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H.B. 45
134th General Assembly

Bill Analysis

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Version: As Re-Referred to Senate Finance

Primary Sponsors: Reps. West and Roemer

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SUMMARY

- Establishes a two-month “amnesty” period during which taxpayers owing past-due state and some local taxes and certain fees may discharge the debt by paying the delinquent tax or fee without having to pay the penalty and accrued interest normally due.
- Declares an emergency.

DETAILED ANALYSIS

Tax amnesty

The bill establishes a temporary, two-month tax “amnesty” from July 1 to August 31, 2022, with respect to delinquent state taxes and local sales and use taxes.¹ It also covers delinquent state income tax withholding remittances by employers and certain fees administered by the Department of Taxation. (See below for a list of taxes and fees covered under the amnesty.) The amnesty applies only to taxes that were due and payable as of the provision’s effective date and that were unreported or underreported. The amnesty does not apply to any tax for which a notice of assessment or audit has been issued, for which a bill has been issued, or for which an audit has been conducted or is pending.²

If, during the amnesty, a person pays the full amount of delinquent taxes or fees owed, the Tax Commissioner must waive all penalties and accrued interest that are normally charged. The bill authorizes the Commissioner to require a person to file returns or reports, including amended returns or reports.

¹ Section 1(B). The House of Representatives passed the bill in December 2021, before the amnesty period was set to begin.

² Section 1(A).

In addition to receiving a waiver of penalties and accrued interest, a person who pays the amount due is immune from criminal prosecution or any civil action with respect to the tax or fee paid, and no assessment may be issued against the person for that tax or fee.³

The most recent general tax amnesty was conducted in 2018.⁴

Covered taxes and fees

The taxes and fees covered under the amnesty are the following:

| | |
|---------------------------------------|---------------------------------------|
| Income tax | Commercial activity tax |
| State sales and use taxes | Financial institutions tax |
| County sales and use taxes | Transit authority sales and use taxes |
| Public utility excise taxes | Kilowatt-hour tax |
| MCF (natural gas) excise tax | Alcoholic beverage taxes |
| Cigarette/tobacco/vaping excise taxes | Motor fuel excise tax |
| Fuel use tax | Petroleum activity tax |
| Casino wagering tax | Severance taxes |
| Wireless 9-1-1 charges | Tire fees |
| Horse racing taxes | |

Other local taxes, such as school district income taxes, are not covered by the amnesty.⁵

Administration, appropriations, and revenue disposition

To promote and administer the amnesty, the Commissioner must issue forms and instructions for the amnesty, must publicize the amnesty so as to maximize public awareness and participation, and may take any other action necessary to implement the amnesty.⁶ For FY 2022, \$250,000 is appropriated for use by the Tax Commissioner from the Controlling Board Emergency Purposes/Contingencies Fund for such tasks. The bill reappropriates any unspent amount remaining at the end of FY 2022 to FY 2023 for the same purpose.⁷

Taxes collected under the amnesty will be distributed in the same manner as the underlying tax liability would have been distributed had it been paid as required by law, except that up to the first \$250,000 in collections must be distributed to the Controlling Board Emergency Purposes/Contingencies Fund to reimburse that fund for any appropriations used by

³ Section 1(C) to (E).

⁴ Section 757.110 of H.B. 49 of the 132nd General Assembly.

⁵ Section 1(A).

⁶ Section 1(B).

⁷ Sections 3 and 4.

the Commissioner to promote and administer the amnesty. Otherwise, collections related to state taxes will be credited to the GRF unless a different fund is specified by law (e.g., motor fuel taxes to the various highway funds).⁸

HISTORY

| Action | Date |
|---------------------------|----------|
| Introduced | 02-03-21 |
| Reported, H. Ways & Means | 11-17-21 |
| Passed House (93-0) | 12-08-21 |
| Re-Referred to S. Finance | 11-15-22 |

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⁸ Sections 1(F) and 3.