

DEPARTMENT OF TAXATION

2017 Fiscal Impact Statement

1. **Patron** Thomas K. Norment, Jr.

3. **Committee** Passed House and Senate

4. **Title** Virginia Tax Amnesty Program

2. **Bill Number** SB 1438

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would authorize the Tax Commissioner to oversee the Virginia Tax Amnesty Program to be administered by the Department of Taxation ("the Department") for a period ranging between 60 and 75 days during Fiscal Year 2018. All penalties and 50 percent of the interest would be waived upon payment of the taxpayer's remaining balance. At the conclusion of the amnesty period, any remaining amnesty-qualified liabilities would be assessed an additional 20 percent penalty.

The effective date of this bill is not specified.

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

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

8. **Fiscal implications:**

Administrative Costs

The Department estimates its administrative costs would be approximately \$5.5 million. This includes the costs of updating the Department's systems, providing telephone support services, and marketing the amnesty program. Pursuant to Item 275(Y) of the Introduced Executive Budget, such costs would be recovered from proceeds of the amnesty program.

Revenue Impact

This bill would generate approximately \$71.4 million in total revenues in Fiscal Year 2018. Of this amount, approximately \$63.8 million would be General Fund revenue. When administrative costs of \$5.5 million are subtracted from the General Fund revenue estimate of \$63.8 million, the net General Fund revenue collected during the amnesty program is estimated to be \$58.2 million. The chart below shows the amount of estimated revenue collections by fund, as well as the type of taxes that are estimated to be collected under the proposed amnesty program.

	Individual Income	Sales and Use Tax	Corporate Income	Withholding	Other	Total
GF - Unrestricted	\$18,072,754	\$4,899,211	\$30,809,588	\$7,560,907	-	\$61,342,459
GF- Restricted	-	\$2,407,057	-	-	-	\$2,407,057
Transportation Trust Fund	-	\$1,945,096	-	-	-	\$1,945,096
Local Option	-	\$2,431,370	-	-	-	\$2,431,370
HMOF (GF transfer)	-	\$243,137	-	-	-	\$243,137
Regional Transportation Funds	-	\$899,607	-	-	-	\$899,607
Education (GF Transfer 0.125%)	-	\$303,921	-	-	-	\$303,921
Education SOQ (GF Transfer 0.25%)	-	\$607,843	-	-	-	\$607,843
Other NGF	-	-	-	-	\$1,280,653	\$1,280,653
Total	\$18,072,754	\$13,737,242	\$30,809,588	\$7,560,907	\$1,280,653	\$71,461,143

To compute this estimate, the Department estimated the amount of receivables that were eligible for amnesty as of September 2008, prior to the 2009 amnesty program, broken down by tax type and age of such receivables. These estimated eligible receivables were then compared to actual tax collections during the 2009 amnesty program, to compute a ratio for each age group of receivables within each tax type. Such ratios were then applied to September 2016 receivables that are estimated to be eligible for amnesty, to estimate the amount of each tax that would likely be collected through the proposed amnesty program.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

1990 Virginia Tax Amnesty Program

In 1990, Virginia held its first tax amnesty program. The amnesty program began February 1, 1990, and ended March 31, 1990. With certain exceptions, any taxpayer required to file a return or pay any tax administered or collected by the Department was eligible to participate in the program. Under the terms of this program, all civil and criminal penalties for the nonpayment, underpayment, non-reporting or under-reporting of tax liabilities were waived upon the full payment of the taxpayer's remaining balance. The Department collected \$32.2 million in amnesty revenue and more than 27,000 delinquent taxpayers participated in the program. Direct program expenditures by the Department were \$1.3 million.

The penalties for failure to file individual and corporate income tax returns were changed from a total penalty of 10 percent to a penalty of 5 percent for each month that the return had not been filed up to a total cumulative penalty of 25 percent after the amnesty program. In 1991, the rate was increased to its current rate of 6 percent each month for a total cumulative penalty of 30 percent.

2003 Virginia Tax Amnesty Program

Virginia held its second tax amnesty program in 2003. The amnesty program began September 2, 2003, and ended November 3, 2003. With certain exceptions, any taxpayer who had an outstanding assessment with the Department or had not filed a return for any tax administered by the Department was eligible to apply for amnesty. The Department waived all penalties and 50 percent of the interest on full payment of the taxpayer's remaining balance. TAX collected \$90 million in amnesty revenue. More than 95,000 delinquent taxpayers participated in the program; and the implementation cost \$7,065,080. In 2003, a new 20 percent penalty was applied to the unpaid tax of any balance when a taxpayer who was eligible to participate in the amnesty program elected not to do so.

2009 Virginia Tax Amnesty Program

Virginia held its most recent tax amnesty program from October 7, 2009 through December 5, 2009. With certain exceptions, any taxpayer who had an outstanding assessment with the Department or had not filed a return for any tax administered by the Department was eligible to apply for amnesty. The Department waived all penalties and 50 percent of the interest on full payment of the taxpayer's remaining balance. The Department collected \$103 million in amnesty revenue. More than 150,000 delinquent taxpayers participated in the program; and the implementation cost \$7 million.

State Comparison

Nine other states implemented an amnesty program during 2016. Two additional states have enacted, but not yet implemented, an amnesty program. Each program varies in terms of who qualifies, the relief offered, and the penalty imposed on taxpayers who do not participate. Additional information about these programs is shown in the chart below.

State	Amnesty Period	Penalties and Interest Waived?
Alabama	June 30 - August 30, 2016	Yes; 50% of interest waived
Arizona	September 1 - October 31, 2016	Yes
California	July 1, 2013 - present	Penalties waived; interest not waived
Georgia	October 31 - December 31, 2016	Penalties waived; interest not waived
Kansas	TBD	Yes
Massachusetts	April 1 - May 31, 2016	Penalties waived; interest not waived
New Hampshire	December 1, 2015 - February 15, 2016	Yes; interest 50% waived
North Carolina	February 1, 2014 - Present	Penalties waived; interest not waived
Pennsylvania	April 21 – June 19, 2017	Yes; interest 50% waived
South Carolina	TBD	Yes
Washington	July 1, 2016 - November 1, 2016	Yes

Proposal

This bill would authorize the Tax Commissioner to administer an amnesty program for a period ranging between 60 and 75 days during Fiscal Year 2018. All penalties and 50 percent of the interest would be waived upon payment of the remaining balance.

With certain exceptions, any taxpayer who currently has an outstanding assessment, or has not filed a return for any tax administered by the Department, may apply for amnesty. The following taxpayers would not be eligible to participate in the tax amnesty program:

- Any taxpayer currently under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax;
- Any taxpayer with an assessment date or due date for an unfiled return less than 90 days prior to the first day of the amnesty program;
- Any taxpayer with an individual, fiduciary or corporate income tax liability for Taxable Year 2016 or after.

The Tax Commissioner would establish the guidelines and rules for the procedures regarding participation, as well as any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules would be exempt from the Administrative Process Act. The Department's implementation of the amnesty program would be exempt from VITA's project management and procurement oversight.

At the conclusion of the amnesty period, any remaining amnesty-qualified liabilities would be assessed a 20 percent penalty.

The Department's implementation of the amnesty program would be exempt from the Virginia Information Technology Agency's ("VITA's") project management and procurement oversight.

The effective date of this bill is not specified.

Similar Legislation

House Bill 2246 is identical to this bill.

Item 275(Y) of the Introduced Executive Budget authorizes the Department to recover its amnesty-related costs from the proceeds of the amnesty program, and also authorizes the Department to obtain a treasury loan to fund the start-up costs of the program.

cc : Secretary of Finance

Date: 2/20/2017 NM
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