Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 337 (as introduced 5-1-13)
Sponsor: Senator Jack Brandenburg
Committee: Finance

Date Completed: 5-22-13

CONTENT

The bill would amend the revenue Act to do the following:

- **Set a 30-day deadline for the Department of Treasury to release a business's known tax liability to the purchaser of the business, and make the release mandatory, if the owner waived confidentiality.**
- **Require the Department to determine a taxpayer's correct tax liability within one year after the 48-month examination period expired.**
- **Allow a claim for refund to be treated as denied, and appealed to the Tax Tribunal or Court of Claims, if the claim had not been approved within one year.**

Release of Known Tax Liability

Under the Act, a person who purchases a going or closed business, or its stock, is required to escrow enough money to cover the amount of taxes, interest, and penalties that may be due and unpaid, until the former owner produces a receipt from the State Treasurer showing that the taxes are paid, or a certificate stating that the taxes are not due. If the owner waives confidentiality, the Department is permitted to release to the purchaser the business's known tax liability for the purpose of establishing the escrow account.

The bill would *require* the Department, within 30 days of the request, to timely release the business's known liability, if the owner waived confidentiality.

Currently, if the purchaser fails to comply with these escrow requirements, the purchaser is personally liable for the payment of the taxes, interest, and penalties accrued and unpaid by the business of the former owner.

Under the bill, the purchaser could not be held liable if the Department failed to provide the information requested within 30 days.

Determination of Correct Tax Liability

Under the Act, the Department may not assess a deficiency, interest, or penalty more than four years after the filing date for a return or the date a return is filed, whichever is later (and a taxpayer may not claim a refund more than four years after the filing date). (The Act refers to this as a statute of limitations.)

Under the bill, if the Department initiated an examination of a taxpayer's records to verify returns made, and the taxpayer had been given written notice of the examination, the Department would have to make the determination of the correct tax liability within one-year after the expiration of the 48-month examination period. This limitation would not apply to any of the following:

-- Any tax period for which the taxpayer failed to file a return.
-- Any tax period in which the taxpayer filed a false or fraudulent return with the intent to evade tax.
-- Any tax period in which the Department and the taxpayer agreed in writing to extend the statute of limitations.

Claims for Refunds

The Act allows a taxpayer, within the four-year statute of limitations, to petition the Department for a refund of a tax that the taxpayer paid but claims is not due.

Under the bill, if a claim for refund had not been approved within one year of the date it was received, the claim could be treated as denied. The taxpayer could appeal the denial to the Tax Tribunal or the Court of Claims in accordance with Section 22.

(Section 22 allows a taxpayer to appeal the contested portion of an assessment, decision, or order to the Tax Tribunal within 35 days, or to the Court of Claims within 90 days, after the assessment, decision, or order. The uncontested portion of an assessment, order, or decision must be paid as a prerequisite to appeal. The taxpayer or the Department may appeal by right the decision of the Tax Tribunal or Court of Claims to the Court of Appeals.)

MCL 205.27a & 205.30 Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate effect on the operations costs of the Department of Treasury and State revenue. The proposed 30-day requirement to release certain tax information would increase the Department's costs. The release of taxpayer liability if the Department failed to meet the timeline potentially would reduce State revenue. The proposed one-year timeline on Treasury decisions regarding taxpayer refunds would permit some taxpayers to pursue appeals with the Tax Tribunal or the Court of Claims. This would have an unknown impact on State revenue.

Fiscal Analyst: Elizabeth Pratt

S1314\s337sa