Senate Fiscal Agency
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SFA BILL ANALYSIS

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Senate Bill 1158 (Substitute S-1 as reported by the Committee of the Whole)
House Bill 4942 (Substitute S-1 as reported by the Committee of the Whole)
House Bill 5313 (Substitute S-1 as reported by the Committee of the Whole)
Sponsors: Senator Glenn D. Steil (S.B. 1158)
Representative Penny Crissman (H.B. 4942)
Representative Kirk A. Profit (H.B. 5313)
Senate Committee: Finance
House Committee: Tax Policy (H.B. 4942 & 5313)

Date Completed: 6-4-98

RATIONALE

In 1993, a proposal was developed to address a substantial deficit predicted in the fiscal year (FY) 1992-93 budget. The proposal included four major methods: appropriations reductions; retirement adjustments; funding shifts; and revenue adjustments. As part of the revenue adjustments component, the State made changes to the way in which sales and use taxes were collected.

In general, under both the General Sales Tax Act and the Use Tax Act, taxes collected by businesses in one month are due on the 15th of the following month. This means that taxes collected in January are due February 15. Public Acts 17 and 18 of 1993, however, required businesses that collect large amounts of sales and use taxes to remit those taxes on an accelerated schedule. The Acts required a seller who had a use or sales tax liability in the previous year of $480,000 or more to remit, by the 18th of each month, an amount equal to 95% of the seller's liability for the same month of the previous year. (Subsequent amendments increased the threshold for accelerated payment to $720,000.) This action enabled the State to realize a significant improvement in its cash flow, thus allowing it to reduce borrowing. Since the State's budget deficit problems were resolved some time ago, it has been proposed that the current requirements for the accelerated payment of sales and use taxes be eased.

CONTENT

Senate Bill 1158 (S-1) and House Bill 4942 (S-1) would amend the General Sales Tax Act, and House Bill 5313 (S-1) would amend the Use Tax Act, to reduce the amount that a taxpayer, who is subject to the Acts' accelerated payment provisions, must prepay; alter the dates when payments are due; remove the cap on the collection allowance; and reduce the collection allowance. All the bills are tie-barred to each other.

Senate Bill 1158 (S-1)

The bill provides that beginning January 1, 1999, a taxpayer subject to the accelerated payment provisions (as proposed in House Bill 4942 (S-1)) could deduct from the tax paid .5% of the tax due at the rate of 4%.

Currently, under the General Sales Tax Act, a taxpayer subject to the accelerated tax payment provisions, who remits the tax by the 11th day of the month due, may deduct .75% of the tax due at a rate of 4% but not to exceed $20,000 of the tax due. (This is commonly known as the collection allowance.) The taxpayer may deduct .5% of the tax due at a rate of 4% but not to exceed $15,000 of the tax due, if the tax is remitted by the 18th day of the month. Under the bill, these provisions would apply until January 1, 1999.

House Bill 4942 (S-1)

The bill provides that, beginning January 1, 1999, a taxpayer who had a sales tax liability (after subtracting certain payments and credits) of $720,000 or more in the preceding calendar year would have to remit, by an electronic funds transfer method approved by the Revenue Commissioner, on or before the 15th day of the month, an amount equal to 50% of the taxpayer's liability for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported, whichever was less. The taxpayer also would have to make a reconciliation payment equal to the difference between the tax liability determined for the immediately preceding month and the amount of tax previously paid for that month. Further, the taxpayer would have to remit on or before the last day of the month, the lesser of an amount equal to 50% of the taxpayer's liability for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported.

House Bill 5313 (S-1)

The bill provides that, beginning January 1, 1999, a taxpayer who had a use tax liability (after subtracting certain payments and credits) of $720,000 or more in the preceding calendar year would have to remit, by the 15th day of the month, an amount equal to 50% of the taxpayer's liability for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported, whichever was less. The taxpayer also would have to make a reconciliation payment equal to the difference between the tax liability determined for the immediately preceding month and the amount of tax previously paid for that month. Further, the taxpayer would have to remit by the last day of the month, the lesser of an amount equal to 50% of the taxpayer's liability for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported.

Under the Use Tax Act, a taxpayer subject to the accelerated tax payment provisions, who remits the tax by the 11th day of the month due, may deduct .75% of the tax due at a rate of 4% but not to exceed $20,000 of the tax due. The taxpayer may deduct .5% of the tax due at a rate of 4% but not to exceed $15,000 of the tax due, if the tax is remitted by the 18th day of the month. Under the bill, beginning January 1, 1999, a taxpayer subject to the accelerated tax payment provisions could deduct from the tax paid .5% of the tax due at the rate of 4%.

MCL 205.54 (S.B. 1158)
205.56 (H.B. 4942)
205.94f & 205.96 (H.B. 5313)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The accelerated payment provisions of the sales tax and use tax were part of a proposal in 1993 to help the State eliminate a projected deficit in the FY 1992-93 budget. It was argued at the time that accelerating the collection of the taxes for those firms with the largest tax liabilities would improve the State's cash flow and help reduce borrowing costs.

It also was argued, however, that the accelerated payment requirement could place a burden on some businesses to which it applied, and this argument remains valid. By requiring payment by the 18th of the each month, based upon 95% of a firm's tax liability in the same month of the previous year, the law actually may force payment of a tax that the firm has not yet collected. This means that, if a firm is strapped for available cash in a particular month, it might have to borrow money to pay the tax. Further, basing current-year liability on the previous year's sales may cause aberrations or problems. For instance, if in a particular month in the previous year a firm had a large sale that caused it greatly to exceed its normal sales volume, and thus its normal monthly tax liability, the following year it will be faced with a tax liability that exceeds the taxes warranted by its current month's sales. In addition, acceleration of the tax liability may be particularly troublesome regarding credit purchases; while the tax is due based on a previous year's sales, the payment might not come until much later. Since the State's financial position was improved long ago, there is little justification to continue the current accelerated payment requirements. The bills would lift the burden that accelerated payments have placed on business.

Legislative Analyst: G. Towne

FISCAL IMPACT

Based on information from the Department of Treasury, Senate Bill 1158 (S-1), and House Bills 4942 (S-1) and 5313 (S-1), would result in a net loss of $1.7 million in sales and use tax revenue annually. This net fiscal impact has two components: 1) Reducing the large retailers' collection allowance, or discount, from 0.75% to 0.5% of collections at a 4% tax rate and eliminating the current cap on the dollar amount of this collection allowance, would increase sales and use tax collections by an estimated $1.0 million annually; and 2) changing the payment schedule for these large taxpayers from the current accelerated payment requirements to two payments a month based on actual collections, would reduce the State's cash flow position and increase the need for additional short-term borrowing, which would generate an increase in short-term borrowing costs of an estimated $2.7 million.

Fiscal Analyst: J. Wortley