

DEPARTMENT OF TAXATION

2004 Fiscal Impact Statement

1. **Patron** Thelma Drake

2. **Bill Number** HB 464

House of Origin:

 Introduced

 Substitute

 Engrossed

3. **Committee** Passed House and Senate

4. **Title** Local Taxes; Appeals Process

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would expand the Department of Taxation's authority to hear local tax appeals to include assessments of the tangible personal property tax on airplanes, boats, campers, recreational vehicles and trailers (the "local mobile property tax"). The bill would also require localities to provide taxpayers with detailed information at the time local mobile property tax assessments are issued with respect to how the assessment was determined and a description of the taxpayer's appeal rights.

The provisions of this bill requiring localities to provide taxpayers with information with respect to how the assessment was determined and a description of the taxpayer's appeal rights would be effective for tax years beginning on or after January 1, 2005. The remaining provisions of this bill would be effective January 1, 2005.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Administrative Costs

Under current law, only assessments of the machinery and tools tax, the merchants' capital tax and the business tangible personal property tax (the "Local Business Taxes") and the business, professional and occupational license ("BPOL") tax may be appealed to the Department. Assessments of other local taxes, including the tangible personal property tax cannot be appealed to the Department. The Department should be able to resolve appeals of local mobile property tax assessments with existing resources. This bill would have an unknown impact on the costs of local tax administration.

Revenue Implications

This bill would have no impact on state revenues. As this bill would require localities to suspend collection activity on any local mobile property tax assessments appealed to the

Tax Commissioner, it would have a potential negative impact on local revenues and on local cash flows.

9. Specific agency or political subdivisions affected:

Department of Taxation
All counties, cities and towns

10. Technical amendment necessary: No.

11. Other comments:

Local Tax Appeals

In general, a taxpayer may seek correction of a local tax assessment by filing an appeal with the local assessing officer and/or the circuit court. In addition to these avenues of appeal, a taxpayer may also appeal an assessment of the machinery and tools tax, the merchants' capital tax and the business tangible personal property tax (the "Local Business Taxes") and the business, professional and occupational license ("BPOL") tax to the Department. Typically, an appeal to the assessing officer or the Department is a quick and informal procedure, compared to the formal evidentiary proceedings in the circuit court.

The procedures for appealing local taxes have been substantially revised in recent years. The BPOL administrative appeals process through the local commissioner of the revenue and the Department was created in 1996. A similar appeals process through the commissioner of the revenue and the Department was added in 1999 for the Local Business Taxes.

Suspension of Collection Activity

Under current law, all collection activity is suspended on BPOL and Local Business Tax assessments when the taxpayer files a formal application for review of the assessment at the local level, and later at the state level. Collection activity is not suspended in situations where the treasurer determines that collection would be jeopardized by delay or is informed that the taxpayer has failed to respond to a request for relevant information after a reasonable time. The suspension of collection activity continues through the formal review process. The *Code of Virginia* is silent on collection activity when a taxpayer appeals an assessment of other local taxes to the assessing officer.

The suspension of collection activity provision for the BPOL and Local Business Tax administrative appeals procedures is similar to that applicable to administrative appeals of state taxes to the Department. Although collection activities are suspended while state tax assessments are under appeal to the Department, prior to 2003, taxpayers were required to pay the assessment or post a bond in order to appeal an assessment of state taxes to the circuit court. Chapter 908 of the 2003 Acts of Assembly removed the prepayment requirement. The court, however, may require the taxpayer to pay the assessment before proceeding with the appeal if the Department can demonstrate that it

is likely to prevail on the merits of the case. The taxpayer may still avoid payment by posting a bond or offering an irrevocable line of credit.

Proposal

This bill would expand the Department's authority to hear local tax appeals to include assessments of the tangible personal property tax on airplanes, boats, campers, recreational vehicles and trailers (the "local mobile property tax"). The Department would not be required to make a determination regarding the valuation or method of valuation for local mobile property tax assessments. The determination of value and valuation methodology would remain subject to local determinations.

Localities would be prohibited from engaging in collection activity when an appeal of a local mobile property tax assessment is made to the commissioner of the revenue or the Department of Taxation. Collection activity would be allowed if the treasurer determines that collection would be jeopardized by delay or is advised that the taxpayer has not responded to a request for relevant information after a reasonable time.

This bill would require localities to provide the following information at the time local mobile property tax assessments are issued:

- The amount of the assessment and a description of the property;
- The valuation method used;
- The date the taxes will be due; and
- The procedures for appealing the assessment.

The Department would be required to promulgate guidelines for appeals of local mobile property tax assessments not later than November 1, 2004.

cc : Secretary of Finance

Date: 3/24/2004/JEM