

Legislative Analysis



TAX ROLL AMENDMENTS/PENALTIES

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Senate Bill 1185 as passed by the Senate
Sponsor: Sen. Nancy Cassis

Senate Committee: Finance
House Committee: Tax Policy

Complete to 11-30-04

A SUMMARY OF SENATE BILL 1185 AS PASSED BY THE SENATE 11-10-04

Public Act 247 of 2003 amended the General Property Tax Act to impose penalties and interest on taxes due as a result of incorrectly reported and omitted personal property. The penalties and interest are imposed at a rate of 1.25 percent per month from the date the taxes originally could have been paid without interest or penalty. The penalty and interest apply to corrected tax bills issued after December 29, 2003 – Public Act 247's effective date. If a corrected tax bill is not paid within 60 days, interest again accrues at a rate of 1.25 percent per month.

Senate Bill 1185 would amend the act (MCL 211.154) to instead provide the following.

**** A tax bill corrected by the State Tax Commission as a result of an entity's failure to file the required personal property tax statement could include a penalty of 1 percent per month plus interest at the rate established in Section 37 of the Tax Tribunal Act from the date the taxes originally could have been paid without interest. If the STC determined that the failure to file the required personal property tax statement was due to a reasonable cause, the commission would have to waive the penalty. If the corrected tax bill was not paid within 60 days, interest would again begin to accrue from the date the bill was issued at the rate provided in Section 37 of the Tax Tribunal Act.**

[The Tax Tribunal Act provides that interest would be based on the average auction rate of 91-day discount treasury bills in the immediately preceding state fiscal year as certified by the department of treasury, plus one percent.]

**** For assessments corrected as a result of a notification filed with the STC after December 29, 2003 where a business either 1) did not request before March 1, 2004 that an increased assessment be added to the assessment roll as a result of omitted or incorrectly reported personal property; or 2) did not otherwise inform the STC of an issue as to the incorrect reporting or omitting of personal property prior to December 20, 2003, a corrected property tax bill issued for reasons other than the failure to file the required personal property statement could include interest as provided in Section 37 of the Tax Tribunal Act calculated from the date the taxes originally could have been paid without interest or penalty, as well as a penalty of 1 percent per month on the corrected portion of the assessment only, not to exceed 18 percent of the total tax due.**

If the STC determined that the incorrect reporting or omission was due to a reasonable cause, the commission would have to waive the penalty. If the corrected tax bill was not paid within 60 days, interest would again begin to accrue from the date the bill was issued at the rate provided in Section 37 of the Tax Tribunal Act, and with a penalty of 1 percent per month.

****** In no case could interest or penalty be imposed on any assessment subject to a notification pending before the STC as of December 29, 2003.

The act currently provides that the STC can place corrected assessments on the appropriate assessment roll when it determines that property has been incorrectly reported or omitted. The corrections, however, can only be made for the current assessment year and two years immediately preceding the date the incorrect reporting or omission was discovered and disclosed to the STC.

Senate Bill 1185 would instead allow the STC to issue an order requiring the revision of the assessed value and taxable value for each year property was incorrectly reported or omitted. The order would be limited to the current assessment year and:

1) the two years immediately preceding the date a person liable for the taxes notified the commission of the incorrect reporting or omission; or

2) if the commission was notified by some other person than the person liable for the taxes, the two years immediately preceding the later of the date the incorrect reporting or omission was discovered and disclosed to the STC or the date written notice of the incorrect reporting or omission was provided to the taxpayer.

The written notice would have to be a copy of the petition alleging the incorrect reporting or omission sent to the taxpayer by ordinary mail at the taxpayer's last known address based on the records of the assessor for the local tax collecting unit.

****** The bill also provides that failure to file the required personal property tax statement by the date required would not prohibit a person from seeking relief if the person filed the statement prior to the first meeting of the local board of review.

The bill would be retroactive and effective December 29, 2003.

FISCAL IMPACT:

The bill would reduce state and local revenue by an indeterminate amount.

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