Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4002 (Substitute H-3 as passed by the House)
Sponsor: Representative Mike Shirkey
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 5-21-13

CONTENT

The bill would amend the revenue Act to require the Department of Treasury to pay additional interest on a refund owed to an individual taxpayer, if the refund had not been paid within a specified period of time (generally 60 days) after the Department received a complete return.

Currently, the Department is required to pay interest on a refund beginning 45 days after a claim for refund is filed or 45 days after the date established by law for the filing of the return, whichever is later, unless the amount is less than $1. The rate of interest must be calculated as required for deficiencies in tax payments. (As a rule, that rate is one percentage point above the adjusted prime rate—as defined in the Act—per annum.)

Under the bill, beginning January 1, 2014, in addition to and separate from the interest added under the current requirement, for taxes imposed under Part 1 of the Income Tax Act, the Department would have to add interest to refunds that were not paid within one of the following dates for the applicable tax year:

-- May 1, for returns the Department received by March 1 of the applicable tax year.
-- Sixty days from the date the Department received the return, for returns received after March 1 of the applicable tax year.

(Part 1 of the Income Tax Act applies to individuals, estates, and trusts.)

The additional interest would have to be paid at a rate of 3% per annum, calculated from the time the tax was due and until the refund was paid, if all of the following conditions were met:

-- The refund was due on an original return that was timely filed under the Income Tax Act.
-- The Department did not adjust the refund.
-- The return was complete for processing purposes with no calculation errors, and contained all required information prescribed by the Department, including any State and Federal returns, forms, or schedules necessary to process the return.
-- The taxpayer who filed a complete return had complied with the Department's request, if any, for additional documentation or information within 30 days of that request.
-- The refund was not subject to a suspension under Section 27a of the revenue Act, except for an audit by the Department.

-- No portion of the refund was subject to interception under Section 30a.
-- The amount to be refunded was more than $1.

(Section 27a prescribes a four-year period, referred to as the statute of limitations, for a taxpayer to claim a refund, or for the Department to assess a deficiency, interest, or penalty. The statute of limitations is suspended for 1) the period pending a final determination of tax and one year after that period; and 2) the period for which the taxpayer and the State Treasurer have consented to an extension of that period.

Under Section 30a, before a refund is paid to a taxpayer, the amount must be applied to: 1) any other known *tax* liability of the taxpayer to the State; 2) any other known liability of the taxpayer to the State, including a liability to pay support; and 3) a support liability of the taxpayer; a writ of garnishment or other valid court order to satisfy a liability of the taxpayer; a levy of the Internal Revenue Service; or a liability to repay unemployment benefits.)

MCL 205.30 Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would generally decrease State General Fund revenue by an unknown and likely minimal amount. Given the nature and number of conditions under the bill, it likely would affect very few returns. Furthermore, the Department of Treasury reports that during even the busiest times, the overwhelming majority of error-free returns are processed within six weeks, which is less than the 60-day threshold under the bill.

Fiscal Analyst: David Zin

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