

DEPARTMENT OF TAXATION

2005 Fiscal Impact Statement

1. **Patron** Robert D. Hull

2. **Bill Number** HB 2325

3. **Committee** Senate Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Income Tax: Election of Extension of Time to File

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. **Summary/Purpose:**

This bill would eliminate the current requirement to file an extension form with the Tax Department before taxpayers may elect to take a six-month extension of time to file an income tax return. In addition, the penalty for failing to pay at least 90% of the tax by the original due date for those taxpayers who, in the past, filed extension forms would be increased from ½% to 2% per month. At the same time, the current “failure to pay” penalty for taxpayers who, in the past, did not file an extension form with the Department would be reduced from 6% per month to 2% per month. Under the proposal, if the taxpayer does not file on or before the extended due date, this bill would require the application of existing penalties as if no extension election were taken.

This bill would be effective for taxable years beginning on and after January 1, 2005.

This is a Department of Taxation bill.

6. **No Fiscal Impact.** (See Line 8.)

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

8. **Fiscal implications:**

The Department’s cost to implement this bill would be minimal. General Fund revenues would be reduced by the elimination of late filing penalties on taxpayers who, without filing an extension form, file after the due date. Revenue would be increased by the increase in the penalty for taxpayers who, though they filed an extension form in the past, fail to pay at least 90% of their tax by the original due date. The net revenue impact of this bill is unknown as it is difficult to determine how many taxpayers will fail to pay up to 90% of their tax by the original due date and thus become subject to the penalty, a penalty which may be lesser or greater than it would under the same circumstances in previous filing seasons.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

General

Currently, taxpayers must file a paper form requesting a six-month extension of the time for filing their income tax returns. When taxpayers later file their income tax returns, they typically believe it is necessary to attach a copy of the extension request, even though the law does not require it. Therefore, these individuals erroneously obligate themselves to file a paper return because electronic filing cannot accommodate paper attachments to the return.

In addition, Virginia taxpayers often file more forms requesting extensions than are actually necessary. Because the Internal Revenue Service allows individuals to obtain a four-month extension, followed by an additional two-month extension, taxpayers often file a second Virginia extension request at the same time as the second federal request, even though it is not necessary.

Under current law, taxpayers who fail to file a paper extension request are assessed a late filing penalty equal to 6% per month of the tax due, up to a maximum 30%. Under another provision, taxpayers who file extensions but fail to pay at least 90% of their tax liability by the original due date are subject to a penalty of 0.5% per month.

Proposal

This bill would allow taxpayers to elect a six-month extension of time within which to file an income tax return, in accordance with procedures established by the Tax Commissioner, without the necessity of the filing a paper request for such an extension. This should enable and encourage more individuals to file their return electronically. This bill would also increase the penalty for failing to pay at least 90% of the tax due by the original due date from 0.5% per month to 2% per month on the underpayment for those taxpayers who traditionally filed for extensions, and reduce the penalty from 6% to 2% per month on the underpayment for those taxpayers who filed the return late without filing an extension.

cc : Secretary of Finance

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