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TAXPAYERS: 24-HOUR NOTICE

Senate Bill 1012 (Substitute H-1) Addendum to SFA analysis (5-26-98)

Sponsor: Sen. Michael J. Bouchard
Senate Committee: Finance
House Committee: Tax Policy

ADDENDUM TO SENATE FISCAL AGENCY ANALYSIS OF SB 1012 DATED 4-1-98:

HOUSE COMMITTEE ACTION:

The House Committee on Tax Policy amended the bill to clarify both the protections and to expand the exceptions to the 24-hour notice period required by the bill.

More specifically, the bill would require that at least 24-hour notice be provided before the agents of the department appear at either the person's place of business or the place of business of the person's accountant, bookkeeper, or other representative for the purpose of conducting an audit.

The notice period would begin when notice was communicated orally, by telephone, or in person, or when sent by first-class mail, facsimile, or electronic mail, or otherwise delivered to the person's last known address in a manner that was reasonably calculated to notify the person. A written notice would be presumed to have reached the person it was sent to within 48 hours after being deposited in the U.S. mail or placed in the custody of a delivery service. A notice provided by facsimile or electronic mail would be presumed to have been received 24 hours after transmission. An authorized agent of the department could verify that communication, sending or delivery of the notice by signing an affidavit containing the date, time, and manner of delivery on a form designated by the department. If the department failed to provide notice as required, the taxpayer could not be penalized for negligent deficiency or excessive claim of credit done without the intent to defraud or for failure or refusal to file a return.

In addition to the exceptions for the provision of the 24-hour notice contained in the Senate-passed version of the bill, notice would not be required where: the taxpayer waived the notice requirement in writing; the taxpayer was required to be registered or licensed with the department and was not; and when the department was examining or auditing books, records, tax returns, papers, or accounts that were in possession of the department. In addition, this notice would not be required for an inspection, test, sampling of a product, seizure, examination, or audit authorized under another act, including but not limited to, the Tobacco Products Tax Act, the motor fuel tax act, and the Motor Carrier Fuel Tax Act.

Senate Bill 1012 (5-26-98)

POSITIONS:

Simplified Employment Services supports the bill. (5-21-98)

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.