

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: HB1368

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Coyner

3. Committee: Committee on Finance

4. Title: Advisory Tax Administration Commission; established, report.

5. Summary: Establishes the Advisory Tax Administration Commission. The Commission is charged with reviewing and providing advisory recommendations on rules, regulations, and guidelines developed and issued by the Department of Taxation and advisory recommendations for legislative changes that would encourage revisions to tax rules, regulations, and guidelines that more accurately achieve the tax policy intent of the General Assembly. The Commission shall consist of 12 legislative members and three non-legislative members: seven members of the House of Delegates, four of whom shall be members of the House Committee on Finance, five members of the Senate of Virginia, three of whom shall be members of the Senate Committee on Finance and Appropriations, and three non-legislative members, each of whom shall be actively licensed in the Commonwealth as an enrolled agent or a certified public accountant. The chair shall submit an annual executive summary of the Commission's work and advisory recommendations to the General Assembly, the Governor, and the Tax Commissioner by the first day of each regular session of the General Assembly.

6. Budget Amendment Necessary: Yes, See Item 8.

7. Fiscal Impact Estimates: Preliminary

7a. Expenditure Impact:

Item 1

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	\$31,080	0	General
2025	\$31,080	0	General
2026	\$31,080	0	General
2027	\$31,080	0	General
2028	\$31,080	0	General
2029	\$31,080	0	General
2030	\$31,080	0	General

- 8. Fiscal Implications:** The fiscal impact of this bill primarily involves the costs associated with meetings. It is estimated the member compensation will be approximately \$8,400 for the House and \$6,000 for the Senate. This provides for seven House members and five Senate members attending four meetings per year, the average number of meetings a commission of this nature usually involves, and will be paid by the offices of the Clerk of the House of Delegates or the Clerk of the Senate. The travel expenses are expected to be \$8,680 for the House and \$6,200 for the Senate, and will be paid by the offices of the Clerk of the House of Delegates or the Clerk of the Senate. Compensation and travel expenses for nonlegislative citizen members will be approximately \$1,800, and shall be paid by the offices of the Clerk of the House of Delegates. If unfunded, the commission will be funded from the operating budgets of the House for the seven House members and three nonlegislative members, and of the Senate for the five Senate members, once approved by the Joint Rules Committee. There is no fiscal impact on the Division of Legislative Services (DLS) regarding staff for this entity because the support required can be absorbed with current staffing.

The introduced bill would result in indeterminate costs for the Department of Taxation as it would essentially create an additional step in the review process for every rule, regulation, and guidelines promulgated by the Department of Taxation for new or existing provisions of Title 58.1.

- 9. Specific Agency or Political Subdivisions Affected:** The House of Delegates, the Senate of Virginia; the Division of Legislative Services

- 10. Technical Amendment Necessary:** No

11. Other Comments:

Under current law, the Department of Taxation is responsible for the promulgation of rules, regulations, rulings, and guidelines regarding taxes that it administers. In promulgating regulations, the Tax Commissioner is required to follow the applicable provisions of the Administrative Process Act (“APA”), except that notice of a proposed regulation shall appear at least sixty days in advance of the date prescribed for submittals. The Tax Commissioner may prescribe the extent, if any, to which any ruling or regulation shall be applied without retroactive effect.

Although guidelines and other guidance documents are generally exempt from the APA, the Department, like other state agencies, is required to post guidance documents on the Virginia Regulatory Town Hall website after publication in the Virginia Register of Regulations for a 30-day public comment period. In addition, the Department routinely solicits input from interested parties prior to the development of guidelines. Representatives of the tax practitioner community and affected industries generally participate in the Department’s guideline process.

Under the APA, guidance documents do not include agency rulings and advisory opinions, forms and instructions, bulletins and legislative summaries, or studies and reports. Similarly, the assessment of taxes or penalties and other rulings in individual cases in connection with the administration of tax laws are exempt from the APA. However, such documents are

generally published on the Department's website, even where not specifically required by law. The Department is specifically required by law to publish the following documents:

- Regulations finally adopted by the Tax Commissioner;
- Orders of the Tax Commissioner;
- Final orders entered by a Circuit Court under Va. Code §§ 58.1-1826 or 58.1-1827 and any written opinion or memorandum of the court; and
- Tax bulletins, guidelines, and any written ruling or other interpretation of Virginia law which the Tax Commissioner believes may be of interest to taxpayers and practitioners.

Under current law, documents are deemed published if they are compiled at regular intervals and published on the Department's website as deemed necessary to inform taxpayers and practitioners. Since confidential taxpayer information is protected from disclosure under Va. Code § 58.1-3, identifying taxpayer information must be redacted from all published documents, and the Department is not authorized to share such details with external third parties except in cases where a specific statutory exception applies.