



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #341

### **Internet Posting of Delinquent Tax Accounts (General Fund Taxes -- Tax Administration)**

[LFB 2005-07 Budget Summary: Page 217, #2]

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#### **CURRENT LAW**

The Department of Revenue (DOR) considers a tax delinquent when the due date of a specific Department assessment has passed and by statute any appeal rights have expired.

#### **GOVERNOR**

Authorize the Department to publish on the Internet the identities of taxpayers who owe in excess of \$25,000 in delinquent taxes of any type administered by DOR, including interest, penalties, fees, and costs.

#### **DISCUSSION POINTS**

1. When an unpaid or unreported tax is identified, a bill is sent to the taxpayer. If the taxpayer disagrees with the assessment, he or she may pay the full amount without filing an appeal, and consider whether to file a claim of refund within two years. Alternatively, the taxpayer may file an appeal with DOR within 60 days after receiving the notice. If the bill is not paid or appealed within the 60-day period, the assessment is certified as delinquent to DOR's delinquent tax system. When an assessment is certified as delinquent, a delinquent collection fee is imposed on the account. The delinquent collection fee is equal to 6.5% of the balance or \$35, whichever is greater. Interest at the rate of 18% per year is charged on the balance of tax due. All delinquent liabilities are subject to having a tax warrant filed. Tax warrants are liens against real property, which may affect a taxpayer's credit rating. If a taxpayer has a delinquent balance outstanding, future state and federal tax refunds may be set off to recover the outstanding balance.

2. Under the bill, the Department would be authorized to list the name, address, types of tax, and total amount due, including interest, penalties, fees, and costs, for each person on the list of delinquent taxpayers. Accounts would be included on the list if they remain unpaid more than 90 days after the date on which the taxpayer's appeal rights expired. The listing for corporate taxpayers would include the names of corporate officers. The Internet site would be updated on a quarterly basis. The Secretary of Revenue and DOR employees would be given specific statutory authority to examine income and franchise, utility, sales and use, liquor, and tobacco products tax returns for the purpose of maintaining the Internet site. The following persons would be excluded from the Internet delinquent tax listing: (a) persons in compliance under an installment agreement with the Department; (b) persons on whose accounts the Department has entered an order compromising the amount due; or (c) persons protected by an automatic stay in effect under the U.S. bankruptcy code. The Internet site would have to be updated each business day to account for these cases. These changes would take effect on the first day of the sixth month after the bill's general effective date.

3. Currently, there are 116,000 delinquent tax accounts, of which 7,000 accounts have balances exceeding \$25,000. The table shows the delinquent account balance by type of tax through March, 2005.

**Delinquent Tax Accounts  
April, 2005**

| <u>Tax</u>    | <u>Amount</u>      |
|---------------|--------------------|
| Corporation   | \$29,798,800       |
| Miscellaneous | 13,790,900         |
| Income        | 301,826,800        |
| Sales         | 267,566,100        |
| Withholding   | <u>131,922,000</u> |
| <br>Total     | <br>\$744,904,600  |

4. According to the Department of Revenue, the following states post information about delinquent taxpayers on the Internet: California, Colorado, Connecticut, Georgia, Illinois, Indiana, Louisiana, Maryland, Minnesota, New Jersey, North Carolina, and South Carolina. However, the information that is posted by individual states varies. For example, the California Board of Equalization posts the 12 largest sales and use tax delinquencies in excess of \$1.0 million. Connecticut posts the state's top 100 delinquent taxpayers, while Illinois posts the names of taxpayers who owe more than \$10,000 in taxes for more than six months.

5. DOR indicates that it would use the authority provided in AB 100 to operate the Internet posting program for two years, and then evaluate the effectiveness of the program. Granting authority to post, rather than requiring it, would allow the Department to cease operations if it was determined that the Internet posting was not cost-effective. The Department indicates that it would absorb any additional administrative costs incurred as a result of the Internet posting program.

6. Since 1995, state law has required the Department of Workforce Development (DWD) to establish a program to increase public awareness about the importance of the payment of child support. The statutes require that the program include publication of information, such as names and photographs, that identifies individuals who are significantly delinquent in the payment of child support. DWD may use posters, media presentations, or other means that it determines are appropriate for publication of the information. The publications must include information about the child support owed by each obligor identified and, if appropriate, must solicit information from the public to assist DWD in locating a delinquent obligor.

7. The publication of information about individuals who owed significant amounts of child support was referred to as the child support "Most Wanted" campaign. DWD indicates that it began implementing the program in 1996 by displaying posters on its website and distributing press releases identifying delinquent support obligors. The program was initially successful--a hotline was established and 580 calls were received in the first 18 months of the program. However, over time, the program became less effective (only two calls were received during the last five months of the program), and DWD discontinued implementation in 2000.

8. It is estimated that the Internet posting program would increase general fund tax revenues by \$1,500,000 annually. The estimate is based on the experience of other states that have delinquent taxpayer Internet posting programs. A September, 2002, survey of six states conducted by the Federation of Tax Administrators (FTA), found that state Internet posting programs generated between \$1.0 million and \$127 million. Minnesota collected approximately \$1.0 million in little more than a year.

9. The proposed posting of delinquent taxpayers is supported as a fair treatment of individuals who violate the law, while most of their fellow citizens are voluntarily submitting their taxes. However, posting the names of individuals where people not only in the state, but worldwide, could obtain information about the delinquent taxpayer could be viewed as a violation of personal privacy. Social security numbers would not be included in the information that is posted.

10. A similar delinquent taxpayer Internet posting program would be established by 2005 Assembly Bill 330. However, AB 330 differs from the provisions of AB 100 in the following ways:

a. AB 330 would include the delinquent taxpayer information from the Internet posting program with information provided on public requests for net tax information

b. AB 330 would require, rather than authorize, DOR to post the list on the Internet, and the threshold amount for the list could be set below \$25,000, if the list included all delinquent taxpayers at or above the lower level. The bill does not specify that for corporate tax delinquencies, the posting would include the names and addresses of corporate officers.

c. AB 330 would require the Internet site to include a separate page for the persons who have the 100 largest delinquent accounts.

## ALTERNATIVES

1. Adopt the Governor's recommendation to authorize the Department to publish on the Internet the identities of taxpayers who owe in excess of \$25,000 in delinquent taxes of any type administered by DOR, including interest, penalties, fees, and costs.

2. Delete the Governor's recommendation and, instead, adopt the provisions of 2005 Assembly Bill 330.

3. Maintain current law.

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|---|----------------|
| <b>Alternative 3</b>                    | <b>GPR-REV</b> |
| <b>2005-07 REVENUE</b> (Change to Bill) | - \$3,000,000  |

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