Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 263*

130th General Assembly
(As Reported by S. Finance)

Sens. Peterson and Beagle, Jones, Obhof, Bacon, Patton, Schaffer, Hughes, Gardner, Burke

BILL SUMMARY

- Authorizes the Tax Commissioner to either apply a taxpayer's overpayment of a tax or fee administered by the Commissioner to the taxpayer's future tax liabilities or issue a refund to the taxpayer without the taxpayer having to request the credit or refund.
- Requires the Commissioner to notify taxpayers of tax or fee overpayments.
- Makes an appropriation.

CONTENT AND OPERATION

Tax or fee overpayments

The bill prescribes the manner in which the Tax Commissioner may address overpayments of taxes and fees administered by the Commissioner. Under the bill, the Commissioner is empowered to refund any tax or fee overpayment to the taxpayer or credit the overpayment to the taxpayer's future tax liability, even if the taxpayer does not file an application for a refund. The bill also prescribes a time period within which the Commissioner must notify a taxpayer that the taxpayer has overpaid a tax or fee.

Generally, under current law, a taxpayer that overpays a tax or fee may receive a refund of that tax or fee only if the taxpayer files an application for a refund or, in some cases, an amended return with the Commissioner. The bill does not preclude a taxpayer from filing a refund application.

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* This analysis was prepared before the report of the Senate Finance Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

Refund or crediting of overpayments

The bill authorizes the Commissioner to issue a refund or apply a credit against future tax liabilities to any person that overpays a tax or fee if the Commissioner would be required to refund that overpayment if so requested. (Under continuing law, a taxpayer may request a refund for most taxes and fees if the amount of the overpayment exceeds $1.[1]) The amount of the refund or credit equals the amount of the overpayment after adjusting for accounting factors applicable to the taxpayer such as accelerated tax payments, estimated payments, and tax credits (this amount is the "credit account balance").[2]

The Commissioner may either credit the taxpayer's credit account balance against the taxpayer's liability for a tax or fee in the taxpayer's next reporting period or refund the credit account balance. If the taxpayer has an outstanding debt for unpaid taxes or related charges that has been certified to the Attorney General for collection, or any other outstanding tax or fee liability, the refund must be reduced to that extent. The amount so deducted must first be applied to satisfy the taxpayer's certified tax debt and then to satisfy the taxpayer's other outstanding tax or fee liability.[3]

Overpayment notification

The bill requires the Commissioner to review taxpayers' accounts and notify a taxpayer if the taxpayer has a credit account balance that the Commissioner would be required to refund upon the taxpayer's request. The Commissioner is required to issue this notification no later than 60 days before the deadline for filing a refund application for the tax or fee (usually three or four years after the date of the overpayment).

The bill does not prescribe the method the Commissioner must use to deliver the notification, but the bill does require the Commissioner to use information on file with the Commissioner to contact the taxpayer.[4]

Rules

The bill authorizes the Commissioner to adopt rules to administer the refunding, crediting, and taxpayer notification of credit account balances.[5]

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[1] See R.C. 5703.75, not in the bill.

[2] R.C. 5703.77(A) and (C).

[3] R.C. 5703.77(C) and (D).

[4] R.C. 5703.05 and 5703.77(B).

[5] R.C. 5703.77(E).

Appropriation

The bill appropriates $682,000 in fiscal year 2015 from the General Revenue Fund to augment existing funding for the operating expenses of the Department of Taxation.[6]

HISTORY

ACTION	DATE
Introduced	01-14-14
Reported, S. Finance	---

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[6] Section 3.