

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA**



**BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 1012 (as reported with amendments)  
Sponsor: Senator Michael J. Bouchard  
Committee: Finance

Date Completed: 4-1-98

### **RATIONALE**

Under the revenue Act, if a taxpayer fails or refuses to make a return or payment of a tax, or if the Department of Treasury has reason to believe that a return or payment does not supply sufficient information for an accurate determination of the amount of tax due, the Department may obtain information on which to base assessment of the tax. The Department's authorized agents may examine the taxpayer's books, records, and papers and audit the taxpayer's accounts or any other records pertaining to the tax. The Department must send the taxpayer a letter of inquiry, stating in a courteous and unthreatening manner, the Department's opinion that the taxpayer needs to furnish further information, or owes taxes to the State, and the reason for the opinion. The requirement to send a letter does not apply if: 1) the taxpayer files a return showing tax due but fails to pay; 2) the deficiency resulted from a State audit of the taxpayer's books and records; or 3) the taxpayer otherwise affirmatively admits that a tax is due and owing. It has been suggested that, whether or not the Department is required to send a letter of inquiry to the taxpayer, the Department should give the taxpayer at least 24 hours' notice before it examines the taxpayer's records.

### **CONTENT**

The bill would amend the revenue Act to require the Department of Treasury to give a taxpayer at least 24 hours' notice before its authorized agents examined the taxpayer's books, records, and papers. The Department would not be required to give the notice if the Revenue Commissioner or the Commissioner's designated representative reasonably believed that a person liable for a tax did, or intended to do, one or more of the following: quickly depart the State; remove property from the State; conceal a person or property in the State; commit fraud; or underreport a tax.

MCL 205.21

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Currently under the Act, in those instances when the Department of Treasury is not required to send a letter of inquiry to a taxpayer, there is nothing in the Act to prevent the Department from demanding immediate access to the taxpayer's books, records, and papers. This may be useful in cases in which the taxpayer is attempting to commit fraud, or quickly leave the State to avoid paying taxes due. It is of less value in the more likely event that the taxpayer is a resident and a property, business, or home owner and stands to gain little by cheating on his or her taxes. By requiring the Department to give taxpayers at least 24 hours' notice when it wishes to examine a taxpayer's records, the bill would ensure that taxpayers had an opportunity to get their records together and attempt to collect information pertinent to the dispute. In the event the Department had reason to believe that a taxpayer intended to leave the State, commit fraud, or remove or conceal property from the State, the 24-hour notice would not be required.

Legislative Analyst: G. Towne

### **FISCAL IMPACT**

Currently there are no data to indicate whether this provision would result in net loss or net gain for the State. There would be an indeterminate fiscal impact on the State. There would be no fiscal impact on local government.

Fiscal Analyst: E. Limbs

### **A9798\S1012A**

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.