last amnesty were already under audit and would have been collected anyway (but instead were collected without penalties). Plus, a lot of the revenues that would come in under an amnesty program are earmarked for other purposes. This means whatever was collected would not be all new revenue and that it could not all be spent on roads. Further, the last amnesty was coupled with the introduction of new enforcement tools and systems, including increased penalties, all of which have been in place. Treasury officials say that the state has a better computer system for enforcement and shares more information with other states and the federal government than in the past. There has been discussion at the federal level of a federal tax amnesty program. If the state is to engage in a tax amnesty again, the time to do it would be in conjunction with a federal program.

POSITIONS:

There are no positions on the bill.

Analyst: C. Couch

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