

**DEPARTMENT OF TAXATION
2006 Fiscal Impact Statement**

1. **Patron** Mark D. Obenshain

2. **Bill Number** SB 333

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Rules and Procedures for Tax Cases in
Circuit Courts

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would establish new rules and procedures for circuit court cases involving taxes administered by the Department of Taxation. This bill also establishes a Small Tax Case procedure for use in cases where taxes owed are \$50,000 or less. Procedures will be used such as stipulations and the elimination of the requirement that a respondent must file an answer to the initial petition in order to contest the petition. Overall, the procedure will be informal (briefs and oral argument may not be required) and will allow the introduction of any evidence that has probative value.

This bill is effective July 1, 2006.

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

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

8. Fiscal implications:

This bill would have no revenue impact and there are no administrative costs associated with this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia Circuit Courts
Counties, cities and towns

10. **Technical amendment necessary:** Yes.

As a result of the proposed small case procedures, TAX could be denied the opportunity to brief and argue a case that has important issues affecting tax administration or tax policy even though the amount in dispute may be small. Also, \$50,000 is quite high for Virginia tax disputes. The General District Courts have concurrent jurisdiction of cases up

to \$15,000, which would be a more appropriate amount. To address these issues the following amendments are suggested:

Page 4, Line 232, after dispute is

Strike: \$50,000

Insert: \$15,000

Page 4, Line 243, after chapter.

Insert: Any such motion made by the taxing authority supported with reasonable justification shall not be denied.

Page 5, Line 260, after directs.

Insert: The court shall permit briefs and oral argument if a decision in petitioner's favor would require holding that a regulation or published policy of the respondent or any other government entity is contrary to law.

11. Other comments:

Proposal

This bill would establish new rules and procedures for circuit court cases involving taxes administered by the Department of Taxation. For example, discovery would be expedited using stipulations for matters previously discovered in the course of the initial collection process; depositions would be used only with the consent of both parties or if ordered by the court; and bifurcation of issues, in the court's discretion, in order to speed the resolution of the case.

This bill also establishes a Small Tax Case procedure for use in cases where taxes owed are \$50,000 or less. Procedures will be used such as stipulations and the elimination of the requirement that a respondent must file an answer to the initial petition in order to contest the petition. Overall, the procedure will be informal (briefs and oral argument may not be required) and will allow the introduction of any evidence that has probative value. This bill is effective July 1, 2006.

Other Legislation

HB 772 would preclude circuit courts from granting relief to taxpayers seeking correction of erroneous assessments in cases in which the erroneous assessment was attributable to the taxpayer's willful failure or refusal to provide necessary information as required by law.

cc : Secretary of Finance

Date: 01/16/2006 CHC
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