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## Overview

This bill makes a variety of tax administrative changes:

- Requires the commissioner of the Department of Revenue (DOR) to establish a private letter ruling (PLR) program.
- Limits the authority to make sales, income, and corporate franchise tax assessment that are inconsistent with prior written positions taken by DOR in an audit of the taxpayer.
- Expands the commissioner's authority to abate penalties.
- Provides that the minimum penalty is \$150.

### Section

**1 Private letter ruling (PLR) program.** Directs the commissioner of revenue to establish a PLR program by January 1, 2018. This program would be similar to the Internal Revenue Service's PLR program and would provide guidance to applying taxpayers as to the state tax treatment of specific transactions or situations. DOR could exclude categories of transactions or provisions of law from the program.

Taxpayers would need to apply for a PLR and provide the supporting facts that DOR requires. DOR could charge taxpayers a fee to recover its actual costs in preparing PLRs, but not to exceed \$1,000. The fee would be deposited in the DOR special account and appropriated to pay for the administrative costs of the program. The fee would be refundable if DOR fails to issue a PLR within 90 days, but that would not absolve DOR of the requirement to issue a ruling.

## **Section**

Only the applying taxpayer could legally rely on the PLR, but DOR would be required to make the rulings available to the public on its website with any identifying information redacted. DOR would be required to file a biennial report to the legislature on usage of the program by January 31<sup>st</sup> of odd-numbered years. The first report would be made to the 2021 legislature.

**Effective date:** Day following final enactment

- 2** **Limits on assessments.** Prohibits the commissioner from issuing assessments of tax under the individual income, corporate franchise, and sales taxes that are inconsistent with a previous written position taken in a DOR audit of the taxpayer, unless the commissioner has notified the taxpayer in writing, issued a contrary Revenue Notice, or the law has been materially changed (e.g., by Congress, the legislature or by administrative rule).

**Effective date:** Assessments made after June 30, 2017

- 3** **Authority to abate penalties.** Gives the commissioner of revenue discretion to decline to impose or to abate tax penalties.

Under current law, the commissioner's authority is limited to:

- instances of "reasonable cause";
- late payments due to presidentially declared disasters; and
- erroneous advice provided by a DOR employee.

**Effective date:** Day following final enactment

- 4** **De minimis penalties.** Provides no penalty for failure to pay tax applies if the calculated amount is less than \$150.

**Effective date:** Penalties imposed after June 30, 2017

- 5** **Appropriation.** Appropriates an unspecified amount for fiscal year 2018 to DOR for the cost of establishing and administering the PLR program under section 1.