

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Vivian E. Watts

3. **Committee** House Finance

4. **Title** Virginia Free File Program

2. **Bill Number** HB 732

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would permit the Commonwealth of Virginia to establish a Virginia Free File program with the Consortium of Virginia that is similar to, but not based IRS Free File program. This bill would not require the establishment of a program that differs from the existing Virginia Free File program, but would grant the authorization to do so.

This bill would also repeal language that prohibited the Department's fillable forms program from replacing, superseding, modifying, duplicating, or competing with the Virginia Free File program in its provision of online interactive tax software and filing products and services for Virginia taxpayers.

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

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

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

8. **Fiscal implications:**

Administrative Costs

Because this bill would not require the Department to modify the Virginia Free File program, the Department considers implementation of this bill as routine, and does not require additional funding.

However, if the Department were to establish a free file program that differs from the existing program and changes its systems to provide its own free filing software to taxpayers for the Taxable Year 2020 filing season, it would incur administrative costs of \$3,800 in Fiscal Year 2020, \$1,379,610 in Fiscal Year 2021, and \$23,450 in Fiscal Year 2022. These costs be incurred for purposes of developing and implementing a new online filing application, negotiating with third party tax software to maintain and establish new free filing options for Virginia taxpayers, and providing customer services regarding the program.

Revenue Impact

This bill would have no revenue impact.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

IRS Free File Agreement

The Internal Revenue Service entered into an agreement on October 30, 2002 with the Free File Alliance, a consortium of companies in the electronic tax preparation and filing industry (the "Consortium"). The Agreement was established to facilitate the offer of free, online tax return preparation and filing services to low income taxpayers. As part of the agreement, the Consortium offers free services to taxpayers meeting the qualifications for free offerings. Such offerings, when taken in the aggregate, are currently intended to provide free services to be available to 70 percent or more of taxpayers with the lowest adjusted gross incomes.

For Taxable Year 2019, taxpayers whose adjusted gross income is \$69,000 or less may be eligible to file for free under the federal Free File program, subject to additional restrictions. Taxpayers who do not qualify to file for free under the federal Free File program may still file electronically, but must pay a fee for the service.

The agreement requires the IRS to provide taxpayers with links to the free services offered by the Consortium through a web page on the IRS's website. In addition, the original Federal Free File Agreement contained certain restrictions regarding online filing programs that may be offered by the IRS, which prohibit the IRS from competing with the Consortium in providing free, online tax return preparation and filing services to taxpayers.

The Free File program was recently extended through October 31, 2021. Several changes were made to the most recent memorandum of understanding as part of this extension, including removal of the provision that prohibited the IRS from competing with the Consortium in providing free, online tax return preparation and filing services to taxpayers.

Virginia iFile Program

Prior to Taxable Year 2010, the Department provided a free online filing and payment system called iFile. iFile was an application developed by the Department and was available to most Virginia taxpayers, regardless of income. iFile was not available for certain taxpayers that claim credits, which excluded approximately 3 percent of Virginians from using iFile. However, iFile was available for taxpayers claiming the earned income tax credit. In 2009, more than 278,000 Virginia taxpayers filed electronically using iFile.

Virginia Free File Program

During the 2010 Session, the General Assembly enacted legislation that required the Department to establish a Virginia Free File program based on the IRS Free File program for

the Taxable Year 2010 filing season. To implement this program, the Commonwealth was required to enter into a nonmonetary agreement with the Consortium for Virginia to work together to offer free, online tax return preparation and filing services to 70 percent of Virginia taxpayers with the lowest income, the same as the IRS Free File program for federal taxpayers. The Department and the Consortium for Virginia ultimately established the Virginia Free File program. Therefore, for Taxable Year 2019, Virginia taxpayers with \$69,000 or less in income for such taxable year may be eligible to file for free.

This also prohibited the Department from continuing to offer its iFile program, which was discontinued beginning with the Taxable Year 2010 filing season.

Virginia's Fillable Forms

During the 2011 Session, the General Assembly enacted legislation that required the Department to provide all state tax forms as fillable, PDF forms on its website for the Taxable Year 2012 filing season. The forms are required to be similar to the format utilized by the IRS and provide no arithmetic or limit checks to assist with accuracy of the form.

This was intended to give taxpayers another option to file their returns for free. However, the legislation specified that these fillable forms may not replace, supersede, modify, duplicate, or compete with the Virginia Free File program in its provision of online interactive tax software and filing products and services for Virginia taxpayers. Therefore, such forms may not be filed electronically.

Proposed Legislation

This bill would permit the Commonwealth of Virginia to establish a Virginia Free File program with the Consortium of Virginia that is similar to, but not based IRS Free File program. This bill would not require the establishment of a program that differs from the existing Virginia Free File program, but would grant the authorization to do so.

This bill would also repeal language that prohibited the Department's fillable forms program from replacing, superseding, modifying, duplicating, or competing with the Virginia Free File program in its provision of online interactive tax software and filing products and services for Virginia taxpayers.

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cc : Secretary of Finance

Date: 1/26/2020 JLOF
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