

DEPARTMENT OF TAXATION

2021 Fiscal Impact Statement

1. **Patron** G. John Avoli

3. **Committee** House Finance

4. **Title** Individual Income Tax; Late Payment
Penalty

2. **Bill Number** HB 1956

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would prohibit the Department of Taxation ("the Department") from assessing a late payment penalty unless the taxpayer has also failed to file an individual income tax return by the statutory or extended due date.

If enacted during the regular session of the 2021 General Assembly, this bill would become effective July 1, 2021.

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

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

8. **Fiscal implications:**

Administrative Costs

The Department considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have an unknown, potentially significant, negative General Fund revenue impact beginning in Fiscal Year 2022. In Fiscal Year 2020 an estimated \$25.4 million late payment penalties were assessed for the late payment of individual income tax. An estimated \$16.4 million was similarly assessed in Fiscal Year 2021 through mid-January 2021. It is unknown to what extent these penalties would be eliminated by this bill, but it could be as much as 100 percent.

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

Department of Taxation

10. **Technical amendment necessary:** None.

11. Other comments:

Penalties for Late Filing and Late Payment

The penalty for failing to timely file an income tax return is 6 percent per month or fraction of a month up to a maximum penalty of 30 percent of the unpaid tax. The penalty is imposed after the return is filed, at which time the timeliness of filing and the amount of tax can be determined. A similar penalty is imposed for the failure to timely pay income tax, however the penalty is waived for any month in which the late filing penalty is imposed.

Virginia Individual Income Tax Filing Deadlines

Virginia individual income tax returns are generally due on May 1 of each year. Virginia offers automatic filing extensions to all individual taxpayers for up to six months. Therefore, the Virginia extended due date for individual income taxpayers is generally November 1.

Proposal

This bill would prohibit the Department from assessing a late payment penalty unless the taxpayer has also failed to file an individual income tax return by the statutory or extended due date. Although this bill would allow the late payment penalty to be assessed when the return is filed late, existing law prohibits the assessment of a late payment penalty for a month in which a late filing penalty has been assessed.

Therefore, if an individual files an income tax return on or before the due date but fails to pay the tax shown on the return, no late payment penalty would be imposed. Under current law, a late payment penalty would be imposed for each month the payment is delayed, up to 5 months or 30 percent of the tax due. Under this bill, no late filing or late payment penalty would be assessed in that instance.

cc : Secretary of Finance

Date: 1/17/2021 JPJ
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