

**LEGISLATIVE FISCAL OFFICE
Fiscal Note**



Fiscal Note On: **HB 140** HLS 22RS 498
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 14, 2022	1:39 PM	Author: ECHOLS
Dept./Agy.: Revenue		Analyst: Deborah Vivien
Subject: Mandatory waiver of business penalties during Covid		

TAX OR -\$47,600,000 GF RV See Note Page 1 of 1
 Provides for a waiver of certain income tax penalties and interest

Current law authorizes the Secretary of Revenue to impose a penalty with statutory interest upon taxpayers for failing to file or failing to pay timely. Current law also requires that interest be added to the amount of the assessment from the due date until the tax is paid. The rate is 3% above statutory interest.

Proposed law requires the Secretary of Revenue to retroactively waive any penalties and interest imposed during the state's declared public health emergency for COVID (3/11/20-3/16/22) for business taxpayers filing as a sole proprietor, limited liability corporation, partnership or corporation. For those filing as corporate income, the penalties for late filing or late payment are 5% per month up to 25% in total. For those filing as individual income, the penalties are 5% per month for late filing and 0.5% per month for late payment up to 25% total. The waiver can only be issued for penalties and interest related to income tax returns or payments submitted to the Department of Revenue no later than April 30, 2022.

EXPENDITURES	2022-23	2023-24	2024-25	2025-26	2026-27	5 -YEAR TOTAL
State Gen. Fd.	\$384,982	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	\$384,982
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$384,982					\$384,982

REVENUES	2022-23	2023-24	2024-25	2025-26	2026-27	5 -YEAR TOTAL
State Gen. Fd.	(\$47,600,000)	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	(\$47,600,000)
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	(\$47,600,000)					(\$47,600,000)

EXPENDITURE EXPLANATION

Proposed law will result in the Louisiana Department of Revenue (LDR) incurring one-time SGF costs of \$25,680 related to programming, testing and system development along with associated changes to software. In preparing for the potential 76,000 taxpayer applicants, LDR reports it will require 6 tax officers (\$38,387 salary plus related benefits) to process and review applications and calculate the amount of the refunds/waivers. With no application deadline in the bill, LDR anticipates remaining prepared for these efforts throughout the fiscal note horizon, as timing of applications cannot be pre-determined. To the extent significant applications extend beyond FY 23, the need for additional budgetary and personnel resources would likely continue for an indeterminate period of time.

REVENUE EXPLANATION

The bill waives penalties and interest for business taxes filed and paid by April 30, 2022, with original due dates between 3/11/20 and 3/16/22. The effort will require a refund or waiver, depending on whether the penalties and interest were paid or are outstanding. Beginning in FY 23, the penalties included in this bill accrue to the state general fund, but during the pandemic proclamation (the waiver period), the fees were retained by the Department of Revenue. Interest continues to accrue the state general fund. Any waiver mandated under the bill will presumably be repaid from current state general fund collections since the bill does not specify a repayment source.

According to the Department of Revenue, if all known and relevant penalties and interest imposed on business income tax due between 3/11/20 and 1/19/22 are waived, the state will forego about \$47.6M in state general fund collections, presumably all in FY 23, though timing of the refunds is uncertain since the application has no deadline. It is estimated by LDR that this bill could impact 76,000 unique taxpayers with about 160,000 returns. All returns filed as corporate income as well as sole proprietors and some LLCs or partnerships are filed as individual income tax but would qualify for this waiver.

In the bill, the following penalties are waived for returns that were due during the state-declared COVID emergency proclamation, including extensions:

Withholding failure to file	\$5/return up to \$7,500	<i>not assessed</i>
Estimated tax failure to pay	12% of tax due annually	<i>not assessed</i>
Interest	3% above statutory	
Failure to file/pay	5%/month up to 25% combined for corporate	
	5% or 0.5%/month up to 25% combined for individual	

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Alan M. Boxberger
Alan M. Boxberger
Interim Legislative Fiscal Officer