

DEPARTMENT OF TAXATION

2017 Fiscal Impact Statement

1. **Patron** Mark L. Keam

3. **Committee** House Finance

4. **Title** Notification of Breach of Payroll Data

2. **Bill Number** HB 2113

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would require that any person that owns or licenses computerized data that includes information relating to Virginia income tax withheld notify the Department of Taxation without unreasonable delay after such person discovers or is notified of a breach in the security of such information that creates a reasonable belief that an unencrypted or unredacted version of such information was accessed and acquired by an unauthorized person.

The effective date of this bill is not specified.

This is a Department of Taxation bill.

6. **Budget amendment necessary:** No.

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

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would allow the Department to avoid issuing approximately \$800,000 in unrecoverable fraudulent refunds annually, resulting in a positive General Fund revenue impact of \$800,000 in Fiscal Year 2018 and each fiscal year thereafter. No budget amendment is needed because the General Fund revenue impact is assumed in the Introduced Executive Budget.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Background

Employer payroll breaches are one of the largest risks related to identity theft and refund fraud. With the information stolen from the payroll system of an employer or payroll service company, a criminal can file a fraudulent Virginia income tax return and receive a refund before the real taxpayer files his return.

During the first six months of Taxable Year 2016, the Department identified over 160 fraudulent refunds that were issued due to eighteen payroll breaches. As it is usually impossible to recover the funds once issued, the Commonwealth's tax revenue is reduced to the extent that refunds are issued based on fraudulent returns. Fraudulent refund claims also have an economic and emotional cost on taxpayers whose identity has been stolen. They will have problems when they file their actual tax returns and may find that their legitimate refunds are delayed.

When notified promptly by employers and payroll service companies, the Department can take quick action to mitigate the risk and avoid issuing fraudulent refunds. However, many employers and payroll service companies do not promptly notify the Department when they discover or are notified of a breach in their security.

Proposed Legislation

This bill would require that any person that owns or licenses computerized data that includes information relating to Virginia income tax withheld notify the Department of Taxation without unreasonable delay after such person discovers or is notified of a breach in the security of such information that creates a reasonable belief that an unencrypted or unredacted version of such information was accessed and acquired by an unauthorized person. Examples of persons impacted by this requirement are employers and payroll service companies.

The effective date of this bill is not specified.

Similar Bills

Senate Bill 1033 is identical to this bill.

cc : Secretary of Finance

Date: 1/15/2017 JJS
HB2113F161