

DEPARTMENT OF TAXATION

2004 Fiscal Impact Statement

1. **Patron** William R. Janis

2. **Bill Number** HB 587

3. **Committee** House Finance

House of Origin:

X **Introduced**

 Substitute

 Engrossed

4. **Title** Refund Surplus Revenue

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would require the refund of surplus revenues to income taxpayers when such surplus revenues exceed the amount required to be deposited in the Revenue Stabilization Fund by at least \$50 million. The refund would be based on each income taxpayer's pro rata share of excess revenues collected in the calendar year in which the fiscal year surplus is determined. The taxpayer must have filed an income tax return in such calendar year.

The bill does not specify an effective date.

6. **Fiscal Impact Estimates are:** Not Provided (See Line 8.)

6a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2003-04	\$41,120	GF
2004-05	\$409,600	GF
2005-06	\$102,400	GF
2006-07	\$0	GF
2007-08	\$0	GF
2008-09	\$0	GF
2009-10	\$0	GF

7. **Budget amendment necessary: Yes.**

Item(s): 284 and 286, Department of Taxation

8. **Fiscal implications:**

Administrative Impact

The Department would incur administrative costs for systems development to identify taxpayers eligible for refunds and to calculate the prorated amount of the surplus that each eligible taxpayer will receive.

The bill would require the Auditor of Public Accounts to report on December 1 each year whether there exists a qualifying surplus for the fiscal year just ended. If the December 1 report determines that there is such a surplus, the Department will refund part of the surplus in the following calendar year. The refund would be made to taxpayers who filed an income tax return in the calendar year in which the Auditor of Public Accounts reports a qualifying surplus.

Revenue Impact

There would be no General Fund revenue impact as a result of this bill because the refunds would result from revenues in excess of those specified in the appropriations act.

9. Specific agency or political subdivisions affected:

Department of Treasury
Department of Planning and Budget
Auditor of Public Accounts
Department of Taxation

10. Technical amendment necessary:

Qualifying taxpayers: Because taxpayers file late and amended returns, the provisions identifying which taxpayers are entitled to refunds should be clarified to more closely match revenue surplus refunds to the income tax payments that contributed to the surplus. Therefore the following technical amendment is suggested:

Page 1, Line 23, after taxpayers who

Strike: filed an income tax return

Insert: timely filed an income tax return for a taxable year with a return due date

Setoff Debt Collection: To make the refund of surplus revenue subject to the provisions of the Setoff Debt Collection Act so that refunds can be applied toward debts owed by the taxpayer to other state agencies, local governments, and the Internal Revenue Service, the following technical amendment is suggested:

Page 1, Line 30 at the end of the line

Insert: Refunds pursuant to this section shall be considered a refund of state income tax for purposes of the Setoff Debt Collection Act (§ 58.1-520 et seq.).

11. Other comments:

This bill would require that surplus revenues be returned to income taxpayers when the annual revenue surplus exceeds \$50 million. The amount returned would be limited to the surplus that exceeds the amount required to be deposited in the Revenue Stabilization Fund. Each corporate, individual, and fiduciary taxpayer's share of the surplus would be based on each taxpayer's proportionate share of total income tax collected in the calendar year in which the fiscal year surplus occurs. Refunds would be made in the calendar year following the surplus.

Under this bill, the Department would be required to determine the total amount of income tax revenue collected during a calendar year. Because many taxpayers file tax returns on a taxable year other than a calendar year, file on extended due dates, and file amended returns for multiple prior taxable years, the department can collect and refund income tax for numerous taxable years during a given taxable year. As a result, revenue surplus refunds would be based on income tax payments from multiple taxable years. This would add significant complexity to the calculation of proportional refunds. The department has suggested a technical amendment to reduce the complexity of the computation and more closely match revenue surplus refunds to the income tax payments that contributed to the surplus.

The Department would be able to offset a taxpayer's outstanding state tax assessments against the surplus refund. Currently, the Department sets off tax refunds against debts to numerous federal, state and local government agencies. The Department has suggested an amendment to allow revenue surplus refunds to be off set against claims by other federal, state and local government agencies.

There are several statutory provisions that are triggered by significant or unanticipated growth in actual revenue collections. The bill refers only to the contribution to the Revenue Stabilization Fund mandated by Va. Code § 2.1-1829. However, other statutes also earmark surplus revenue, such as Va. Code § 10.1-2128, which requires that 10% of any revenue surplus in excess of the surplus deposited in the Revenue Stabilization Fund be contributed to the Water Quality Improvement Fund.

While corporate income taxpayers would receive a share of surplus revenue pursuant to this bill, many corporations that are only subject to gross receipts and franchise taxes (e.g., banks and insurance companies) would not be eligible to participate in the surplus refund program. Residents whose income is below the filing threshold, and businesses that incurred a loss, would not receive a refund of the surplus even though they contribute to the General Fund through sales tax payments.

cc : Secretary of Finance

Date: 1/20/2004 JPJ