HOUSE SUMMARY OF SENATE AMENDMENTS

HB 721 **2015 Regular Session** **Ivey**

REVENUE SECRETARY: Provides relative to penalties collected by the Department of Revenue

Synopsis of Senate Amendments

1. Adds authorization for the Dept. of Revenue to share or furnish information with the Office of the Inspector General, the La. Attorney General's office, or a local District Attorney's office in connection with or related to an ongoing criminal investigation pursuant to a court-ordered subpoena.

2. Adds authorization for the Dept. of Revenue to share or furnish information with the U.S. Attorney's office in connection with or related to an ongoing criminal investigation pursuant to a court-ordered subpoena.

3. Adds authorization for the Dept. of Revenue to share or furnish of information with the U.S. Attorney's office in connection with a grand jury subpoena.

4. Changes the mandatory imposition of the penalties included in proposed law to the permissive imposition of these penalties.

Digest of Bill as Finally Passed by Senate

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. Further provides that approval of a waiver of penalties exceeding $25,000 shall be subject to oversight by the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee.

Proposed law 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 share or furnish a complete record of all waivers of penalties in excess of $25,000 with the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee. 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.

Proposed law further authorizes the sharing or furnishing of information by the Dept. of Revenue in response to a court-ordered subpoena requested by the Office of the Inspector General, the La. Attorney General's office, a local District Attorney's office, or a U. S. Attorney's office in connection with or related to an ongoing criminal investigation or a criminal proceeding.

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

Proposed law changes the penalty in present law from a mandatory penalty to a permissive one and increases the amount of 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 changes the penalty in present law from a mandatory penalty to a permissive one and 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 in present law from a mandatory penalty to a permissive penalty and increases the amount of 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 - If the secretary finds the taxpayer did not have willful intent to defraud the state, the secretary may assess a penalty equal to 10% of the tax deficiency resulting from the taxpayer's negligence.

(2) Large individual tax deficiency - If a taxpayer understates tax table income by an amount equal to 25% or more of adjusted gross income or has demonstrated a willful disregard for the tax laws of this state, the secretary may assess a penalty equal to 20% of the deficiency. However, if the secretary finds that the taxpayer did not have willful intent to disregard the laws of this state, the secretary may assess a penalty of 15% of the tax deficiency.

(3) Large tax deficiency for taxes other than individual income tax - If a taxpayer understates tax liability by 25% or more or has otherwise demonstrated a willful disregard for the tax laws of this state, the secretary may assess a penalty equal to 20% of the deficiency. However, if the secretary finds that the taxpayer did not have willful intent to disregard the laws of this state, the secretary may assess a penalty of 15% of the tax deficiency.

Effective July 1, 2015.

(Amends R.S. 47:114(F)(3), 295(C), 309(B), 1602(A)(2)(a) and (3)(a), 1603(A)(2) and (3), and 1604.1; Adds R.S. 47:1508(B)(37), (38), and (39))