

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 366
 Ways and Means

(Delegate Lierman)

Budget and Taxation

Office of the Comptroller - Legal Division and Private Letter Ruling Procedures

This bill establishes a legal division in the Comptroller’s Office to (1) provide expanded and detailed tax guidance to taxpayers and (2) perform other duties relating to private letter rulings (PLRs) as assigned by the Comptroller. The Comptroller must issue specified PLRs on the written request of a person, except under specified circumstances. The Comptroller must provide the requestor of a PLR with written reasons for the denial and to do so within 60 days of the request submission when denying a PLR request. A PLR is defined as a written determination issued by the Comptroller on the application of tax laws and regulations to a specific set of facts that is intended to apply only to that specific set of facts. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: General fund expenditures increase by \$722,500 in FY 2023. Future years reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	722,500	882,800	906,600	929,900	953,100
Net Effect	(\$722,500)	(\$882,800)	(\$906,600)	(\$929,900)	(\$953,100)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill establishes a legal division in the Comptroller's Office to (1) provide expanded and detailed tax guidance to taxpayers and (2) perform other duties relating to PLRs as assigned by the Comptroller. The head of the legal division is the director, who has administrative control of the legal division under the supervision of the Comptroller. The director must appoint other officers and employees of the legal division in accordance with the provisions of the State Personnel and Pensions Article, including a minimum of six attorneys.

A person that requests a PLR must include in the written request a statement as to whether the person is the subject of an ongoing taxation matter, including an audit, a claim for refund, a tax protest, or an appeal to the tax court or any other court with jurisdiction over the matter. If the person is the subject of an ongoing taxation matter, the statement must include any relevant case numbers or other identifying information.

A PLR that is issued may be relied on solely and prospectively by the person for whom the PLR is requested unless there is an intervening statutory or regulatory change or the PLR is revoked by the Comptroller. A PLR is binding on the Comptroller for a period of seven years unless (1) there has been a misstatement or omission of material facts in the request; (2) the actual facts are determined to be materially different from the facts on which the PLR was based; (3) there has been a change in law or a final decision in a contested case that the Comptroller determines affects the validity of the PLR; or (4) the Comptroller has modified or revoked the PLR.

An unfavorable PLR does not bind the person for whom the PLR was requested. The modification or revocation of a PLR by the Comptroller may not be applied retroactively to taxable periods or taxable years before the effective date of the modification or revocation.

The Comptroller is required to adopt regulations necessary to carry out the provisions of the bill, including regulations that establish (1) the procedure, form, and time periods for submitting a request for a PLR; (2) the terms and conditions under which a PLR may be revoked or modified; (3) the limitations on the applicability of a PLR to specific persons, transactions, factual circumstances, and time periods; (4) the circumstances under which a request for a PLR may be denied by the Comptroller for good cause; and (5) guidelines for the publication of PLRs.

Current Law: In general, the Comptroller's Office is responsible for administering the State's tax laws that relate to the following: (1) admissions and amusement tax; (2) boxing and wrestling tax; (3) digital advertising gross revenues tax; (4) income tax; (5) Maryland estate tax; (6) Maryland generation-skipping transfer tax; (7) motor carrier tax;

(8) motor fuel tax; (9) sales and use tax; and (10) savings and loan association franchise tax. In cooperation with the Executive Director of the Alcohol and Tobacco Commission, the Comptroller's Office is also responsible for administering the laws that relate to the alcoholic beverage tax and tobacco tax. The Comptroller's Office must adopt reasonable regulations to administer the provisions of these tax laws.

State Fiscal Effect: To comply with the staffing requirements of the bill, general fund expenditures for the Comptroller's Office increase by \$722,500 in fiscal 2023, which accounts for a 90-day start-up delay. The estimate reflects the cost of hiring (1) one director, as required by the bill; (2) four attorneys, as required by the bill; and (3) one webmaster to develop and maintain a database of PLRs and a web-based application to search the database. The remaining two attorney positions required by the bill will be transferred from existing divisions within the Comptroller's Office into the new legal division, as part of a consolidation of legal services.

Positions	6.0
Salaries and Fringe Benefits	\$661,601
Operating Expenses	<u>60,933</u>
Total FY 2023 Comptroller Expenditures	\$722,534

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

The Comptroller's Office reports that dedicated funding for the new legal division allows the agency to fulfill a recommendation of the Augustine Commission. In addition, the changes allow the Comptroller's Office to deliver service to businesses and individuals like those being provided in other states, including the District of Columbia, Pennsylvania, and Virginia.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 477 (Senators Hester and Rosapepe) - Budget and Taxation.

Information Source(s): Comptroller's Office; Department of Budget and Management; Department of Legislative Services

Fiscal Note History:
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