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House Bill 5355 (as passed by the House)
House Bill 5362 (Substitute H-1 as passed by the House)
Sponsor: Representative Fulton Sheen (H.B. 5355)
Representative Leon Drolet (H.B. 5362)
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 1-18-06

CONTENT

House Bill 5355 would amend the revenue Act to provide for the prospective application of a rule or bulletin issued by the Department of Treasury. House Bill 5362 (H-1) would amend the Act to specify that a taxpayer could not be penalized for relying on a revenue administrative bulletin or letter ruling before it was revoked.

The bills are described below.

House Bill 5355

Under the Act, the Department of Treasury periodically may issue bulletins that index and explain current Department interpretations of current State tax laws. The Department also may promulgate rules necessary to enforce the Act and other revenue measures administered by the Department.

The bill specifies that a rule or bulletin issued by the Department under the Act could not apply before the earlier of the following dates:

- The date on which the rule or bulletin was filed with the Office of the Great Seal.
- The date on which any notice substantially describing the expected contents of a rule or bulletin was issued to the public.

This provision would not apply, however, to any rule issued within 18 months of the date of enactment of which the statutory provision to which the rule related, or as otherwise provided by law.

In addition, bill would authorize the State Treasurer to provide that any rule or bulletin could take effect or apply retroactively to prevent abuse or to correct a procedural defect in the issuance of any prior rule or bulletin.

House Bill 5362 (H-1)

The bill states that a taxpayer could rely on a bulletin or letter ruling issued by the Department of Treasury after September 30, 2006, and could not be penalized for that reliance until the bulletin or letter ruling was revoked in writing.

"Bulletin" would mean a revenue administrative bulletin. "Letter ruling" would mean a formal document issued by the Department to a specific taxpayer on a specific tax matter related to a future transaction.

MCL 205.3 (H.B. 5355)
Proposed MCL 205.6

BACKGROUND

The Department of Treasury's website states the following:

"A Revenue Administrative Bulletin (RAB) is a directive issued by the Bureau of Tax Policy. Its purpose is to promote uniform application of tax laws throughout the State by the Bureau of Tax Policy personnel and provide information and guidance to taxpayers. A Revenue Administrative Bulletin states the official position of the Department, has the status of precedent in the disposition of cases unless and until revoked or modified, and may be relied on by taxpayers in situations where the facts, circumstances and issues presented are substantially similar to those set forth in the Bulletin. A taxpayer must consider the effects of subsequent legislation, regulations, court decisions and Bulletins when relying on a Revenue Administrative Bulletin."

Revenue Administrative Bulletin 2000-6 contains the following information about Letter Rulings:

"A Letter Ruling is published to provide the public with an example of how the Department would apply tax law to a particular set of facts. In addition, a Letter Ruling provides a fast and informal means of increasing public understanding of the Department's interpretation of tax law.

"It is important to note that a Letter ruling is not binding on either the Department or taxpayers. The only exception is that, to the extent the language in a Letter Ruling is also used in the Department's written response to a specific taxpayer's request, the Letter Ruling is binding on both the taxpayer and the Department."

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. The bills could affect the Department's collection efforts, but it is difficult to determine how many taxpayers would be affected.

Fiscal Analyst: Stephanie Yu

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