

# DEPARTMENT OF TAXATION

## 2006 Fiscal Impact Statement

1. **Patron** Walter A. Stosch

2. **Bill Number** SB 583

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

3. **Committee** Passed Senate and House

4. **Title** Tax Administration: Amended Return Filing  
After Change in Another State

**Second House:**

           **In Committee**

           **Substitute**

  X   **Enrolled**

### 5. **Summary/Purpose:**

This proposal would (i) allow taxpayers one year from the final determination of a change made by any other state to file an amended return to request a refund resulting from credits for taxes paid to other states, (ii) require taxpayers to file amended returns in order to report a reduction to the credit for taxes paid to other states resulting from changes made by any other state, and (iii) would reconcile inconsistent statutory periods for filing amended returns resulting from federal changes.

This bill would be effective for examinations concluded by another state or amended returns filed with another state on or after the bill becomes effective in due course.

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

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

### 8. **Fiscal implications:**

The revenue impact is minimal because many taxpayers are using existing administrative and legislative remedies to obtain relief when they learn that another state is auditing their return.

TAX considers implementation of this bill as "routine," and does not require additional funding.

### 9. **Specific agency or political subdivisions affected:**

Department of Taxation

10. **Technical amendment necessary:** None.

### 11. **Other comments:**

## **Current Law**

Virginia allows residents to claim a credit against their income tax liability when they pay income tax to any other state. The credit grants Virginia residents relief in situations when they are taxed by both Virginia and any other state. When the other state adjusts the tax paid by a Virginia resident, the amount of the Virginia credit will also change. Over the past several years, other states have initiated new compliance programs that have resulted in an increase in the number of audits conducted on individual income tax returns. As a result, more Virginia residents are having adjustments made to their income tax liability in other states.

Under Virginia law a taxpayer generally has three years from the last day prescribed by law for the timely filing of the return to file an amended return. In an increasing number of cases, however, audits conducted by other states are not completed within this three-year period. As a result, the Department has seen an increased number of requests to hold the statute of limitations open until the other state can complete the audit.

The Department has used two administrative remedies to address this situation. First, the Department and the taxpayer may agree to extend the statute of limitations by executing a waiver. The waiver must be executed prior to the expiration of the statute of limitations. In many cases, however, the taxpayer does not contact the Department until it is impractical or even impossible to execute such a waiver. The second option is for the Department to grant a protective claim.

At this time, these administrative options are placing a burden on both the taxpayer and the Department. In addition, if these options are not viable, taxpayers may be forced to pursue other, equally burdensome alternatives. In one case, taxpayers utilized the resources of the General Assembly by filing a claims bill. (See 2003 Acts of Assembly, ch. 203.)

## **Proposal**

This proposal would allow taxpayers one year from the final determination of a change made by any other state to file an amended return to request a refund resulting from credits for taxes paid to other states. In keeping with the practice of coordinating a taxpayers right to claim a refund with the Department's right to assess additional tax, the proposal would require taxpayers to file amended returns in order to report a reduction to the credit for taxes paid to other states resulting from changes made by any other state and allow the Department to make assessments at any time if the taxpayer fails to file the required returns.

The proposal would also make provisions related to reporting actions by others states similar to provisions relating to reporting actions by the Internal Revenue Service, and would reconcile inconsistent statutory periods for filing amended returns resulting from federal changes. Currently, Virginia requires such returns to be filed within ninety days if additional tax is due, but allows one year if a refund is involved.

This bill would be effective for examinations concluded by another state or amended returns filed with another state on or after the bill becomes effective in due course.

cc : Secretary of Finance

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