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SFA BILL ANALYSIS

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House Bill 5036 (Substitute H-1 as passed by the House)
Sponsor: Representative Marc Shulman
House Committee: Appropriations
Senate Committee: Finance

Date Completed: 10-30-01

## CONTENT

**The bill would amend the revenue Act to do the following:**

-- **Provide for a tax amnesty period of 30 to 60 days as determined by the State Treasurer.**
-- **Appropriate $1.5 million to the Department of Treasury to administer the amnesty program.**
-- **Add penalties for a taxpayer who failed to file a return or pay a tax due during the amnesty period.**
-- **Revise provisions that allow the Department to enter into voluntary disclosure agreements with nonfiling taxpayers, and delete the expiration date on those provisions.**

The bill would require an amnesty period, as designated by the State Treasurer, for at least 30 days but not more than 60 days, ending before September 30, 2002. During the amnesty period, the Revenue Commissioner would have to 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 a tax administered by the Revenue Division, if the taxpayer made a written request for a waiver, filed a return or an amended return, and made full payment in either a lump sum or installments (as provided in the bill) of the tax and interest due for any prior tax year.

The bill would apply to the nonreporting and underreporting of tax liabilities and to the nonpayment of taxes previously determined to be due, but only to the extent of the penalties attributable to taxes that were previously due and that were paid during the amnesty period. The bill would not apply to taxes due after June 1, 2001.

The Commissioner would have to administer these provisions. The Department would have to provide reasonable notice to taxpayers who could be eligible for the amnesty program, at least 30 days before the start of the designated amnesty period. Notification would have to include a description of the amnesty program on appropriate tax instruction forms and on the Internet.

The Commissioner could not waive criminal or civil penalties applicable to a tax if any of the following circumstances applied:

-- The taxpayer was eligible to enter into a voluntary disclosure agreement for the tax.
-- The tax was attributable to income derived from a criminal act; the taxpayer was under criminal investigation or involved in a civil action or criminal prosecution for that tax; or the taxpayer had been convicted of a felony under the Act or the Internal Revenue Code.

The bill would allow a taxpayer to pay tax and interest due in installments, if one of the following conditions were met:

-- The taxpayer was an individual and submitted the greater of $10,000 or 50% of the tax and interest due with a request for waiver, and paid the remaining tax and interest due in two equal installments.
-- A taxpayer that was not an individual submitted the greater of $100,000 or 50% of the tax and interest due with a request for waiver, and paid the remaining tax and interest due in two equal installments.

Under either circumstance, the first installment would be due by August 15, 2002, and the second would be due by September 15, 2002.

The bill would appropriate $1.5 million to the Department for administration of the amnesty program from the revenues generated by the taxes paid under the bill. The appropriation would be allotted for expenditure on and after October 1, 2001. Only general purpose revenue generated under the bill could be used to finance the appropriation.

The bill provides that in addition to any other interest or penalty prescribed under Section 24 of the Act, a taxpayer who failed to file a return or pay a tax that was due before June 1, 2001, during the amnesty period available under the bill, would be liable for an additional penalty equal to 25% of the amount of the tax due. (Section 24 prescribes penalties and interest for taxpayers who fail or refuse to file a return or pay a tax.)

Under the Act, the Commissioner or the Commissioner's authorized representative, on behalf of the Department, may enter into a voluntary disclosure agreement with a person to bring nonfilers into compliance for taxes due or claimed by the State. A person must meet specific eligibility requirements, including agreeing to pay all taxes for a lookback period and thereafter. The Department may not assess any tax, penalty, or interest covered under an agreement for any period before the lookback period. These provisions apply through December 31, 2003. The bill would delete the expiration date.

Currently, regarding voluntary disclosure agreements, a "nonfiler" for a particular tax is a person that has never filed a return for the tax being disclosed. The bill provides instead, that a "nonfiler" for a particular tax would be, beginning July 1, 1998, a person that had not filed a return for the tax being disclosed for periods beginning after December 31, 1988. A nonfiler also would include a person whose only filing was a single business tax estimated tax return filed before January 1, 1999.

MCL 205.24 et al. Legislative Analyst: G. Towne

**FISCAL IMPACT**

State Government. It is difficult to estimate the fiscal impact of a tax amnesty program, because taxpayer participation is voluntary and therefore difficult to predict. Based on Michigan's past experience with the 1986 amnesty program and the existing voluntary disclosure program, it is estimated that an amnesty program as proposed in this bill would generate new revenue in the range of $20 million to $40 million in FY 2001-02. This new revenue would be distributed as follows: General Fund/General Purpose revenue would increase between $14.0 million and $28.0 million, School Aid Fund revenue would increase $5.5 million to $11.0 million, and revenue going to other budget areas (primarily revenue sharing) would increase $0.5 million to $1.0 million.

The bill would appropriate $1,500,000 for administration of the tax amnesty program. Any increase in tax revenue resulting from this bill would be decreased by this amount.

Local Governments. Local governments would be affected to the degree that the bill generated an increase in sales tax revenue, which would boost revenue sharing payments.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.