Approved 4.29.84
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Senator Paul "Bud" Burke at
Chairperson

11:00 a.m./~~p.m.~~ on March 19, 1984 in room 526-S of the Capitol.

All members were present except: Senator Chaney (excused)
Senator Hayden (excused)
Senator Mulich (excused)

Committee staff present: Wayne Morris, Research Dept.
Tom Severn, Research Dept.
Don Hayward, Revisor's Office

Conferees appearing before the committee:
Ron Gaches, Kansas Chamber of Commerce and Industry
Jim Yonally, National Federation of Independent Business
Harley Duncan, Secretary of Revenue

The committee held a hearing on HB 2827 regarding the penalty imposed for late remittances of income tax withholdings and the penalties for certain excise taxes.

The chairman reported that it had been suggested to him that SB 798, the cleanup bill requested by the Department of Revenue on income tax laws be amended into this bill. This is because of some amendments that prevailed in the House committee, one of which was to sunset the income tax deduction one year earlier than the two year sunset provision that was in the bill.

Representative Rolfs, chief sponsor of the bill, was unable to appear.

The chairman recognized Ron Gaches, KCCI, to review the provisions of HB 2827. He explained that the bill as originally introduced dealt only with the late penalty on withholding tax. It was felt last year that it was necessary to increase the late payment penalty to 25%, but now it is time to moderate that late payment penalty so as to provide for a 10% penalty for the first 59 days of delinquency and an additional 15% penalty for delinquencies longer than 59 days. The bill was further amended on the floor of the House to include a Revenue Department recommendation to make uniform the late penalty for other excise taxes.

A new section was added to the bill specifying the due date for mailing of income tax returns. He said the KCCI position is to endorse the original bill calling for reduced penalties for income tax withholdings.

Jim Yonally, representing NFIB, stated he was speaking on behalf of the small businesses which are members of their organization and speaking only to the provision on late withholdings. They have no position on the other matters in the bill, but believe the current 25% penalty is too drastic and think a 10% penalty is sufficient to protect the state's interest. The 59 day late penalty will be more fair to the employer.

Harley Duncan said he would like to recommend an amendment to HB 2827 as relates to the late filing of delinquent returns. He would encourage the committee to leave this as a flat amount at a rate above 10%. The problem they have is with the computer system. It is not capable nor efficient for updating after a period of time has elapsed. They would have to develop additional programs and then additional assessments and each would have to be reviewed and handled manually. They would need additional resources. Also, this would slow down the process of getting information to the field collection people and the ability to collect is very limited by that time. He said the 10% is a low penalty and could encourage delinquency. He would propose an amendment relating to the accelerated tax payment last year whereby the requirement for the annual report to be filed was January 1, showing the amount of deposit and amount of liability due by January 31. The second report was due the last day of February. The employer must send to them all W2 or K2 forms for each individual and the total amount they pay. They deal with the amount of withholding tax and can't work the January 31 one until they receive the February form. He is requesting the January 31 reporting date be changed to the last day of February. This would be simpler for the employer and for the department.

The chairman commented that there seems to be a "mish mash" of late penalties. The Secretary said that other sections of the bill pull them together.

The committee held a hearing on HB 3076 which relates to waiving the penalties for late payment of excise tax liability.

The chairman asked the Secretary of Revenue to comment on this bill. He distributed copies of a Kansas City Star article, dated February 19, 1984, pertaining to this matter. (Attachment #1) He stated this bill provides for a one time only offer, limited to only unreported or under-reported taxes, those they don't know about. Otherwise it would be unfair to those who did pay on time to grant an amnesty such as this provides.

Ron Gaches, KCCI, stated he would like to go on record in support of this bill.

The committee considered HB 3031 which allows cigarette manufacturers to distribute sample packages of up to 19 cigarettes.

The chairman asked Mark Beshears to update the committee on a proposed change that might need to be inserted on page 3, line 109 (l). Mark said there was an amendment offered on the floor of the House in an attempt to clarify the language which clouded the issue instead. Don Hayward has the proposed language of the original intent.

Senator Allen moved to amend HB 3031 on page 3, line 109 by striking (l) and inserting a new (l) "to attach any machine or device to a machine which vends cigarettes that vends cigars or products which may be confused with cigarettes." Senator Kerr seconded the motion and the motion passed.

Senator Montgomery made a motion to further amend HB 3031 on page 3, line 117 (n) by inserting "or possess" following the word "receive" and before "cigarettes". Senator Angell seconded the motion and the motion passed.

Senator Angell moved to further amend HB 3031 by striking section 2. He commented that he believes the purpose of giving packages of 19 cigarettes away is a method to get more people to smoke and why should this be encouraged? The chairman said that possibly because all the other states are doing this. The tax will still have to be paid but directly to the Department of Revenue.

The motion failed for lack of a second.

The chairman asked for any further motions on HB 3031. No motions were made.

The chairman adjourned the meeting at 11:50 a.m. The committee will meet at 11:00 a.m. on March 20.

ASSESSMENT AND TAXATION

OBSERVERS
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
MARCH 19	D. Ferrell	Topeka	Budget
	Bill Gold	"	REVENUE
	Geoff Eilds	"	"
	M. Beshears	"	Philip Morris
	Tom Sheridan	"	Revenue
	Ron Gaches	"	KANSAS CHAMBER
	H Duncan	Topeka	Revenue
	[illegible]	Shawnee Mission	NFIB/Kansas
	[illegible]	TOPEKA	BUDGET DIV.
	M. Hauver	"	Capital Journal
	Leroy Jones	Overland Park	B.L.E.
	Bud Grant	TOPEKA	KCCI
	Jackie Doy	Wichita	
	Christal Pokorny	Wichita	

A nesty for tax cheaters gives state coffers a boost

By Andrew C. Miller

The Star's Washington correspondent

Washington—In Arizona, a woman filed a long-lost tax return that she said had been missing behind her refrigerator. In Massachusetts, a 55-year-old man paid a lifetime's worth of taxes after confessing he had never filed a state tax return.

And in Missouri, two corporations paid a total of $750,000 in back taxes that they had owed the state, but never paid.

The payments were all part of a new wave of programs since 1981 in six states that have granted amnesty from criminal prosecution to tax cheats if they voluntarily square their accounts.

Tax experts say the one-time grace periods, which have yielded more than $64 million nationally, are the first tax amnesty programs to occur since personal income and sales taxes became prevalent in states in the 1930s.

"Quite a number of other states are looking into it," said John Gambill, senior research associate for the Washington-based Federation of Tax Administrators, a group of state tax officials. And the possibility of a federal program also has been raised.

By far the most successful program to date was in Massachusetts, where more than 30,000 taxpayers paid $56.9 million to shocked state officials who were expecting a mere $5 million.

On the final day of the 90-day program last month, state officials estimated that 28,800 residents lined up at 11 state revenue offices to clear their tax records. Payments ranged from a $1 million settlement by an out-of-state corporation for overdue excise taxes to an 8-cent check.

Missouri's two-month program last fall collected $38,000 from individuals, an additional $54,000 from sales tax returns plus the two corporate returns of $750,000. State officials will not release the name of the two corporations.

In the words of one Massachusetts official, the repentant taxpayers are motivated by "fear, guilt and gratitude."

Among those across the nation who have turned themselves in were an 80-year-old Massachusetts electrician who said he hadn't filed a tax return in 43 years. He didn't believe the amnesty offer and asked a friend to wait outside the tax office with bail money—just in case.

Two nuns in Massachusetts took advantage of the tax amnesty program to pay back taxes for a meals operation they ran. One Arizona couple said they did not file because their dog died on the tax return.

States offering amnesty programs are waiving criminal penalties and most, or all, fines to those who are volunteering to pay their taxes. Most states still insist that the residents pay all the applicable interest payments due on back taxes.

For states looking to squeeze every legitimate tax dollar out of residents, and boost state revenues, amnesty programs hold the golden promise of encouraging payments of back taxes while adding to the number of active taxpayers on the rolls in future years.

The first amnesty program was in Illinois. Just two weeks long, the grace period ended in early January 1982, netting the state about $100,000 from 400 taxpayers.

"We did not do the big advertising push that Massachusetts did," recalled Helen Adorjan, a state revenue official. "We were probably a little conservative in doing it because we did not know anyone else who had done it, and as a tax agency, you have to be conservative."

Then came Arizona, where officials launched a more aggressive two-month campaign that ended January 1983. It ranged from advertisements in out-of-state newspapers to billboards placed in Arizona's largest cities.

"The more you spend on effective ads, the more you will take in," advises a special handbook that Arizona distributes to curious revenue officials in other states. Arizona called its overall tax compliance program, which netted $6 million, the "Arizona Tax Hunt."

Like most amnesty states, Missouri offered the grace period only to nonfilers, rejecting requests for amnesty to those already listed on the revenue department's computers as being delinquent in their payments. Only Massachusetts and Alabama offered amnesty to already identified delinquent taxpayers as well.

For every state, the grace periods have marked the transition to stepped up enforcement of tax laws, highlighted by more tax auditers and beefed up computer systems.

"We've enhanced our ca[illegible]ty to get nonfilers with $5 [illegible] worth of computer equipment," said Kevin Sombart, a Missouri revenue department spokesman.

Despite the increasing popularity of the programs, Kansas officials say they have no plans to institute an amnesty.

The odds seemed heavily against a federal tax amnesty until the Massachusetts program netted $56.9 million. That spurred House Speaker Thomas P. O'Neill, a Massachusetts Democrat, to say that the federal government should consider a one-time amnesty.

Mr. O'Neill said he believed there were probably millions of citizens who would take advantage of an opportunity to settle their accounts with the Internal Revenue Service, helping pare the federal deficit and clear their conscience.

But in promising to study the matter, Rep. Dan Rostenkowski, chairman of the House Ways and Means Committee, cautioned that the Massachusetts program might not be a model for the entire nation.

"The conditions which led to a successful amnesty program in Massachusetts are different from those that prevail in the rest of the nation," he said. "The dramatic and well-publicized increase in penalties and enforcement efforts in Massachusetts was a major catalyst in the response to an amnesty period."

No legislation is pending in the House or Senate calling for a federal amnesty.

IRS Commissioner Roscoe Egger expressed his skepticism last year in hearings before the Senate Finance Committee. Honest taxpayers would view amnesty as special treatment for cheats, he said. Others, expecting another amnesty in the future, would see it as a license to start cheating, he argued.

Like some states, IRS officials also dislike the concept because it carries the implication that tax enforcement efforts have been weak in the past.

Even so, Mr. Egger promised in May to study the matter. "We have people who are starting to look into it," an IRS spokesman confirmed last week. He described the study as very preliminary.

Republican Sen. Bob Dole of Kansas, chairman of the Senate Finance Committee, has some of the same reservations, a committee spokesman said. But Mr. Dole has said the issue deserves a look, the aide said.

David Keating, executive vice president of the National Taxpayers Union, estimated last week that a federal amnesty, based on the Massachusetts experience, could yield between $5 and $10 billion for the federal treasury. Other advocates believe it could bring the government as much as $20 billion.

An amnesty would be fair to honest taxpayers, Mr. Keating said, because it would put tax cheats on the rolls permanently. Thus legal taxapyers would be spared from paying higher taxes, he said.

Harley Duncan
3-19-84

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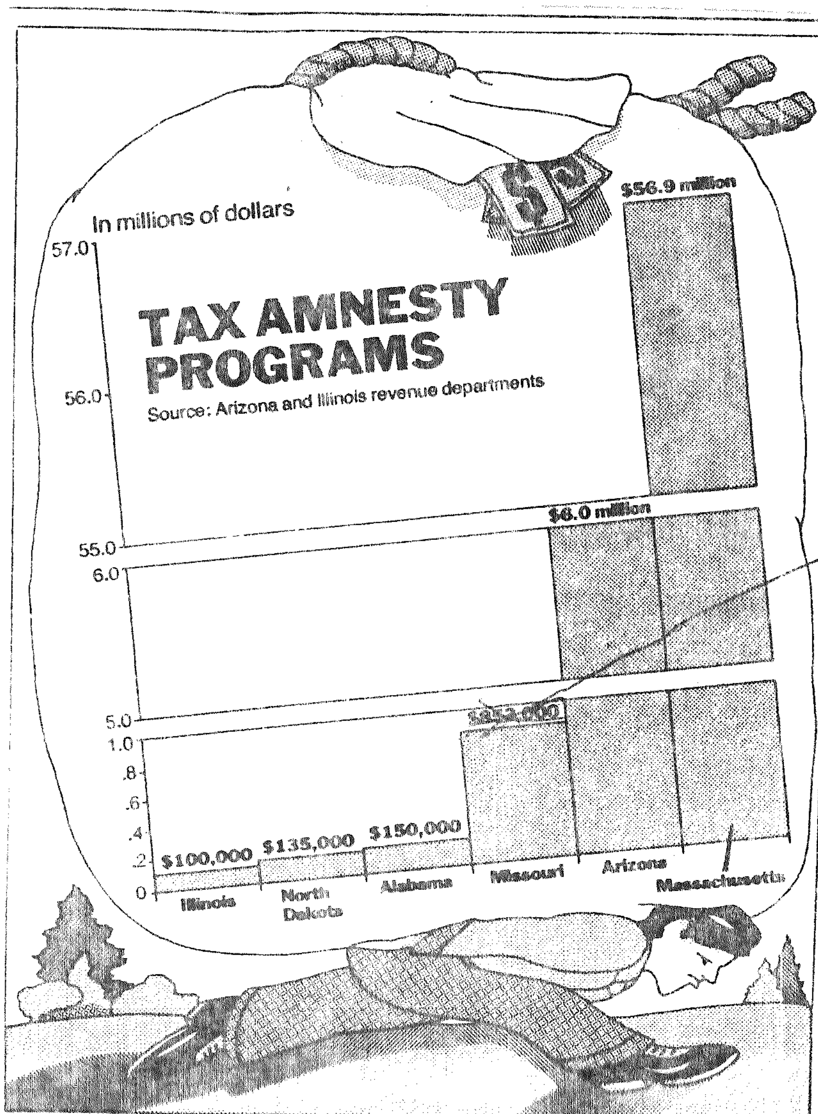

The Star/Tom Dolphens

Correction: $843,000

"We would prefer that additional revenues generated by this increase in tax compliance be used to reduce other people's tax rates," he added.

Others argue that the IRS, currently understaffed and unable to push many tax prosecutions each year, already has an informal amnesty program after it abandoned a formal policy in 1952.

Between 1934 and 1952, the IRS generally did not recommend prosecution in cases in which voluntary disclosures of past cheating were made before any official probe by the agency. Mr. Egger said the practice was officially abandoned because "some taxpayers who had received immunity subsequently defaulted on their liabilities and could not be prosecuted."