

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1054  
Ways and Means

(Delegate Brooks, *et al.*)

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Income Tax - Penalties - Assessment Schedule

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This bill alters the penalty imposed on a person who fails to pay income taxes. The Comptroller must assess a penalty of between 5% and 25% of the unpaid income tax due based on the number of days after the due date the tax was paid.

The bill takes effect July 1, 2016, and applies to all penalties assessed on or after July 1, 2016.

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Fiscal Summary

**State Effect:** State revenues are not expected to be materially impacted. Potential significant increase in general fund expenditures in FY 2017 due to one-time implementation costs at the Comptroller's Office.

**Local Effect:** Local revenues are not expected to be materially impacted. Local expenditures are not affected.

**Small Business Effect:** Minimal.

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Analysis

**Bill Summary:** The bill specifies that if a person fails to pay income tax due, the Comptroller must assess a penalty equal to, as a percentage of the unpaid tax, between 5% and 25% based on the number of days after the tax was due that it was paid, as shown below:

<u>Days Past Due</u>	<u>Penalty</u>
Up to 30	5%
31-60	10%
61-90	15%
91-120	20%
Over 120	25%

**Current Law:** The Comptroller is required to assess a penalty not exceeding 25% of the unpaid income tax when a return is not filed or tax not paid by a person or governmental unit. For reasonable cause, the Comptroller may waive the penalty.

**State Revenues:** The bill requires the Comptroller to assess a penalty of between 5% and 25% of the unpaid income tax due based on the number of days after the tax was due that it was paid. Current law requires that the Comptroller assess a penalty but only specifies the maximum rate (25%) that can be imposed. While information is not available on the amount of penalties assessed and collected under current law or the average rate of penalty imposed, the Comptroller's Office advises that a penalty of 10% is typically imposed and that penalties are often waived. The current practice includes waiving the full penalty if a taxpayer settles the past due amount after the first contact from the Comptroller's Office. To the extent the bill leads to an increase in the average penalty assessed, State revenues could increase minimally.

**State Expenditures:** The Comptroller's Office advises that it will incur significant expenditures in fiscal 2017 to implement the change, including substantial changes to the SMART income tax processing system to accommodate the additional penalty rates, but that it cannot accurately provide an estimate.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2016  
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