

Legislative Analysis



REVENUE ACT: TAX AMNESTY AND PENALTIES

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House Bill 5095 (Substitute H-2)

Sponsor: Rep. Paul Condino

Committee: Tax Policy

Complete to 8-31-05

A SUMMARY OF HOUSE BILL 5095 (SUBSTITUTE H-2) AS REPORTED

The bill would amend the Revenue Act to establish a tax amnesty period in January and February 2006 and increase the penalties for delinquent taxpayers who do not comply with the amnesty program. The bill is tie-barred to House Bills 4980, 5096-5098, and 5106-5108.

Tax Amnesty

The bill would establish a tax amnesty period from January 1, 2006 to February 28, 2006, during which all criminal and civil penalties for failing to file a return, failing to pay a tax, or making excessive claims for a refund would be waived by the state treasurer. To participate in the amnesty, taxpayers would have to make a written request for a waiver, file a return or amended return, and make full payment in a lump sum or in installments. For installment payments, individual taxpayers would have to submit \$10,000 or half of the total tax and interest due, whichever is greater, at the time of the waiver request, and pay the remaining balance in two equal installments due by February 15, 2006 and March 15, 2006. To pay in installments, business would have to submit \$100,000 or half of the total tax and interest due, whichever is greater, with the waiver request. The remaining balance would also be paid in two equal installments due by February 15, 2006 and March 15, 2006. The amnesty period would apply to taxes due on or before September 30, 2005. Except for various dates, the provisions are the same as provided for in the last amnesty period conducted in 2002 pursuant to Public Act 168 of 2001. The bill also deletes language from the 2001 act that appropriated \$1.5 million from the money received under program for administration purposes.

Penalties – Amnesty Program

The bill would revise the penalties for failing to file a return or pay a tax for notices of intent to assess issued after February 28, 2003 for taxes due before October 1, 2005 for which penalties may be waived under the amnesty program. They include:

- a penalty of 25 percent of taxes due for remitting a non-negotiable payment (e.g. insufficient funds check). This penalty is in addition to other penalties imposed by the act. [The current penalty is \$50.]

- a penalty for failure to file or pay income tax withholding, sales taxes, and use tax liabilities of at least \$300 or \$10 or five percent of the tax due, whichever is greater, for the first month, and five percent for each additional month, up to a maximum of 50 percent. [The current penalty is five percent for the first two months and five percent for each additional month, up to a maximum of 25 percent.]
- a maximum penalty of 50 percent for taxpayers who fail to pay state income tax withholding in the same manner as the federal withholding schedule (when required). [The current maximum penalty is 25 percent.]

The current penalties apply to notices of intent issued after February 28, 2003. By increasing penalties for taxes due before October 1, 2005 and eligible for the waiver under the amnesty program, the bill would essentially increase the penalty for those taxpayers that do not comply with the amnesty program. The penalties for notices of intent to assess issued after February 28, 2003 for taxes due after October 1, 2005 or before October 1 and not eligible for the amnesty would not increase.

Under the Revenue Act, if a taxpayer fails to file a return or make a payment, or supplies insufficient information to make a determination on the tax due, the Department of Treasury first sends a letter of inquiry stating the amount of tax due and why it is due. If, after 30 days, the matter is not resolved, the department then must send a notice of its intent to assess the tax explaining the dispute, the appeals process, and the tax due. If, after 30 days, the matter is still not resolved the department must issue a bill for taxes due (final assessment). After 35 days, the department must take certain enforcement actions to collect payment.

FISCAL IMPACT:

The fiscal impact of the tax amnesty would depend on the public's awareness of an amnesty program, taxpayer participation in the program, and the penalties imposed for noncompliance. In FY 2001-02, Michigan's tax amnesty generated new net revenue of \$30.2 million (\$31.7 million in gross new revenue less \$1.5 million in administrative expenses) from 4,225 taxpayers.

According to the Department of Treasury, the penalty provisions included in the bill would increase penalty revenue, all of which is deposited into the GF/GP, by an estimated \$5.0 million.

BACKGROUND INFORMATION:

In 2002, the state provided a tax amnesty period from May 15, 2002 to July 1, 2002. The amnesty program applied to the following taxes: individual income, single business, sales, use, withholding, estate, inheritance, tobacco, and motor fuel. According to the Department of Treasury, payments received under the amnesty program totaled \$81.9 million. Of that amount, \$31.7 million was paid by new (previously unidentified)

taxpayers, and \$50.2 million was paid by taxpayers with existing tax assessments. Additionally, the department spent \$1.5 million and waived \$22.9 million in penalties that could have been collected in the future. According to a February 2003 report, the Department of Treasury estimated that the program increased FY 2002 revenue by \$48.7 million, including expenses, and decreased FY 2003 revenue by \$18.4 million. In all, 20,220 taxpayers filed 66,855 returns, indicating that many filed returns for multiple years. The Department of Treasury's report on the 2002 amnesty program is available at www.michigan.gov/documents/AmnestyReport_59671_7.pdf

Prior to 2002 amnesty program, the state offered a tax amnesty in between May 12, 1986 and June 30, 1986. In that year, a total of 128,218 tax returns were filed, generating \$109.8 million. Of that amount \$44.6 million was paid by new taxpayers, and \$65.2 million was paid by taxpayers with existing tax assessments. In 2002 dollars, the 1986 amnesty generated \$180.2 million, with \$73.2 million from new taxpayers and \$107.0 million from taxpayers with existing tax assessments.

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