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H.B. 105
135th General Assembly

Bill Analysis

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Version: As Reported by House Ways & Means

Primary Sponsor: Rep. J. Thomas

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SUMMARY

- Limits the circumstances under which municipal income tax inquiries or notices may be sent to a taxpayer subject to a filing extension.
- Limits the penalty that may be imposed on a taxpayer for failing to timely file municipal income tax returns.

DETAILED ANALYSIS

The bill makes two changes to the administration and enforcement of municipal income taxes, whether such taxes are remitted to and administered by a municipal corporation, i.e., a city or village, or the Tax Commissioner. Under continuing law, taxpayers generally report and remit municipal income tax to municipal tax administrators, but a business that owes taxes on its net profits may elect to report and remit municipal net profits taxes to the Department of Taxation, which then disperses payments to each municipality to which such tax is owed. The bill's first change limits when a municipal tax administrator or the Tax Commissioner may make inquiries or send notices to taxpayers whose tax filing deadline has been extended. The second change limits the penalty that may be imposed for failing to timely file a municipal income tax return. Both changes apply to taxable years ending on or after January 1, 2023.¹

Prohibited inquiries and notices

Under current law, the due date of a taxpayer's municipal income tax return, whether filed with a municipality or the Tax Commissioner, may be extended under various circumstances, including any of the following:

¹ Section 3.

- The taxpayer has requested an extension of the deadline to file the taxpayer’s federal income tax return.
- The taxpayer has requested an extension of the deadline to file the taxpayer’s municipal income tax return from the municipal tax administrator or Commissioner.
- The Commissioner extends the state income tax filing deadline for all taxpayers.

When a taxpayer receives an extension, the bill prohibits a municipal tax administrator or the Commissioner from sending any inquiry or notice regarding the return until after either the taxpayer files the return or the extended due date passes. If a tax administrator sends a prohibited inquiry or notice, the municipality must reimburse the taxpayer for any reasonable costs incurred in responding to it up to \$150. If the Commissioner sends such an inquiry or notice, the taxpayer’s costs, up to \$150, are reimbursed from the GRF.

The bill’s new limitations do not apply, and a municipal tax administrator or the Commissioner may send an otherwise prohibited inquiry or notice, if either has actual knowledge that the taxpayer did not actually file for a federal or municipal income tax extension.²

Penalty limitations

The bill also limits the penalty a municipal corporation or the Tax Commissioner may impose for the failure to timely file a municipal income tax return. Currently, a municipal corporation may impose a penalty of \$25 for each month a taxpayer fails to file a required income tax or withholding return, up to \$150 for each return. The Commissioner may impose the same monthly penalty on those unfiled returns as well as on unfiled estimated tax declarations. The bill reduces these penalties to a one-time \$25 penalty. The bill also exempts a taxpayer’s first failure to timely file from the penalty, requiring the municipal corporation or Commissioner to either refund or abate the penalty after the taxpayer files the late return.³

HISTORY

Action	Date
Introduced	03-14-23
Reported, H. Ways & Means	04-26-23

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² R.C. 718.05 and 718.85.

³ R.C. 718.27 and 718.89.