Department of Finance and Administration

Legislative Impact Statement

Bill: HB1722
Bill Subtitle: TO TOLL THE STATUTE OF LIMITATIONS FOR TAX COLLECTION IN THE EVENT OF A BANKRUPTCY FILING; AND TO PROVIDE THAT CERTIFICATES OF INDEBTEDNESS RELATE BACK TO THE DATE OF A TAX ASSESSMENT.

Basic Change :

Sponsor: Rep. M. Gray

HB1722 would toll certain statutes of limitations that relate to state tax collections in the event of a bankruptcy filing. Under current law, Arkansas provides a ten-year statute of limitations on the collection of tax delinquencies and a ten-year period during which a certificate of indebtedness (tax lien) remains in force. Federal law tolls similar federal limitations periods during bankruptcy. In some protracted bankruptcy cases, this has resulted in the expiration of Arkansas tax liens, thus rendering them uncollectible, while the federal tax liens have survived. This bill would toll Arkansas's ten-year limitations periods until one hundred eighty (180) days after the termination of the taxpayer's bankruptcy case.

This bill also would provide that a certificate of indebtedness filed by the DFA Director relates back to the date of assessment. Under current law, the DFA Director may file a certificate of indebtedness to secure a tax delinquency. The certificate of indebtedness constitutes the state's tax lien upon the title of all real and personal property of the taxpayer. The statute is silent as to the effective date of the certificate of indebtedness. Federal law provides that federal tax liens are effective as of the date of assessment. In some protracted bankruptcy cases, this has resulted in a federal tax lien's taking priority over the Arkansas tax lien even though the Arkansas lien was filed first. This bill provides that an Arkansas tax lien secured by a certificate of indebtedness will relate back to the date of assessment in a manner that is similar to the federal statute. This bill also would authorize the DFA Director to file a tax lien at the end of a bankruptcy case in order to secure a tax delinquency that is not discharged by the bankruptcy.

This bill does not create additional recordkeeping and certification duties for the DFA Director.

This bill becomes effective for tax years beginning on or after January 1, 2020.

Revenue Impact :

None.

Taxpayer Impact :

State tax liens would be tolled during periods that a bankruptcy is filed. Also, state tax liens would relate back to the date of the assessment.

Resources Required :

None.

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Time Required :

Adequate time is provided for implementation.

Procedural Changes :

None.

Other Comments :

None.

Legal Analysis :

None.