DEPARTMENT OF TAXATION
2019 Fiscal Impact Statement

1. **Patron** Robert S. Bloxom, Jr.

2. **Bill Number** HB 2614
   House of Origin:
   X **Introduced**
   ____ **Substitute**
   ____ **Engrossed**

   Second House:
   ____ **In Committee**
   ____ **Substitute**
   ____ **Enrolled**

3. **Committee** House Finance

4. **Title** Department of Taxation; Limitations on Collecting Taxes

5. **Summary/Purpose:**

This bill would require the Department to cease all collection actions seven years after an assessment is made.

Under current law, as a result of legislation passed in 2016, the Department will be required to cease collection actions seven years after an assessment beginning with assessments made on and after July 1, 2016.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

6. **Budget amendment necessary:** Yes.
Page 1, Revenue Estimates
Items 273 and 275, Department of Taxation

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

7a. Expenditure Impact:

Fiscal Year	***Dollars***	***Positions***	***Fund***
2018-19	$0.2 million	0	GF
2019-20	$1.3 million	14	GF
2020-21	$1.0 million	14	GF
2021-22	$1.0 million	14	GF
2022-23	$1.1 million	14	GF
2023-24	$1.1.million	14	GF
2024-25	$1.1 million	14	GF

7b. Revenue Impact:

Fiscal Year	***Dollars***	***Fund***
2019-20	($17 million)	GF
2020-21	($17 million)	GF
2021-22	($17 million)	GF
2022-23	($17 million)	GF
2023-24	Unknown loss	GF
2024-25	Unknown loss	GF

8. Fiscal implications:

Administrative Costs

If the Department is able to implement this legislation by the effective date, it would incur administrative costs of $0.2 million in FY2019, $1.3 million in FY2020, $1.0 million in FY2021, $1.0 million in FY2022, $1.1 million in FY2023, $1.1.million in FY2024, and $1.1 million in FY2025. Such expenses would be associated with systems changes, establishing a new unit to issue and process tax liens and to resolve problems, working with collection agencies, and increased taxpayer contacts.

However, due to uncertainty about the systems and processing changes that may be required for the 2018 and 2019 income tax filing seasons, it is possible that the Department may not have the ability to implement the changes set forth in this bill by the proposed effective date. During 2017, Congress enacted the Tax Cuts and Jobs Act, which made substantial changes to federal tax law. At this time, it is uncertain what Virginia tax policy changes will be adopted in reaction to the federal law. Accordingly, the Department will reevaluate its costs once action is taken and may request additional funding or an amendment to delay the effective date of this legislation.

Revenue Impact

This bill would have an estimated negative impact on state revenues of $17 million annually beginning in Fiscal Year 2020. Such impact would be a result of the inability to collect on outstanding assessments that are more than seven years old. This estimate is based on payments collected on such assessments during the past three years. The negative revenue impact would decrease over time, beginning in Fiscal Year 2024, as the seven-year statute of limitations begins to apply to debts assessed after July 1, 2016 under the 2016 legislation. Establishing a unit within the Department to address these debts would help reduce revenue losses, by focusing on older debts before they become uncollectable.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

For most of the taxes administered by the Department, the period of limitations for the Department to make an assessment is within three years from the last day prescribed by law for the timely filing of the return. In the case of a false or fraudulent return with the intent to evade payment or a failure to file a required return, the period of limitations for the Department to make an assessment is within six years from the last day prescribed by law for the timely filing of the return.

For income tax, the period of limitations for the Department to make an assessment is within three years from the last day prescribed by law for the timely filing of the return. In the case of a false or fraudulent return with the intent to evade payment or a failure to file a required return, there is no period of limitations in which to make an assessment.

Until 1990 there was no limitation on the Department's ability to collect assessments. In 1990, legislation was passed (1990 Acts of Assembly, Chapter 659, Senate Bill 82) that imposed a period of limitations for the Department to make or institute collection action by levy, proceeding in court, or any other means available to the Tax Commissioner under the laws of the Commonwealth to twenty years from the date of the assessment.

In 2010, legislation was passed (2010 Acts of Assembly, Chapter 30, House Bill 17) that reduced the period of limitations for the Department to make or institute collection action by levy, proceeding in court, or any other means available to the Tax Commissioner under the laws of the Commonwealth from twenty to ten years from the date of the assessment.

In 2012, legislation was passed (2012 Acts of Assembly, Chapter 840, House Bill 35) that reduced the period of limitations for the Department to make or institute collection action by levy, proceeding in court, or any other means available to the Tax Commissioner under the laws of the Commonwealth from ten to seven years from the date of the assessment.

On October 17, 2014, the Department issued a ruling letter (P.D. No. 14-177) explaining that the exception for collection efforts made or initiated before the cutoff date is interpreted broadly. Since some form of collection action is usually taken early on within the seven-year limitations period, most assessments remain collectible until satisfied.

In 2016, legislation was passed (2016 Acts of Assembly, Chapter 634, House Bill 643), effective for assessments made on and after July 1, 2016, that required the Department to cease all collection actions seven years after an assessment was made, even if the collection action had been initiated before the expiration of the seven-year period. However, collection actions pursuant to execution of liens created by a judgment lien or a memorandum of lien under *Va. Code* § 58.1-1805 were not affected. The seven-year period is suspended during periods when (i) the taxpayer's assets are in control or custody of the U.S. Bankruptcy or any other federal or state court; (ii) the taxpayer is outside the Commonwealth for six months or more; or (iii) an installment payment agreement between the taxpayer and the Department is in effect. This legislation was amended during the session to clarify that it only applied to assessments made on and after July 1, 2016. Since this legislation was prospective, it did not impact older assessments.

<u>Proposal</u>

This bill would require the Department to cease all collection actions seven years after an assessment was made, even if the collection action had been initiated before the expiration of the seven-year period. However, collection actions pursuant to execution of liens created by a judgment lien or a memorandum of lien under *Va. Code* § 58.1-1805 are not affected. The seven-year period is suspended during periods when (i) the taxpayer's assets are in control or custody of the U.S. Bankruptcy or any other federal or state court; (ii) the taxpayer is outside the Commonwealth for six months or more; or (iii) an installment payment agreement between the taxpayer and the Department is in effect.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

cc: Secretary of Finance

Date: 1/22/2019 JEM
DLAS File Name: HB2614F161