

## TAX ADMINISTRATION DEADLINES

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**Senate Bill 337 (Substitute S-1)**  
**Sponsor: Sen. Jack Brandenburg**  
**House Committee: Tax Policy**  
**Senate Committee: Finance**

**Complete to 12-3-13**

## A SUMMARY OF SENATE BILL 337 AS PASSED BY THE SENATE 5-29-13

Senate Bill 337 (S-1) would amend several provisions within the Revenue Act (1941 PA 122) in order to establish deadlines regarding the Department of Treasury's processing of tax clearance requests and claims for refunds and for conducting examinations (audits) of taxpayer records.

### **Tax Clearance Requests**

Generally speaking, a successor in a business must withhold sufficient money in the purchase of a business in order to cover any business tax debts incurred by the previous owner. Those funds are typically released when the previous owner provides a receipt showing the taxes have been paid or provides a Tax Clearance Certificate from the Department of Treasury stating that no taxes are due.

The Revenue Act (MCL 205.27a) currently provides that upon the business owner's written waiver of confidentiality, the department may (permissive) release to a purchaser a business's known tax liability for the purposes of establishing an escrow account for the payment of taxes.

Senate Bill 337 would say, instead, that the department shall (required) provide tax liability information to the purchaser within 30 days from a request by the owner.

The bill further specifies that if the department does not provide the required information within that 30-day period, the purchaser would not be liable for any unpaid taxes.

### **Statute of Limitations**

The Revenue Act (MCL 205.27a) provides a general 4-year statute of limitations (from the date a return was required to be filed or actually filed, whichever is later) during which the Department of Treasury may assess a deficiency, interest, or penalties. (The 4-year statute of limitations also applies to taxpayers claiming refunds.) The act allows the statute of limitations to be tolled in a number of circumstances.

Senate Bill 337 would delete a provision that tolls the statute of limitations during the period pending a final determination of tax – including audit, conference, hearing, and

litigation of liability – for federal income tax or for a tax administered under the act, and for one year after that period.<sup>1</sup>

### **Examination of Taxpayer Records – Tax Determination**

The bill would add that if the department initiates an examination (audit) of a taxpayer's records and if the department has provided written notice of the examination to the taxpayer, the determination of the correct tax liability would have to be made within one year after the expiration of the 48-month examination period. However, the time limit would not apply to any tax period where the taxpayer failed to file a return or filed a false or fraudulent return, or where the department and the taxpayer agreed in writing to extend the statute of limitations.

### **Claims for Refund**

Under the Revenue Act, a taxpayer may file a claim for a refund within four years from the date a return was due. Senate Bill 337 provides that if a claim for a refund is not approved within one year from the date the claim is received, the absence of that approval could be considered to be a denial of that claim and could be appealed to the Michigan Tax Tribunal or the Court of Claims.

### **FISCAL IMPACT:**

As written, the bill could affect state revenues and costs to the Department of Treasury. Costs to Treasury could rise if the 30-day deadline for the release of tax information cannot be met on a regular basis under current funding levels. Costs could also rise if the one year deadline on Treasury decisions cannot be met under current funding levels, or appeals by taxpayers to the Tax Tribunal or Court of Claims become more common. Additional taxpayer appeals would have an indeterminate effect on state revenues, while the elimination of the statute of limitations could reduce state revenues by an unknown amount.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>1</sup> For further information on this provision see, Department of Treasury, Revenue Administrative Bulletin 2008-8, *Revenue Act – Audits and the Suspension of the Statute of Limitations*, approved December 2, 2008, [http://www.michigan.gov/documents/treasury/RAB\\_2008-8\\_258580\\_7.pdf](http://www.michigan.gov/documents/treasury/RAB_2008-8_258580_7.pdf).