
DIGEST

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HB 721 Engrossed

2015 Regular Session

Ivey

Abstract: Provides for penalties and fees assessed by the Dept. of Revenue and adds requirements for the publication of the waiver of penalties in excess of \$50,000.

Present law establishes separate penalties for dishonored checks or money orders in payment of income taxes.

Proposed law applies the penalties established in the administrative provisions of present law to the dishonored payments of income taxes in present law.

Present law provides for waiver by the secretary of penalties exceeding \$25,000 only after approval by the Board of Tax Appeals.

Proposed law maintains the requirement for the Board of Tax Appeals to approve the waiver of penalties which exceed \$25,000 until Dec. 31, 2015. Beginning Jan. 1, 2016, the secretary is required to maintain complete records of all penalty waivers in excess of \$50,000. Further provides that approval of a waiver of penalties exceeding \$50,000 by the secretary shall be conditioned on the taxpayer's consent to publication of information the secretary deems necessary regarding the waiver in the department's annual report.

Proposed law further requires penalty waivers in excess of \$50,000 to be open to public inspection and shall be published in the department's annual report. Exempts penalties remitted or waived by the secretary from the provisions of proposed law if the penalties are waived pursuant to the department's voluntary disclosure program.

Present law provides that the records and files of the Dept. of Revenue or records and files maintained pursuant to tax ordinances shall be confidential and privileged and shall not be disclosed except in the administration and enforcement of tax laws or in other limited, specific circumstances.

Proposed law retains present law but adds authorization, beginning Jan. 1, 2016, for the department to publish a complete record of all waivers of penalties in excess of \$50,000 granted by the secretary in the department's annual report. Further provides that any taxpayer who accepts the remittance or waiver of penalties shall be deemed to have consented to the publication of the information in the department's annual report. Proposed law exempts waivers approved pursuant to the department's voluntary disclosure program from the publication requirements.

Present law provides for a penalty of \$500 for dealers which fail to keep adequate records.

Proposed law increases the penalty for failure to keep adequate records from \$500 to \$5,000.

Present law provides for a penalty for failure to fully remit the tax due when filing a tax return and calculates the penalty on the additional amount due when at least 90% of the total tax due is not paid on or before the date due and the return and payment are not received within the prescribed time, including any extensions.

Proposed law retains present law as it relates to the amount of the penalty but extends the penalty provision in cases where the return and full payment are not received within the prescribed time, including any extensions.

Present law provides for the waiver of penalty for delinquent filing or delinquent payment.

Proposed law applies these waiver provisions to cases where the secretary and the taxpayer have entered into a valid and enforceable voluntary disclosure agreement.

Present law establishes a negligence penalty of 5% of the tax due or \$10, whichever is greater.

Proposed law changes the negligence penalty from 5% of the tax due or \$10, whichever is greater, to separate penalties for negligence and large tax deficiencies as follows:

- | | | |
|-----|---------------------------------|-------------------|
| (1) | Negligence | 10% of deficiency |
| (2) | Large individual tax deficiency | 25% of deficiency |
| (3) | Other large tax deficiency | 25% of deficiency |

Present law establishes the penalty for dishonored payments at \$20.

Proposed law increases the penalty for dishonored payments from \$20 to \$35.

Present law establishes a separate penalty for dishonored payments of local taxes.

Proposed law repeals present law.

Effective July 1, 2015.

(Amends R.S. 47:105(H), 114(F)(3), 295(C), 309(B), 1602(A)(2)(a) and (3)(a), 1603(A)(2) and (3), 1604.1, and 1604.2; Adds R.S. 47:1508(B)(37); Repeals R.S. 47:337.74)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Make technical amendments to the bill.
2. Add a requirement that approval of a waiver of penalties in excess of \$50,000 shall be conditioned on the taxpayer's consent to publication of information in the department's annual report.
3. Add authorization, beginning Jan. 1, 2016, for the department to publish a complete record of all waivers of penalties in excess of \$50,000 granted by the secretary in the department's annual report.
4. Add provision that any taxpayer who accepts the remittance or waiver of penalties shall be deemed to have consented to the publication of the information in the department's annual report.
5. Exempt waivers approved pursuant to the department's voluntary disclosure program from the publication requirements.