

HOUSE BILL REPORT

SSB 5121

As Reported By House Committee On:

Finance

Title: An act relating to the waiver or cancellation of interest or penalties for certain estate tax returns.

Brief Description: Waiving or canceling interest or penalties for certain estate tax returns.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Johnson, Newhouse and Winsley).

Brief History:

Committee Activity:

Finance: 3/25/97, 4/7/97 [DP].

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 15 members: Representatives B. Thomas, Chairman; Carrell, Vice Chairman; Mulliken, Vice Chairman; Dunshee, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; Boldt; Butler; Conway; Kastama; Mason; Morris; Pennington; Schoesler; Thompson and Van Luven.

Staff: Linda Brooks (786-7153).

Background: The state imposes a tax on the transfer of property at death. The tax is equal to the amount of tax authorized as a credit against the federal estate tax. As a result, the tax would be paid to the federal government, if the state did not impose it. Because the tax is tied to the federal credit, it only applies to estates valued at more than \$600,000 (or \$1,200,000 for a community property couple). The state tax return is due when the federal tax return is due, which is usually nine months after the date of death.

The executor is required to file the federal estate tax return and is subject to a penalty under state law for failure to file. The penalty is equal to 5 percent of the tax due for each month that the return is late, not to exceed 25 percent of the tax due. This penalty is in addition to the interest charged on the amount of tax due at 2 percent above the average federal short-term rate.

With respect to excise taxes, the Department of Revenue is required to waive penalties when the delinquency is due to circumstances beyond the control of the taxpayer. For example, the department has adopted rules that provide for waivers if

- a return was inadvertently mailed to the wrong agency,
- a delay was caused by the unavoidable absence of the taxpayer,
- a delay was caused by destruction of the taxpayer's records,
- the taxpayer received erroneous written information from the department that caused the delinquency,
- the department was late in getting forms to the taxpayer.

Summary of Bill: The Department of Revenue must waive penalties when the delinquency is the result of circumstances beyond the control of the person responsible for filing the estate tax return.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The substitute bill allows the Department of Revenue to waive estate tax penalties, if the failure to file on time is due to circumstances beyond the control of the person responsible for filing it. The ability to waive the penalty in such cases is a good idea.

Testimony Against: None.

Testified: George Mastrodonato, Washington State Bar Association.