

Legislative Analysis



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House Bill 4290 (Substitute H-1)

Sponsor: Rep. Bob Genetski

Committee: Tax Policy

(Enacted as PA 565 of 2014)

First Analysis (4-23-13)

BRIEF SUMMARY: The bill would require the Department of Treasury to make available various tax administration manuals to the public.

FISCAL IMPACT: House Bill 4290 would increase costs for the Department of Treasury by an indeterminate amount. Costs associated with the provisions of the bill will depend on the number of manuals printed and the administrative costs associated with the development of the manuals. Any cost increases associated with the provisions of the bill will likely be absorbed under current appropriation levels. The fiscal benefits of making guidance on the administration of certain taxes available publicly are difficult to determine at this time.

THE APPARENT PROBLEM:

There are two basic foundations to a state's tax climate: the type of taxes imposed and how those taxes are administered. Much of the discussion among policy makers focuses on the various types of taxes imposed. Less discussed, but still vitally important, is how those taxes are administered. The administrative environment in which businesses and taxpayers operate directly relates to the ease of collection by the state and compliance among taxpayers. As the Council on State Taxation (COST) notes, "our federal and state tax systems are premised, to a great degree, on voluntary compliance. It is a common truth that taxpayers will more fully and willingly comply with a tax system they perceive to be balanced, fair, and effective. Taxpayers operating in a system they perceive as oppressive, unfair, or otherwise biased are less likely to voluntarily comply. The clear message to state legislatures is that they must be sensitive to the compliance implications and competitiveness concerns created by poor tax administrative rules and ineffective tax appeal systems."

There are many facets to a state's tax administration system, including the statute of limitations on refunds and assessments, interest rates payable on overdue refunds or payments, the tax appeals process, audit procedures, and transparency. A good tax system – a transparent tax system – is one that is understandable by both tax administrators and taxpayers. However, much of the Department of Treasury's guidance materials on how it administers various taxes are not publicly available to taxpayers. It has been suggested, as a means of improving understanding and compliance of state tax law that the department's tax administration guidance manuals be made available to the public.

THE CONTENT OF THE BILL:

House Bill 4290 (H-1) would amend the Revenue Act (1941 PA 122), which governs the administration of the several tax and revenue laws of the state, to require the Department of Treasury (beginning no later than six months after the bill's effective date) to publish and make available to the public in print and electronically the department's internal policy directives, audit standards, audit sampling manual, cash basis sales and use tax manual, industrial processing sales and use tax manual, contractors sales and use tax manual and other deductions sales and use tax manual.

The publication and release of these documents would not be subject to Section 6a, which permits taxpayers to rely (with some limitations) on revenue administrative bulletins and letter rulings issued by the department after September 30, 2006.

MCL 205.3

ARGUMENTS:

For:

The bill is an important step in making the state's tax system more transparent and more understandable to taxpayers. The American Institute of Certified Public Accountants (AICPA) notes that transparency is "the basic notion that taxpayers should know (1) that a tax exists and (2) how and when the tax is imposed on them and others....If taxpayers and their advisers cannot understand the tax system, they cannot evaluate the impact of that system. Beyond the fundamental aspect of actual and perceived fairness, proposing understandable changes to an understandable tax system would result in broader consensus on whether a change is necessary, wise, or effective. A tax that is not understandable can be easily retained or raised with little awareness among taxpayers about how the tax affects them. Without transparency, 'gimmicks' such as deduction, exemption and credit phaseouts for raising revenue flourish and more appropriate, fundamental approaches such as increases in statutory tax rates are avoided."¹ A recent article by Tax Analysts notes, "tax transparency is also an important component of connecting taxpayers with the government...it is easier to get people to buy into the system when they understand how it works and believe that are being treated fairly."²

Currently, the Department of Treasury's website includes its revenue administrative bulletins, internal policy directives, and few letter rulings.³ Other manuals on how it interprets and administers the states numerous tax laws are not on its website.

¹ American Institute of Certified Public Accountants, *Tax Policy Concept Statement No. 3: Guiding Principles for Tax Law Transparency*, September 2003, https://www.aicpa.org/InterestAreas/Tax/Resources/TaxLegislationPolicy/Advocacy/DownloadableDocuments/TPC_S_3-principles_for_tax_law_transparency.doc.

² Jennifer Carr and Cara Griffith, "Measuring Transparency in State Tax Administration", *State Tax Notes*, Vol. 66 No. 10, December 3, 2012. Reprinted at, <http://www.taxanalysts.com/www/features.nsf/Articles/DE1A2D0DCDB294B485257ACB0071F0E0>.

³ <http://www.michigan.gov/treasury/0,4679,7-121-44402---,00.html>.

By making the Department of Treasury's guidance materials available to taxpayers and tax practitioners, the department's interpretations and practices can finally be revealed in the light of day and be understood by taxpayers at the time they initially file a tax return, rather than discovered during the audit and appeals process (and after incurring considerable costs). This ensures greater consistency in how returns are filed and improves compliance with the tax laws among taxpayers and improves the department's return processing, enforcement, and collection efforts.

Response:

The bill does not, but should, specifically require that the department's letter rulings be published as well. The department's website only includes a few letter rulings from 2000, 2002, and 2013 (which was only just recently added). A letter ruling is a formal document issued by the department to a specific taxpayer on a specific tax matter that provides taxpayers with assurance regarding the tax ramifications of a future transaction. While the department is bound by a letter ruling only for the specific transaction and for a specific tax period, publishing these letters (with identifying information redacted to maintain taxpayer confidentiality), provides taxpayers and tax practitioners with a wealth of information on the department's interpretations of the tax laws and the tax consequences of a transaction.⁴

POSITIONS:

The Department of Treasury supports the bill. (4-17-13)

The Michigan Chamber of Commerce indicated support for the bill. (4-17-13)

The Grand Rapids Chamber of Commerce indicated support for the bill. (4-17-13)

The Michigan Association of Certified Public Accountants indicated support for the bill. (4-17-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

⁴ Cara Griffith and Jennifer Carr, "Transparency in State Taxation, Part 2: Legislative Process and Letter Rulings", *State Tax Notes*, Vol. 64, No. 5, April 30, 2012. Reprinted at: <http://www.taxanalysts.com/www/features.nsf/Articles/6C1EBF2539E2824285257A130057FEF5?OpenDocument>.