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FISCAL NOTE

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Prime Sponsors: Sen. Court Bill Status: Senate Finance
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Bill Topic: DOR ENFORCEMENT MEASURES FOR THE COLLECTION OF TAX OWED

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government (minimal)
- Statutory Public Entity

This bill codifies current practice regarding enforcement measures used for the collection of tax owed, and broadens the documentation acceptable to process the transfer of ownership of a motor vehicle in circumstances of tax delinquency. It requires one-time state expenditures and generates minimal ongoing workload for the state and local governments.

Appropriation Summary: For FY 2019-20, the bill requires an appropriation of \$6,750 to the Department of Revenue.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 19-035

Table with 3 columns: Category, FY 2019-20, FY 2020-21. Rows include Revenue, Expenditures (Cash Funds), Transfers, and TABOR Refund.

Summary of Legislation

This bill clarifies the enforcement mechanisms available to the Department of Revenue (DOR) in circumstances of tax delinquency.

Statute of limitations. Under current law, the assessment of any tax, penalty, or interest must be made within one year after a tax return is filed, inclusive of any time extension approved for the taxpayer. This bill creates an exception to the statute of limitations:

- for any period during which the taxpayer's assets are under the control or custody of a court, and for six months thereafter; or
- in a case under federal bankruptcy law during which the DOR is prohibited from seizing assets, and for six months thereafter.

Seizure and sale of vehicles. Currently, when personal property is seized for delinquent taxes and later sold by the seizing agency, the purchaser is provided with a government certificate of sale or court order. Under this bill, when the subject of the sale is a motor vehicle, the certificate of sale is required to be accepted in lieu of a certificate of title for the purpose of transferring ownership, and issuance of such a certificate voids previously issued titles to that motor vehicle.

District court orders. In addition to any other remedies available to the DOR, this bill specifies that any Colorado district court has jurisdiction to issue orders as necessary to collect delinquent taxes, penalty, or interest, including warrants to search premises to seize and sell a taxpayer's personal property.

Surrender of property subject to tax levies. The bill clarifies that a person must surrender a delinquent taxpayer's property upon demand of the DOR. An exception is created if the person, at the time of the demand, has a valid right of setoff or an interest superior to the DOR's. Financial institutions must surrender any deposits within 21 days after service of the levy. Employers must surrender salary or wages within 21 days after the end of the taxpayer's pay period. A levy on salary or wages is continuous from the date when the levy is made until its release by the DOR, and may not exceed 25 percent of the taxpayer's disposable earnings.

Persons who fail to surrender a delinquent taxpayer's property upon demand are liable for an amount equal to the value of the levied property, not to exceed the amount of the tax liability. Persons complying with orders to surrender property are discharged from any obligation to the delinquent taxpayer arising from the surrender.

Background and Assumptions

Except for the provisions regarding motor vehicles, the language of the bill codifies current practice and therefore has no fiscal impact.

State Expenditures

The bill increases cash fund expenditures in the DOR by \$6,750 in FY 2019-20 only.

Department of Revenue. The Division of Motor Vehicles will be required to program its Driver License, Records, Identification, Vehicle Enterprise Solution (DRIVES) software system to allow certificates of sale to be processed like a title transfer for the purpose of transferring vehicle ownership. DRIVES programming changes are paid from the DRIVES Cash Fund. Additionally, workload will increase to engage in any required rulemaking and to update forms, manuals, and the department's website, as well as to provide training to authorized agents, Title and Registration Section staff, and law enforcement. Any workload increases or costs associated with these activities can be accomplished within existing appropriations.

Judicial Department. The bill potentially increases civil district court cases by giving these courts jurisdiction to issue orders for collection of delinquent taxes. This workload increase is expected to be minimal and can be accomplished within existing appropriations.

Local Government

The bill increases workload to the extent required for local law enforcement agencies to become aware of the bill's changes to laws regarding property seizures. Additionally, county departments of motor vehicles will be newly required to accept certificates of sale issued by tax agents. Workload arising from these changes is assumed to be minimal.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2019-20, the bill requires an appropriation of \$6,750 from the DRIVES Cash Fund to the Department of Revenue.

State and Local Government Contacts

Information Technology Judicial Law Revenue