COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2017 REGULAR SESSION

MEASURE

2017 BR NUMBER **1398** | **SENATE** BILL NUMBER **185**

RESOLUTION NUMBER_____ | AMENDMENT NUMBER _____

SUBJECT/TITLE An ACT relating to the administration of tax laws.

SPONSOR Senator Max Wise

NOTE SUMMARY

FISCAL ANALYSIS: ☒ IMPACT ☐ NO IMPACT ☐ INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT: ☒ STATE ☐ LOCAL ☐ FEDERAL

BUDGET UNIT(S) IMPACT: _____

FUND(S) IMPACT: ☒ GENERAL ☐ ROAD ☐ FEDERAL ☐ RESTRICTED AGENCY _____ ☐ OTHER

FISCAL SUMMARY

FISCAL ESTIMATES	2016-2017	2017-2018	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES		(Indeterminable)	(Indeterminable)
EXPENDITURES		Indeterminable	Indeterminable
NET EFFECT		(Indeterminable)	(Indeterminable)

( ) indicates a decrease/negative

MEASURE'S PURPOSE: The purpose of SB 185 is to amend statutes to make changes to the administration of tax. The changes are focused on: the Kentucky Department of Revenue ("department") notifying taxpayers when overpayments are discovered; altering the burden of proof to be so that a department employee shall not willfully, recklessly, or intentionally disregard taxpayer's rights; requiring reasonable cause for extensions and removing some restrictions regarding due dates of extensions; giving the department authority to waive interest when it accrues from an employee's error or delay; and removing the requirement of a supersedeas bond to appeal an order of the court.

PROVISIONS/MECHANICS: This legislative proposal amends KRS 131.081 to add the requirement that the department shall notify taxpayers in writing when a department employee discovers an overpayment of tax may have occurred. The statute is also amended to state that a department employee shall not willfully, recklessly, or intentionally disregard the rights of a taxpayer.

Section 2 amends KRS 131.170 to state that the department may grant an extension of time to file a report or return when a taxpayer demonstrates reasonable cause exists for the delay. SB

185 also removes the restriction that a variation of the due date for a return, report, or payment of tax cannot ultimately effect a reduction in revenue. Removing that restriction grants the department more leeway to allow a different due date upon request.

The authority to waive interest by the commissioner of the department is added to KRS 131.175 in Section 3. The waiver of interest is dependent upon the interest accruing as a result of a delay or error by the department. Currently, KRS 131.081(6) is the only statute that permits an interest waiver by stating that interest can be waived if the taxpayer has written advice from the department.

Section 4 removes the requirement of a supersedeas bond and states that the filing of a petition or an appeal to any court is sufficient to stay the collection of tax to appeal an order sustaining from a tax assessment.

FISCAL EXPLANATION: SB 185 touches on different areas of tax administration. Some measures of the bill will not have a fiscal impact and other measures have too many variables to predict the fiscal impact. However, it can be determined that any impact will be negative.

Requiring the department to notify taxpayers of overpayments will increase expenditures and decrease revenues, resulting in a negative impact, but only if the department is not presently notifying taxpayers about overpayments. The expected increase in expenditures is due to additional administration costs to identify overpayments and send notifications. The expected decrease in revenues depends on if more taxpayers start requesting refunds after they are notified that the refund exists. Therefore, determining the fiscal impact would depend on predicting the number of taxpayers who will overpay their taxes, the amount of additional administration costs needed, and the number of taxpayers who will choose to claim the refund once notified. These variables are difficult to predict. Therefore, the impact of this provision is indeterminable.

Altering the language of KRS 131.081 to change “willful, reckless, and intentional” to “willfully, recklessly, or intentionally” will not have a fiscal impact.

SB 185 proposes removal of the restriction that the due date can only be altered when the variation doesn’t ultimately effect a reduction in revenue. This opens the door for extensions to be granted that will ultimately reduce revenue. However, granting extensions is not mandated by SB 185 and whether the department chooses to exercise their new authority is unknown. Therefore, the fiscal impact is indeterminable.

Waiving interest will have a negative fiscal impact. However, there are too many variables to determine the amount of the impact. First, interest rates fluctuate from year to year, so the amount of interest waived will depend on the tax years involved. Second, it is impossible to predict if a department employee will create an error or delay significant enough to cause additional interest to accrue. Third, waiving interest is not mandated, so it is hard to predict whether or not the commissioner will agree to waive the interest. Therefore, the fiscal impact is indeterminable.

Removing the requirement of a supersedeas bond may create a negative impact. Having the option of posting a bond helps in situations where the bond would ensure the defending party has the funds to pay the tax liability. Court cases may span over a long period of time and during that time the defending party may relocate to another state, cease operations, or become bankrupt making it difficult to collect funds from them. However, since it is difficult to predict this type of situation, the impact is indeterminable.

DATA SOURCE(S): **LRC Staff**
PREPARER: **Cynthia R. Brown** **NOTE NUMBER**: **66** **REVIEW**: **JRS** **DATE**: **2/20/2017**