

LEGISLATIVE FISCAL ESTIMATE TO

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1420

STATE OF NEW JERSEY

DATED: April 10, 1996

The Assembly Committee Substitute (1R) for Assembly Bill No. 1420 requires the Director of the Division of Taxation to establish a tax amnesty period of up to three months that will end no later than one year after the date of enactment of this legislation and also authorizes the director to establish a system for the payment of State taxes by credit card, debit card or electronic funds transfer.

Based upon the State Treasurer's public testimony, the amnesty period will take place during the remainder of the current fiscal year that ends on June 30, 1996.

During the amnesty period a taxpayer who has failed to pay any State tax may pay the tax without any interest that may otherwise be due, without any costs of collection that may otherwise be due, and without the imposition of any civil or criminal penalties arising out of an obligation imposed under any State tax law. This amnesty period applies only to State tax liabilities for tax returns due on and after January 1, 1987 and prior to January 1, 1996. The amnesty provisions do not extend to any taxpayer who, at the time of payment, is under criminal investigation or charge for any State tax matter.

If a taxpayer eligible to use the amnesty period fails to pay taxes during the period, a 5% penalty, which is not subject to waiver or abatement, will be imposed in addition to all other penalties, interest, or costs of collection otherwise authorized by law, on the unpaid liability.

The bill provides an appropriation of up to \$10 million for the costs of advertising, developing and administering the amnesty program. The Treasurer estimates that the program will increase tax payments by \$80 million; allowing for the appropriation in the bill, Treasury's expectation is for a net revenue increase of \$70 million in FY 1996. This amount, which has been incorporated into the Administration's FY 1996 revised revenue estimates, includes \$35 million for the sales and use tax, \$18 million for the corporation business tax and \$17 for the gross income tax.

To date, the Department of the Treasury has not furnished any data to explain or support the \$70 million revenue estimate. The department has noted that a prior amnesty program conducted late in

1987 yielded \$68 million in additional revenues, although that program operated with a partial, rather than complete, interest abatement.

The Office of Legislative Services (OLS) believes that a series of considerations make it very difficult to accurately forecast the revenue impact of the amnesty program. However, the net revenue impact of the amnesty program will be determined by the balance between new tax revenues that are attracted through the amnesty offer and the revenue losses resulting from the forgiveness of interest and penalties owed by taxpayers who would otherwise have made full payment through current State tax compliance efforts.

According to the Division of Taxation, if there were no amnesty program this year, approximately \$280 million in "normal" tax compliance revenue would be received from February to June of 1996. All or most of these payments will now be made through the amnesty program, but they will be reduced by the value of interest and penalties that would otherwise be collected during this period. The most recent annual report of the Division of Taxation indicates that interest and penalties comprised approximately 42 percent of the total value of assessments for delinquent taxes imposed by the division in FY 1994. If amnesty results in the loss of 42 percent of that \$280 million, the State would be forgoing almost \$118 million in revenue it would otherwise have expected to collect. Even if it is assumed that interest and penalties comprise only 25 percent of normal tax compliance payments (due to permissive abatements that may be granted by the Director of Taxation under current tax law), the State could still expect a tax loss of \$70 million from this component.

Therefore, to offset this interest and penalty loss and generate an additional \$80 million in "new" money, the amnesty program will need to raise between \$150 million (\$70 million loss coverage plus \$80 million) and \$198 million (\$118 million loss coverage plus \$80 million) from delinquent taxpayers who would not have come forward in FY 1996 except for the amnesty program. These are primarily individuals and businesses whose delinquencies are as yet unknown to the Division of Taxation.

The Department of the Treasury has not provided information on the estimated number of such "new" taxpayers nor the portion of their overall tax liability likely to be captured through an amnesty program. OLS has no independent access to data that would support a prediction that \$150 million or \$198 million will come from taxpayers who would not have otherwise come forward.

With any amnesty program, there exists the probability that anticipated compliance collections in the months following the close of the amnesty period will be less than they normally would be, due to some portion of those payments being pushed forward into the amnesty program under more favorable terms. For instance, in both FY 1995 and 1996, approximately \$80 million in tax payments attributed to compliance activity have been collected in the months of

July and August. With the proposed amnesty program likely to end by June, OLS believes that some of the new money that will be received during the amnesty period in FY 1996 will be from taxpayers who would have made compliance payments in the first quarter of FY 1997. Accordingly, a revenue gain from tax amnesty in FY 1996 may be offset, in whole or part, by a corresponding reduction in FY 1997 compliance revenues. The State Treasurer has indicated that he does not think this will be the case.

Finally, there should be some increase in FY 1997 and subsequent year's regular tax revenues as the result of the capturing of first time taxpayers who have responded to the amnesty program and will make timely payments in the future. Neither the Treasurer or OLS have developed an estimate of the amount of additional ongoing revenue that might result from these new taxpayers.

The aspect of this bill that allows for the payment of State taxes by credit card, debit card or electronic funds transfer may encourage the more timely payment of taxes, but it is not possible to quantify the revenue impact, if any, until more details of the program are developed.

Assembly, No. 1420 (ACS) (1R) is identical to Senate, No. 675 (SCS).

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.