

# DEPARTMENT OF TAXATION

## 2020 Fiscal Impact Statement

1. **Patron** Jason S. Miyares

3. **Committee** House Finance

4. **Title** Taxpayer Relief Fund; Issuing Tax Relief  
Refunds to Additional Taxpayers

2. **Bill Number** HB 607

**House of Origin:**

X **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would provide a refund of up to \$110 to an individual or up to \$220 to married persons filing a joint return who filed their final Taxable Year 2018 returns after July 1, 2019 on extension ("Tax Relief Refunds"). Under current law, Tax Relief Refunds were only provided to taxpayers who filed their final Taxable Year 2018 returns on or before July 1, 2019. This bill would provide such refund to taxpayers who were ineligible because they filed on extension after the July 1, 2019 deadline.

A Tax Relief Refund would only be allowed up to the amount of such individual's or married person's tax liability after the application of any deductions, subtractions, or credits to which the individual or married persons are otherwise entitled. Refunds would be required to be issued on or after September 1, 2020, but before September 15, 2020.

If enacted during the 2020 Regular Session of the General Assembly, this bill would become effective July 1, 2020.

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

Items: Page 1, Revenue Estimates  
Item 282, Department of Taxation  
Item 286, Department of Treasury

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

#### 7a. **Expenditure Impact:**

| <i><b>Fiscal Year</b></i> | <i><b>Dollars</b></i> | <i><b>Positions</b></i> | <i><b>Fund</b></i> |
|---------------------------|-----------------------|-------------------------|--------------------|
| 2019-20                   | \$2,753               | 0                       | GF                 |
| 2020-21                   | \$235,284             | 0                       | GF                 |
| 2021-22                   | \$0                   | 0                       | GF                 |
| 2022-23                   | \$0                   | 0                       | GF                 |
| 2023-24                   | \$0                   | 0                       | GF                 |
| 2024-25                   | \$0                   | 0                       | GF                 |
| 2025-26                   | \$0                   | 0                       | GF                 |

**7b. Revenue Impact:**

| <i><b>Fiscal Year</b></i> | <i><b>Dollars</b></i> | <i><b>Fund</b></i> |
|---------------------------|-----------------------|--------------------|
| 2019-20                   | \$0                   | GF                 |
| 2020-21                   | (\$ 46.6 million)     | GF                 |
| 2021-22                   | \$0                   | GF                 |
| 2022-23                   | \$0                   | GF                 |
| 2023-24                   | \$0                   | GF                 |
| 2024-25                   | \$0                   | GF                 |
| 2025-26                   | \$0                   | GF                 |

**8. Fiscal implications:**

Administrative Costs

This bill would result in administrative costs to the Department of Taxation ("the Department") of \$2,753 in Fiscal Year 2020 and \$64,284 in Fiscal Year 2021. Such funding would include costs for updating the Department's systems, forms and website content, and overtime for customer services staff.

This bill would result in administrative costs to the Department of Treasury of approximately \$171,000 in Fiscal Year 2021. Such funding would include costs for check printing, mailing, and banking services.

Revenue Impact

This bill would have an estimated negative General Fund revenue impact of \$ 46.6 million in Fiscal Year 2021.

During the 2019 Session, the General Assembly enacted legislation that required certain revenues from the individual tax reform provisions of the Tax Cuts and Jobs Act during Fiscal Year 2019 through Fiscal Year 2025 to be transferred to the Taxpayer Relief Fund. Such revenues were to be used to issue Tax Relief Refunds during 2019. It is assumed in the Governor's Introduced Executive Budget that all funds in the Taxpayer Relief Fund will revert to the General Fund. Therefore, any Tax Relief Refunds issued pursuant to this bill would be required to be paid out of the General Fund and not the Taxpayer Relief Fund.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

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

This bill would require the Department to issue refunds by September 15, 2019. This should be changed to September 15, 2020.

In addition, the Department suggests technical amendments to address how the September 15 deadline for Tax Relief Refunds would apply to certain non-calendar year taxpayers with an extended due date that falls later during 2020. For example, a taxpayer whose taxable year began on December 1, 2018 is required under Virginia law to file a Taxable Year 2018 return on extension by September 15, 2020. Such return filed on September 15, 2020 would

not provide the Department with sufficient time to identify the return by August 1, 2020 or for the Department of Treasury to issue a refund check by September 15, 2020.

For the relatively small number of taxpayers who would be in this situation, the Department suggests allowing additional time to ensure that they receive the refunds proposed by this bill. Because the majority of individual taxpayers file on a calendar year basis, most taxpayers entitled to a Tax Relief Refund pursuant to this bill would not be affected by this change.

To address these issues, the Department recommends the following technical amendments:

Line 16 after by August 1, 2020

Insert: or a date occurring two months after the extended due date applicable to the taxpayer, whichever is later

Line 16 after shall be issued

Strike: the remainder of lines 16 and 17

Insert: on or before the later of September 15, 2020 or a date occurring three months after the extended due date applicable to the taxpayer.

## **11. Other comments:**

### Virginia's 2019 Conformity Legislation

During the 2019 General Assembly Session, legislation was enacted to advance Virginia's date of conformity to the Internal Revenue Code from February 9, 2018 to December 31, 2018 (see 2019 House Bill 2529 and Senate Bill 1372). This legislation allowed Virginia to generally conform to the Tax Cuts and Jobs Act ("the TCJA") and the Bipartisan Budget Act of 2018 for Taxable Year 2018 and after. This legislation also included Virginia income tax law changes that may affect individual taxpayers filing income tax returns for Taxable Year 2019 and thereafter:

- An increase to the Virginia standard deduction from \$3,000 to \$4,500 for individuals and married taxpayers filing separately, and from \$6,000 to \$9,000 for married taxpayers filing joint returns;
- The creation of a new individual income tax deduction for the actual amount of real and personal property taxes imposed by Virginia or any other taxing jurisdiction not otherwise deducted solely on account of the \$10,000 annual limitation imposed on the federal deduction for state and local taxes paid; and
- Deconformity from the TCJA's suspension of the Pease limitation for taxable years beginning on and after January 1, 2019.

### Tax Relief Refund Program

Virginia's 2019 conformity legislation also included a provision to provide tax relief in the form of refunds for certain Taxable Year 2018 return filers. The legislation authorized a refund of up to \$110 for an individual or \$220 for married persons filing a joint return. In order to receive a Tax Relief Refund, taxpayers were required to file a final return for Taxable Year 2018 on or before July 1, 2019. Tax Relief Refunds were issued to eligible taxpayers in September and October 2019.

## Taxpayer Relief Fund

Virginia's 2019 conformity legislation included a provision establishing a special nonreverting fund known as the Taxpayer Relief Fund. Any revenues generated by the individual tax reform provisions contained in the TCJA, from the collection of taxes during Fiscal Year 2019 through Fiscal Year 2025 beyond those revenues reasonably expected to be collected due to general economic growth and absent the federal policy changes, less the estimated reduction in revenues needed to implement the tax policy changes set forth in such legislation for the relevant fiscal year and the Tax Relief refund program were required to be transferred to the Taxpayer Relief Fund and appropriated to effectuate permanent or temporary tax reform measures.

## Virginia Return Extensions

Taxpayers subject to Virginia's individual income tax are generally required to file their tax returns by May 1 of the year following the close of their taxable year. Taxpayers not filing on a calendar year basis are required to file their tax returns by the 15<sup>th</sup> day of the 4th month after the close of their taxable year. If a due date falls on a Saturday, Sunday, or holiday, they have until the next business day to file with no penalty.

If the taxpayer is unable to file by the due date, Virginia provides an automatic 6-month extension of time for the filing of a return. The extended due date is November 1 for taxpayers with an original due date of May 1. No application is required, but taxpayers are required to pay any taxes owed by the original due date to avoid additional penalties and interest. In addition to this general 6-month extension, Virginia has special extension periods for certain taxpayers:

- All members of the armed services deployed outside of the United States are allowed an automatic extension to file an income tax return up to 90 days following the completion of their deployment.
- United States citizens residing or traveling outside the United States and Puerto Rico, including persons in the military or naval service on duty outside the United States and Puerto Rico to and including the first day of the seventh month following the close of the taxable year. The extended due date is July 1 for taxpayers with an original due date of May 1.

Taxpayers eligible for one or more of the special extension periods above may use whichever one is most beneficial for them or they may also choose to use Virginia's general 6-month extension.

Because Virginia's 2019 conformity legislation imposed a July 1, 2019 filing deadline to be eligible for a Tax Relief Refund, taxpayers filing on extension after July 1, 2019 were ineligible for this refund.

## Proposed Legislation

This bill would provide a Tax Relief Refund of up to \$110 to an individual or up to \$220 to married persons filing a joint return who filed their final Taxable Year 2018 returns after July 1, 2019 on extension. Under current law, Tax Relief Refunds were only provided to taxpayers

who filed their final 2018 returns on or before July 1, 2019. This bill would provide such refund to taxpayers who were ineligible because they filed on extension after the July 1, 2019 deadline.

Any refund issued under this bill would only be allowed up to the amount of such individual's or married person's tax liability after the application of any deductions, subtractions, or credits to which the individual or married persons are otherwise entitled. Refunds would be subject to collection under Virginia's Setoff Debt Collection Act.

Any refunds issued under this bill would be limited to taxpayers who lawfully obtained or were granted an extension of time to file a final 2018 Virginia income tax return on or after July 1, 2019, and who as a result of such extension was ineligible to receive a refund under Virginia's 2019 conformity legislation. The Department would be required to identify all taxpayers who are eligible for a refund under this bill by August 1, 2020. Refunds due would be required to be issued on or after September 1, 2020, but before September 15, 2020.

Any refund issued under this bill would be in addition to any refund that may otherwise be due, and would be required to be appropriated by the General Assembly and issued out of the Taxpayer Relief Fund. However, if insufficient funds exist in the Taxpayer Relief Fund to provide the refunds, such refunds would be appropriated by the General Assembly and issued out of the General Fund.

If enacted during the 2020 Regular Session of the General Assembly, this bill would become effective July 1, 2020.

cc : Secretary of Finance

Date: 1/14/2020 JJS  
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