

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** John C. Miller

2. **Bill Number** SB 663

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Collection of Delinquent State Taxes

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow a collector in any county or city, appointed by TAX, to charge a commission of 20 percent of the delinquent state taxes to the taxpayer for the collection of such taxes. The 20 percent commission would be in addition to the amount of delinquent taxes, penalties and interest owed and would apply only if a taxpayer's account was transferred to a county or city collector.

TAX would not be able to assign delinquent states taxes that were assessed more than three years prior to the county or city collector. This bill also clarifies that TAX would not assign delinquent state taxes that were subject to a pending administrative or judicial appeal.

Currently, TAX may pay a reasonable compensation to be agreed on before the service is commenced to any local collector. This compensation is paid out of the amount collected, not charged to the taxpayer as a commission in addition to the amount of tax, penalties and interest due.

The effective date of this bill is not specified.

6. **No Fiscal Impact.** (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Administrative Impact

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

There would be no general fund revenue impact for this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation
All Localities

10. Technical amendment necessary: No.

11. Other comments:

Background

Currently, TAX has a two-pronged collection strategy. Delinquent accounts are retained by TAX or assigned for collection to a private-sector Outside Collection Agency (OCA), based on the collectability. Accounts that can be collected with less effort through the use of tools, such as liens, are handled by TAX. The older, more difficult accounts are sent to the OCA. The OCA is paid a fee based on amounts collected. This fee is subtracted from the amount of delinquent tax collected; it is not an addition to the amount collected. The fee paid depends on the difficulty of the case and can range between 20 and 35 percent. The assignment of tax accounts to the OCA is automated and the OCA makes daily deposits of the amounts collected.

In 2003, TAX began work with the Treasurers' Association of Virginia (TAV) to develop a pilot program for the collection of delinquent state taxes. In 2004, Virginia law was amended to give TAX the authority to appoint a collector in any county or city, including the treasurer thereof, to collect delinquent state taxes that were assessed at least 90 days previously therein, or elsewhere in the Commonwealth, and may allow him a reasonable compensation, to be agreed on before the service is commenced.

In 2004, four localities agreed to take part in a pilot program developed by TAX. The localities were paid a 15 percent fee deduction from the delinquent state taxes collected. During the pilot program, TAX continued to use the services of the OCA. Localities that participated in the pilot program collected 5.57 percent of the dollar value of the accounts assigned over the six month period. During the same period, the OCA collected 9.52 percent of the dollar value of the accounts assigned.

State Comparison

Out of the states that are authorized to use OCAs, ten states may charge a commission in addition to the amount of taxes, penalties and interest due, and five states cannot charge a commission. The states that are authorized to contract with an OCA and charge a commission in addition to the amount of taxes, penalties and interest due are: California, DC, Florida, Illinois, Kansas, Louisiana, Maryland, New Jersey, Oklahoma and South Carolina. Some of these states have notification requirements, mandating that the taxing authority notify the taxpayer prior to sending the account to the OCA and provide time for the taxpayer to pay before the account is transferred.

Similar to Virginia, Alaska, Colorado, Iowa, Montana and Utah can contract with OCAs, but cannot charge any commission in addition the amount of taxes, penalties and interest due. For these states, the OCA's fee must be paid out of the amounts collected.

Proposal

This bill would allow a collector in any county or city, appointed by TAX, to charge a commission of 20 percent of the delinquent state taxes to the taxpayer for the collection of such taxes. The 20 percent commission would be in addition to the amount of delinquent taxes, penalties and interest owed and would apply only if a taxpayer's account was transferred to a county or city collector.

For example, assume that a taxpayer has a \$100 tax liability that he failed to pay and TAX assesses penalty and interest in the amounts of \$30 and \$3, respectively. If the taxpayer's account was collected by TAX 6 months after the date of assessment, the liability would be a total of \$133 in tax, penalty and interest. However, if the taxpayer's account was assigned to a county or city collector 6 months after the date of assessment, this bill would require an additional 20 percent commission to be added to the tax, 30 percent penalty, and interest. Therefore, this taxpayer would owe \$153 instead of \$133.

TAX would not be able to assign delinquent states taxes that were assessed more than three years prior to the county or city collector. This bill also clarifies that TAX would not assign delinquent state taxes that were subject to a pending administrative or judicial appeal.

It is unclear who would notify the taxpayer of the 20 percent commission or when such notification would be required to be given.

The effective date of this bill is not specified.

Similar Bills

House Bill 1314 is identical to this bill.

cc : Secretary of Finance
Date: 2/1/2010 JKM
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