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## DIGEST

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HB 632 Original

2020 Regular Session

Dwight

**Abstract:** Changes the amount of certain penalties that may be imposed by the Dept. of Revenue and provides for the disposition of penalties and self-generated revenue of the department.

Present law establishes separate penalties for the failure to make timely return and for the failure to pay the full amount of tax due shown on the return.

Proposed law retains present law failure to file and failure to pay penalties but reduces the penalty for when a taxpayer fails to pay the full amount due that was required to be shown on the return from 5% per month to ½ of 1% per month.

Proposed law retains present law maximum of 25% of the tax for the combined failure to file and failure to pay penalties.

Present law provides for penalties for fraud, negligence, large tax deficiencies of 25% or more.

Proposed law changes the penalty rates for fraud, negligence, large tax deficiencies as follows:

- (1) Fraud (R.S. 47:1604), from 50% to 75% of deficiency.
- (2) Negligence (R.S. 47:1604.1(A), from 10% to 20% of deficiency.
- (3) Large individual tax deficiency (R.S. 47:1601.1(B), from a maximum of 20% to 10% of deficiency.
- (4) Other large tax deficiency (R.S. 47:1601.1(C), from a maximum of 20% to 10% of deficiency.

Proposed law defines negligent failure as any failure to make a reasonable attempt to comply with the tax laws of this state or a careless or reckless disregard for the tax laws of the state.

Proposed law creates a presumption of negligent failure where there is an understatement of tax liability of 10% or more and there is no indication of willful disregard of the state's tax laws.

Proposed law authorizes an additional penalty for willful disregard of the state's tax laws of 40% of the deficiency and retains present law definition of willful as "voluntarily and intentionally acting in violation of the tax laws of this state."

Proposed law provides that beginning July 1, 2020, an amount equal to 1% of the state taxes and interest collected by or on behalf of the Dept. of Revenue (DOR) shall be designated as self-generated revenue of the department.

Proposed law requires, with respect to penalties collected by DOR, that from July 1, 2020, and thereafter, 100% of penalties be deposited into the state general fund.

Proposed law requires the self-generated revenues to be used by DOR for the administration and collection of taxes and for operation of the department, subject to appropriation by the legislature.

Proposed law requires that beginning July 1, 2020, any collection action taken by the secretary shall apply the penalties provided for in proposed law for all tax periods.

Proposed law prohibits refunds of penalties paid before the effective date of proposed law if the claim for refund is that no penalties would be due under the provisions of proposed law.

Effective July 1, 2020.

(Amends R.S. 47:1602(A)(2)(a) and (4), 1603(A)(1), 1604, and 1604.1; adds R.S. 47:1602(A)(5), and 1608)