

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Joseph P. McNamara

3. **Committee** House Finance

4. **Title** Litter Tax: Refunds of Penalties for Late Payments

2. **Bill Number** HB 5003

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would require the Department of Taxation ("the Department") to waive penalties for any late payment of the annual Litter Tax that was due May 1, 2020 and refund any penalty paid, provided that the tax is paid in full by December 31, 2020.

Under current law, Litter Tax returns and payments are due on May 1 of each year. For the payment due May 1, 2020, Virginia imposed a penalty equal to 100% of the tax assessed if the litter tax was paid late.

The effective date of this bill is not specified.

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

Item 282, Department of Taxation

Item 379, Department of Environmental Quality

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

8. **Fiscal implications:**

Administrative Costs

As a result of this bill, the Department would incur administrative costs of \$336,000 in Fiscal Year 2021. This includes systems changes necessary to waive or abate penalties and determine refunds; responding to taxpayer inquiries; and postage and printing associated with notifying taxpayers and issuing the refunds. To cover the increased cost of administering the Litter Tax, the following amendment to Item 282 of the 2020 Appropriation Act is suggested:

AB. The Department of Taxation is hereby appropriated general fund revenues not exceeding \$336,000 to cover its administrative costs implementing the waiver and refund of Litter Tax penalties pursuant to House Bill 5003.

Due to the current workload associated with system and processing changes that need to be made prior to the upcoming income tax filing season, as well as implementing other tax changes effective by January 1, 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. 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

The penalties refunded as a result of this bill would have an estimated negative revenue impact to Litter Control and Recycling Grants under Item 379 of the 2020 Appropriation Act of approximately \$117,000 in Fiscal Year 2021. This estimate is based on prior years' litter tax filings and does not take into account the possibility of an increase in late filers because of the impact of COVID-19.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Environmental Quality
Localities

10. Technical amendment necessary: No

11. Other comments:

The Virginia Litter Tax is imposed annually at a rate of \$10 per establishment from which business is conducted by manufacturers, wholesalers, distributors, and retailers of:

- Food for human or pet consumption;
- Groceries;
- Cigarettes and tobacco products;
- Soft drinks and carbonated waters;
- Beer and other malt beverages;
- Wine;
- Newspapers and magazines;
- Paper products and household paper;
- Glass containers;
- Metal containers;
- Plastic or fiber containers made of synthetic material;
- Cleaning agents and toiletries;
- Nondrug drugstore sundry products;
- Distilled spirits; and
- Motor vehicle parts

An additional Litter Tax of \$15 per establishment is imposed on manufacturers, wholesalers, distributors, and retailers of groceries, soft drinks, carbonated waters, beer, and other malt beverages. The Department has interpreted groceries to include produce and dairy products.

Legislation enacted during the 2020 General Assembly session increased the rate of the Litter Tax from \$10 to \$20 per establishment and the rate of the additional Litter Tax from \$15 to \$30 per establishment beginning with the annual payment due May 1, 2021.

Litter Tax revenues, minus the necessary expenses of the Department for the administration of this tax, as certified by the Commissioner, are deposited into the Litter Control and Recycling Fund.

Litter Tax returns and payments are due on May 1 of each year. Virginia imposes a penalty equal to 100% of the tax assessed if the litter tax is paid late. Legislation enacted during the 2020 General Assembly session imposes an additional \$100 penalty for all such late payments beginning with the annual payment due May 1, 2021.

Proposal

This bill would require the Department of Taxation to waive penalties for any late payment of the annual litter tax due May 1, 2020 and refund any penalty paid, provided that the tax is paid in full by December 31, 2020.

The Department would be required to identify all taxpayers who are eligible for a refund of Litter Tax penalties by January 15, 2021.

Refunds would be issued on or after February 1, 2021, but before February 15, 2021. Any refund issued would be subject to collection under the provisions of the Virginia Setoff Debt Collection Act.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 8/21/2020 SK
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