



Senate Fiscal Agency
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**BILL ANALYSIS**

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House Bill 4244 (Substitute H-1 as passed by the House)
Sponsor: Representative Scott Hummel
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 1-18-05

CONTENT

The bill would amend the revenue Act to provide that, if a taxpayer served written notice upon the Department of Treasury within 60 days of the issuance of a credit audit or a refund denial, the taxpayer would be entitled to an informal conference on the question in the same manner and under the same procedures provided for in Section 21 of the Act (which entitles taxpayers to an informal conference on the question of liability for a tax assessment).

Proposed MCL 205.21a

BACKGROUND

Under Section 21 of the revenue Act, if a taxpayer fails or refuses to make a return or payment as required, or if the Department of Treasury believes that a return or payment does not supply enough information for an accurate determination of the amount of tax due, the Department may obtain information on which to base an assessment of the tax. The Department may examine the records and audit the accounts of a person or any other records pertaining to the tax.

In carrying out these provisions, the Department must send the taxpayer a letter of inquiry containing information specified in the Act, except under certain circumstances. If the dispute is not resolved within 30 days after the Department sends the letter of inquiry, or if a letter of inquiry is not required, the Department must give the taxpayer a notice of its intent to assess the tax, after determining the amount due.

If a taxpayer serves written notice upon the Department within 30 days after receiving the notice of intent to assess, remits the uncontested portion of the liability, and provides a statement of the contested amounts and an explanation of the dispute, the taxpayer is entitled to an informal conference on the question of liability for the assessment.

Upon receiving a taxpayer's written notice, the Department must set a mutually agreed upon or reasonable time and place for the informal conference and must give the taxpayer reasonable written notice at least 20 days before the informal conference. The notice must specify the intent to assess, type of tax, and tax year that is the subject of the conference.

The informal conference is not subject to the Administrative Procedures Act but is subject to the rules governing informal conferences as promulgated by the Department in accordance with that Act. The taxpayer may appear or be represented by any person before the

Department at the conference, and may present testimony and argument. At the party's own expense and with advance notice to the other party, the taxpayer or the Department, or both, may make an audio recording of the conference.

After the informal conference, the Department must render a decision and order in writing, setting forth the reasons and authority, and must assess the tax, interest, and penalty found to be due and payable. The decision and order are limited to the subject of the informal conference as included in the notice.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The bill would have an indeterminate impact on State government. It is difficult to determine how many additional informal conferences the Department would have as a result of the bill. To the extent that the bill would create additional duties for the Department, it could increase the Department's administrative costs. In tax year 2004, the Department accepted 112 requests for hearings. The Department currently has a backlog of these cases.

Fiscal Analyst: Stephanie Yu

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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.