Fiscal Note & Local Impact Statement

126 th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615
✧ *Internet Web Site:* http://www.lsc.state.oh.us/

BILL: **Sub. H.B. 390** DATE: **May 10, 2006**

STATUS: **As Enacted – Effective September 28, 2006** SPONSOR: **Rep. Taylor**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Place a time limit on the collection of certain finalized but outstanding tax liabilities; restore and extend the limit on enforcing certain statutory liens; restore and extend the timeframe during which the state must periodically refile for execution or certification of a court judgment against a debtor; and provide "innocent spouse relief" from joint and several liability for income tax under a compromise of claim**

State Fiscal Highlights

STATE FUND	FY 2006	FY 2007	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	Minimal increase	Minimal increase	Minimal increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2006 is July 1, 2005 – June 30, 2006.

- The provisions to place a time limit on the collection of certain finalized but outstanding tax liabilities could decrease state revenue collections from those taxes. However, the amount of loss is undetermined.

- The provisions restoring and extending the limit on enforcing certain statutory liens and the timeframe during which the state must periodically refile for execution or certification of a court judgment against a debtor could increase administrative expenses slightly.

- The provision requiring the Attorney General to appoint a problem resolution officer with regard to collection of the commercial activity tax could increase administrative expenses slightly.

- The provision that requires the Attorney General to prepare and file an annual report with the Clerk of the House of Representatives, the Clerk of the Senate, and the chairpersons of the respective standing committees of the Senate and House of Representatives that are primarily responsible for considering tax assessment and collection matters could also increase expenses slightly.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2006	FY 2007	FUTURE YEARS
Counties			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	Minimal increase	Minimal increase	Minimal increase
Other Local Governments			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The provisions to place a time limit on the collection of certain finalized but outstanding tax liabilities may reduce revenues collected from local sales and use taxes. Losses to each local government would depend on their sales and use tax rates levied.

- Distributions to the local government funds may be reduced due to decreases in revenues from the state income, sales, and corporate franchise taxes. Am. Sub. H.B. 66 of the 125th General Assembly temporarily "freezes" the statutory funding mechanisms and continues the local government funds funding in FY 2006 and FY 2007 at FY 2005 levels.

- The provisions restoring and extending the limit on enforcing certain statutory liens and the timeframe during which the state must periodically refile for execution or certification of a court judgment against a debtor could increase administrative expenses slightly.

Detailed Fiscal Analysis

The bill proposes to place a time limit on the collection of certain finalized but outstanding tax liabilities administered by the Tax Commissioner, to restore and lengthen a prior statute of limitation on certain statutory liens, to restore a former requirement that the state must periodically take affirmative action to keep alive judgment liens in the state's favor, and to provide "innocent spouse relief" from joint and several liability for income tax under a compromise of claim.

The provisions to place a time limit on the collection of finalized but outstanding tax liabilities could result in decreased state and local governments revenue collections from those taxes. However, it is difficult to determine the amount of loss. The amount of revenue loss may be offset if the Department of Taxation and Attorney General's Office enhance their compliance and enforcement programs and increase revenue collections from unpaid taxes within the proposed time limit on the collection as specified in the bill.

The proposed time limit on the collection begins within seven years after an assessment is issued or within four years after a contested assessment becomes final. The time limit on beginning court collection proceedings may be extended if a stay is issued against collection or by mutual agreement. Under the bill, if the state does not collect the full amount of alleged unpaid tax liabilities before the time limit on the collection expires, then the remaining tax liabilities on the unpaid tax could disappear. The time limit in the bill applies prospectively and retrospectively to assessments made before, on, or after the bill's effective date. If no assessment was issued, the bill applies to tax liabilities arising before, on, or after the bill's effective date, but if the seven-year limit for collecting an assessment or liability would end before three years after the bill's effective date, the time limit is extended three years past the bill's effective date.

The bill specifies that the Tax Commissioner must issue an assessment within a ten-year time limit, for any alleged unpaid tax liability when no shorter time limit applies under continuing law.[26] The time limit on assessment begins on the date the tax return report was due when a liability was not reported and paid, including any filing extensions allowed.

The time limit may be extended for the duration of any lawful stay of assessment. However, the ten-year time limit on assessments does not apply to tax fraud cases.

In addition, the bill requires the Attorney General to appoint a problem resolution officer with regard to collection of the commercial activity tax and to prepare and file an annual report with the Clerk of the House of Representatives, the Clerk of the Senate, and the chairpersons of the respective standing committees of the Senate and House of Representatives that are primarily responsible for considering tax assessment and collection matters. The provisions may increase the Attorney General Office's expenses slightly.

[26] Under continuing law, there are shorter time limits within which assessments for most taxes must be issued, except in cases when a return has not been filed, a return is fraudulent, or the tax has been collected but not remitted to the state.

The bill also restores and extends from six to twelve years the time limit on enforcing certain statutory liens for debts due the state. The time period during which the state must periodically refile for execution or certification of a court judgment against a debtor is restored and extended from ten to twelve years. These provisions may increase state and local governments' administrative expenses slightly.

Furthermore, the bill authorizes the Tax Commissioner and Attorney General to compromise a claim or enter into a payment-over-time agreement with a spouse that is an "innocent spouse" from joint and several liability for income tax similar to the federal "innocent spouse" tax law. The provision has no fiscal impact to state or local governments.

LSC fiscal staff: Ruhaiza Ridzwan, Economist