

**DEPARTMENT OF TAXATION
2005 Fiscal Impact Statement**

1. Patron William Bolling

2. Bill Number SB 1303

3. Committee Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. Title Tax information; confidentiality exception.

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would create an additional statutory exception to the general prohibition on the disclosure of tax information by the Tax Commissioner to provide information to a member of the Virginia General Assembly at the request of the constituent to obtain information regarding that constituent.

The effective date of this bill is not specified.

6. Fiscal Impact: None. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

The Department would not incur administrative costs to implement this bill. Additionally, this bill would not affect General Funds revenue.

9. Specific agency or political subdivisions affected:

Department of Taxation
Members of the General Assembly

10. Technical amendment necessary: Yes.

Line 33, at the beginning of the line
Strike: all of lines 33 through 36

Line 88, after 40.1-29;
Strike: and

Line 91, after 65.2-712

Insert: ; and (xvii) provide to a member of the General Assembly such information as is necessary to respond to a written constituent request to the member concerning such constituent's taxes

11. Other comments:

Current Law

When members of the General Assembly contact the Department on behalf of their constituents, the Department responds to the constituent and the member, as appropriate.

The current provisions governing the secrecy of confidential taxpayer information (Va. Code § 58.1-3) preclude disclosing confidential information to anyone other than the taxpayer without a written authorization signed by the taxpayer that clearly indicates the specific taxes and time periods for which disclosure is authorized, and includes other information required by regulation 23 VAC 10-20-10.E. Taxpayers and their representatives frequently use a power of attorney form published by the Department for this purpose, or a similar form published by the Internal Revenue Service.

Proposal

This bill would create an additional statutory exception to the general prohibition on the disclosure of tax information by the Tax Commissioner to provide information to a member of the Virginia General Assembly at the request of the constituent to obtain information regarding that constituent.

Although Va. Code § 58.1-3, the law that governs the secrecy of tax information, provides some exceptions to the general rule of confidentiality of taxpayer information, there are no broad or general exceptions authorizing the blanket disclosure of information to any external source. Under this proposal, TAX would be authorized to disclose any information about a taxpayer to a legislator. Thus, if a constituent inquired about the status of an income tax refund, TAX would be authorized to fully disclose and explain all of the circumstances relating to that refund, including amounts that may be set off for debts to other agencies, filing history, and similar items that have a bearing on the request. It is unclear as to whether a constituent has an expectation that by requesting assistance they open themselves to a disclosure of confidential information.

Any person, including a taxpayer's representative, may have access to confidential information with a Power of Attorney form that lists the issues and tax years that the taxpayer is willing to open to third parties. This process ensures that all parties – the taxpayer, the representative and TAX – are clear as to what confidential information can be released and discussed.

Technical Amendment Suggested

The exceptions listed in subsection A of § 58.1-3 are for information that is intended to be freely available to the public. As drafted the recipient of the taxpayer information would have no duty to safeguard the information in his possession. Although the bill would

declare such information to be privileged, the rights and duties attached to the privilege are not defined.

Existing statutory provisions allowing disclosure of taxpayer information without the express consent of the taxpayer are located in subsection B of § 58.1-3. All recipients of information under these exceptions are subject to criminal prosecution to the same extent as the Tax Commissioner, Commissioners of the Revenue, and their employees. An amendment is suggested to place the proposed exception for members of the General Assembly in subsection B.

cc : Secretary of Finance

Date: 1/29/2005 Initials
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