

DEPARTMENT OF TAXATION

2016 Fiscal Impact Statement

1. **Patron** Rick L. Morris

3. **Committee** House Appropriations

4. **Title** Income Tax; A Claims Bill for Relief.

2. **Bill Number** HB 1357

House of Origin:

 Introduced

 X **Substitute**

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

The Department understands that the patron intends to offer a substitute in lieu of the introduced version. This Fiscal Impact Statement applies to the substitute.

This bill would provide for monetary relief of Michael E. and Rhonda S. Payne in the amount of \$12,298 plus interest as a refund for the erroneous overpayment of taxes.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** Yes.

An appropriation would be required to provide the monetary relief.

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2015-16	\$0	0	GF
2016-17	\$21,156	0	GF
2017-18	\$0	0	GF
2018-19	\$0	0	GF
2019-20	\$0	0	GF
2020-21	\$0	0	GF
2021-22	\$0	0	GF

8. **Fiscal implications:**

An appropriation of General Funds would be required to provide the monetary relief under the first enactment. The amount would be \$12,298 plus interest. Since 2005, the interest rate under *Va. Code* § 58.1-15 has fluctuated between 5 percent and 10 percent. The accumulated interest factor from May 1, 2005 (the due date of the original income tax return) to March 31, 2016 (the latest date for which an interest rate has been set under *Va. Code* § 58.1-15), is estimated at 72.031 percent, or \$8,858, for a total of \$21,156.

9. Specific agency or political subdivisions affected:

Department of Taxation
Comptroller

10. Technical amendment necessary: No.

11. Other comments:

Current Law

An amended return claiming a refund of tax may generally be filed within three years of the date the tax was due. Several exceptions allow an amended return to be filed after three years if such return is filed within one or two years of a specified event, such as a change in federal income or payment of a tax.

In 2006, the General Assembly enacted Senate Bill 583 (2006 *Acts of Assembly*, Chapter 234), which created a new exception allowing an amended return to be filed within one year of another state's change in taxable income. To qualify, the taxpayer was required to have claimed a credit for such tax on the Virginia tax return. Thus, Virginia taxpayers who did not claim the credit because they did not file a return or pay a tax to the other state were not covered by this amendment.

In 2010, the General Assembly amended this exception by striking the requirement that the credit must have been claimed on the taxpayer's Virginia return (2010 *Acts of Assembly*, Chapter 228). No effective date was specified, so the amendment became effective in due course.

Michael E. and Rhonda S. Payne filed an amended Virginia income tax return in 2009, before the effective date of the 2010 legislation. Their refund claim was denied, although it would have been allowed had the 2010 legislation applied to it.

Proposed Legislation

This bill would provide for monetary relief of Michael E. and Rhonda S. Payne in the amount of \$12,298 plus interest as a refund for the erroneous overpayment of taxes. The amount would be based on what would have been allowed had the 2010 legislation applied to their 2009 amended return.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/5/2016 JPJ
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